SWISS PERFORM

**swissperform.ch**

*Gesellschaft für Leistungsschutzrechte*
*Société pour les droits voisins*
*Società per i diritti di protezione affini*
*Societad per ils dretgs vischins*

# *Distribution Rules 2026*

*<u>NOTE</u>: This English translation is provided for information purposes only and has no legal effect. The German and French versions are the authoritative texts.*

*In the following text, only the male gender will be used. It does, however, automatically imply that the female gender is included.*

Kasernenstrasse 23
8004 Zurich

T +41 44 269 70 50
CHE-107.723.519 VAT

info@swissperform.ch
swissperform.ch

# 1. General part

## 1.1. General provisions

### 1.1.1. Subject matter

[1]These distribution rules govern the use of tariff-based collections arising from the collective administration and management of neighbouring rights. They are subject to the provisions of the Swiss Copyright Act (CopA) and SWISSPERFORM's Articles of Association.

[2]Tariff collections originate particularly in the following exploitation categories:

- Re-transmission of radio and TV broadcasts
- Public reception of radio and TV broadcasts
- Private copying of sound recordings and audiovisual recordings and of broadcasts
- Use of sound recordings and audiovisual recordings and of broadcasts in schools
- Use of sound recordings and audiovisual recordings and of broadcasts in workplaces
- Rental of sound recordings and audiovisual recordings
- Broadcasts of commercially published sound recordings and audiovisual recordings
- Public performance of commercially published sound recordings and audiovisual recordings

### 1.1.2. Competence

[1]General provisions of these distribution rules shall be enacted and amended jointly by all Expert Committees upon the proposal by the Board of Directors.

[2]Special provisions of these distribution rules affecting the distribution within a specific right holders' group shall be enacted and amended by the respective Expert Committee.

### 1.1.3. Subsidiarity of the general provisions

Provisions of the special part of these distribution rules shall override the general provisions.

### 1.1.4. Right holders

[1]A distinction is made in these distribution rules between the following five right holders' groups:

- Performers of the audio sector
- Performers of the audiovisual sector
- Producers of the audio sector (producers of sound recordings)
- Producers of the audiovisual sector (producers of audiovisual recordings)
- Broadcasters

[2]Producers of unauthorised recordings and copies and broadcasts shall not be deemed to be right holders.

## 1.2. Distribution of collections

### 1.2.1. Basic principle

[1]The distribution shall be made separately for each tariff. Wherever the level of collections does not justify a separate distribution, the Expert Committee in charge may decide a joint distribution based on one of the distribution provisions included in these distribution rules.

[2]The total exploitation proceeds of any given year (accounting year) shall generally be distributed in the following year (distribution year), in accordance with collections from individual performances,

recordings or broadcasts. Wherever the cost for an exact analysis of the actual exploitation is unreasonably disproportionate, a deviation from this basic principle shall be permissible.

[3]SWISSPERFORM shall distribute the exploitation proceeds based on these distribution rules without subsequently invalidating any contractual stipulations between the involved parties.

### 1.2.2. Basis for the distribution and preliminary deductions

[1]The basis for the distribution shall be the amounts collected by SWISSPERFORM based on a given tariff during the course of a calendar year.

[2]The following preliminary deductions shall be made from said collections:

- Administration costs, in particular collection enforcement costs, costs incurred by commissioned third parties, official charges, legal fees, translation fees etc.;
- A share from each tariff as determined by the Board of Directors to cover general administration costs;
- Grants for cultural and social purposes as determined by the Delegates' Assembly.

### 1.2.3. Lump-sum payments for entire right holders' groups

[1]The SWISSPERFORM Board of Directors may – with the approval of the Expert Committees – decide that the entitlements of an entire right holders' group may be compensated by lump-sum payments to a body representing the interests of those right holders. Their share shall be calculated after a deduction for cultural and social purposes. In any case, an adequate deduction to cover the administration costs shall be made.

[2]Right holders whose entitlements are compensated by means of such lump-sum payments shall not be included in any further distributions for tariffs already paid out under this lump-sum arrangement. In this regard, the co-determination rights and notification obligations provided under these rules for right holders shall not be applicable.

### 1.2.4. Reserves

To secure the payment of belated claims, separate reserve funds shall be created. Each year, the relevant Expert Committees shall determine the amounts to be allocated to the reserve funds for each tariff. Details are explained in the Annex to these distribution rules.

## 1.3. Distribution among the right holders' groups (generic distribution)

### 1.3.1. Separation of audio and audiovisual shares

The revenue resulting from the application of items 1.2.1 - 1.2.4 constitute the distributable amounts which are preliminarily allocated to the audio and audiovisual sectors. During this process, a part of the music use in the audiovisual sector shall be allocated to the audio sector. Reversely, a part of the use of audiovisual productions in the audio sector shall be allocated to the audiovisual sector. In the event where a tariff only relates to the audio or the audiovisual sector respectively, the revenues shall be allocated to those sectors in their entirety. The same shall apply in the event where a tariff applies to both sectors, but the revenue has already been separated at collection stage.

### 1.3.2. Separation of broadcasters' shares

The broadcasters' share shall be separated out from the amounts which are allocated to the audio or audiovisual sectors, except in cases where a lump-sum arrangement pursuant to item 1.2.3 exists. This process of separating out the broadcasters' share is subject to evidence that all right holders' groups hold the rights.

### 1.3.3. Generic distribution - competence

[1]Each year, the relevant Expert Committees jointly determine the distributions pursuant to items 1.3.1 and 1.3.2.

[2]Details relating to these distribution splits are explained in the Annex to these distribution rules.

### 1.3.4. Allocation of the remuneration within the audio and audiovisual sector

[1]Amounts remaining in the audio sector after the deduction of the broadcasters' share shall be distributed each year by the Expert Committee of Audio Performers and the Expert Committee of Audio Producers.

[2]Likewise, amounts remaining in the audiovisual sector after the deduction of the broadcasters' share shall be distributed each year by the Expert Committee of Audiovisual Performers and the Expert Committee of Audiovisual Producers.

### 1.3.5. Arbitration

In cases where the Expert Committees fail to agree, the arbitration methodology prescribed in the Statutes of SWISSPERFORM shall be applicable. Meanwhile, undisputed shares in each right holder's group may be processed for distribution purposes.

## 1.4. Distribution within the right holders' groups (detailed distribution)

[1]The internal allocation of the amounts assigned to the individual right holders' groups during the generic distribution shall be exclusively made pursuant to the provisions of the special part [of the distribution rules].

[2]The relevant cost for the detailed distribution shall be borne by the relevant right holders' group.

[3]In cases where it is too cumbersome or economically unreasonable to carry out an allocation to individuals, the Expert Committees may – by setting a definitive provision in the distribution rules or subject to the support of the Board of Directors – decide to apply lump-sum payments to sub-groups of the relevant right holders' groups and/or use amounts that are difficult to distribute for collective purposes pertaining to the right holders' group in question.

## 1.5. Actual distribution and payment

### 1.5.1. Distribution

[1]Right holders who are owed amounts equal to or above the minimum payment threshold shall receive an annual payment for their entitlements. The relevant payments for their entitlements shall be deemed as received and accepted unless a written complaint has been issued within 60 days of the payment.

[2]The respective Expert Committees may determine a longer period for complaints.

### 1.5.2. Payment

[1]Members and principals are paid directly, whereas right holders who are members of a foreign sister society are paid via said sister society in line with the bilateral agreement. Payments shall be made at least once a year, no later than during the year following the distribution.

[2]For payment purposes, members and principals shall indicate a bank account in Switzerland (account information). If a foreign bank account is provided, the bank charges for transfers may be passed on to the members and principals.

[3]Transferring claims or entitlements against SWISSPERFORM to third parties shall not be binding for SWISSPERFORM. Payment shall be made to the party registered with SWISSPERFORM as the right holder in line with the provisions of the special part [of these distribution rules].

### 1.5.3. Minimum payment threshold

[1]Right holders' shares that do not reach the threshold of CHF 50.00 per distribution shall not be paid out.

[2]The respective Expert Committees may determine a lower payment threshold.

### 1.5.4. Right holders without account information

Shares of right holders whose account information (address and bank or postal giro account) cannot be located or who have not indicated an address or account information despite having been requested to do so, shall not be paid out. Such shares shall, however, remain credited to the right holders until the limitation period pursuant to item 1.5.7 has expired.

### 1.5.5. Payments to sister societies

[1]In cases where foreign legislation or foreign sister societies provide those deductions on neighbouring rights' income shall be made for any other purposes than administrative costs of more than 10%, the payments to the relevant sister society shall be reduced by the percentage equivalent to the number by which said deductions exceed 10%.

[2]Payments to right holders or their organisations in countries where there is no protection of neighbouring rights comparable to Swiss legislation may be subjected to a preliminary pro-rata deduction of the costs that arose specifically in the exchange process with the respective country. These may include, in particular, the costs of legal clarifications, translation costs, costs arising from contact with special interest/lobby groups of the relevant country, as well as specific costs arising from contact with the supervisory bodies and other administrative institutions.

### 1.5.6. Membership of several collective management organisations

Members or principals may limit the administration and management of their rights via SWISSPERFORM to the territory of Switzerland. In this case they shall bear the additional pro-rata costs created by splitting up their rights administration, except where otherwise stipulated in special arrangements in rights administration agreements with foreign collective rights management organisations.

### 1.5.7. Limitation period

All right holders' claims and entitlements against SWISSPERFORM shall expire once 5 years have lapsed upon the execution of the distribution, but no later than on 31 December of the sixth year following the respective use.

### 1.5.8. Allocation of non-distributable amounts

Amounts that are not paid out to right holders subject to provisions in items 1.5.3 – 1.5.5 shall be used for cultural promotion in the audio resp. audiovisual sectors unless the Expert Committees decide otherwise.

## 1.6. International collections

### 1.6.1. Basic principle

[1]International collections made on behalf of identified right holders shall be passed on to them without further deductions, subject to deductions that must be made pursuant to statutory obligations.

[2]International collections for specific uses and specific right holders' groups shall be allocated to the relevant distribution categories and distributed together with the relevant Swiss collections to the domestic right holders.

### 1.6.2. Reservations under bilateral agreements

In cases where SWISSPERFORM has agreed with a sister society to deviate from the basic principle for the distribution of the income thus collected, such special agreement shall prevail.

## 1.7. Documentation regarding claims and entitlements

### 1.7.1. Notification and information obligations

[1]Right holders shall be obliged to supply SWISSPERFORM with the information necessary for the distribution. They particularly need to notify SWISSPERFORM of performances, audio and audiovisual recordings, as well as broadcasts and their interests and rights in them. They shall be liable for the accuracy of the information they supply.

[2]In cases where right holders choose not to reply to queries from SWISSPERFORM regarding the legal situation, the assumption shall be made that they do not hold the right referred to in the query.

[3]Upon request, producers shall supply details that are necessary to identify the performers provided that they are available.

[4]Details relating to the information to be supplied by the right holders are laid out in the special part [of these distribution rules].

### 1.7.2. Third party notifications

[1]In cases where a notification is made by a producer or broadcaster for audio or audiovisual recordings or broadcasts, it shall also apply to the performers included in the notification, if they are members or principals of SWISSPERFORM.

[2]In cases where a notification on an audiovisual work is made to the collecting society Suissimage, it shall also apply to the performers included in the notification relating to neighbouring rights with SWISSPERFORM.

### 1.7.3. Eligibility of registered right holders

Only such performances, audio or audiovisual recordings and broadcasts that were reported to SWISSPERFORM in a timely and comprehensive manner shall qualify for distribution. Right holders who are not members of SWISSPERFORM must have signed a rights administration agreement with SWISSPERFORM beforehand.

### 1.7.4. Conflicting notifications

[1]In cases where there are conflicting claims relating to the rights in a performance, an audio or audiovisual recording or a broadcast, the claimants shall be informed of the multiple notifications and asked to clarify the legal positions regarding the claims. In cases where such a clarification is not made and the claimant does not provide evidence for their claim, the contended rights shall not be taken into account for distribution purposes.

[2]In cases where conflicting notifications affect a member as well as a third party, the assumption shall prevail that the rights lie with the member as long as the member indemnifies SWISSPERFORM against any third-party claims.

[3]Moreover, the relevant Expert Committee may decide that in cases of conflicting notifications the distribution share shall be allocated [to the right holders] after a certain period has lapsed.

### 1.7.5. Agency without authority (negotiorum gestio)

In cases where there is no membership or principal relationship with the right holder, SWISSPERFORM shall – where possible – administer the rights within the scope of acting as an agency without authority in accordance with Article 419 ff. of the Swiss Law of Obligations. SWISSPERFORM shall undertake all reasonable efforts to identify the right holders, for which an additional deduction of 10% or at least CHF 50.00 may be levied for any relevant additional costs relating to the distribution.

# 2. Special part

## 2.1 Distribution of the performers' shares

### 2.1.1 General provisions

#### 2.1.1.1 Definitions

- **Audio performers are defined as**

musicians, conductors, artistic producers, choir masters, singers, actors, narrators and other performers who perform a copyrighted work or a form of expression of folk art in an artistic manner, and those who contribute to a performance in an artistic manner to such an extent that they influence the immediate audible result of the performance.

- **Audiovisual performers are defined as**

actors, including puppeteers, dancers, theatre directors, dubbing directors, conductors, choirmasters, musicians, singers, also clowns, circus artistes, stunt performers (incl. stunt doubles), narrators (incl. dubbing actors, storytellers and audio voice-overs) and other performers who perform a copyrighted work or a form of expression of folk art in an artistic manner, and those who contribute to a performance in an artistic manner to such an extent that they influence the immediate audible result of the performance.

#### 2.1.1.2 Competences

[1]The Expert Committees of performers adopt joint resolutions regarding the general provisions pursuant to item 2.1.1 of the distribution rules. The Expert Committee of Audio Performers shall determine the provisions relevant to its expert sector pursuant to item 2.1.2, and the Expert Committee of Audiovisual Performers shall determine the provisions relevant to its expert sector pursuant to item 2.1.3. The two Expert Committees shall determine the provisions pursuant to item 2.1.4. together.

[2]The distribution of the revenues arising from the use of musical performances which are only fixated on the audio track of an audiovisual recording, shall be allocated to the expert sector of audio performers. The allocation of the relevant distributable amounts shall, however, be governed in the general part hereinafter. Any amendments to these provisions as well as to any agreements with right holders and sister societies in relation to these provisions require the approval of both Expert Committees.

#### 2.1.1.3 Allocation of distribution categories to expert sectors

[1]The expert sector of audio performers includes "commercially published sound recordings", "music on audiovisual recordings" as well as "non-commercially published sound recordings and live performances".

[2]The expert sector of audiovisual performers includes "performances in feature and TV films" as well as "other audiovisual performances".

[3]The distribution category „online usage" is included in both, the expert sector of audio performers as well as audiovisual performers.

#### 2.1.1.4 Allocation of distributable amounts to distribution categories

[1]The distributable amounts allocated to performers in the course of the generic distribution pursuant to item 1.3 are consolidated and allocated to the individual distribution categories in accordance with the following rules.

[2]Tariff collections which compensate for uses allocated to a specific distribution category pursuant to the wording of a tariff, shall only be allocated to the respective distribution category. This shall apply, in particular, to collections from online usage, which shall be allocated to the respective distribution category

pursuant to item 2.1.4. The remuneration from online usage in broadcasting tariffs shall, on the other hand, be allocated to the distribution categories “performances in feature and TV films” or “other audiovisual performances”.

[3]Tariff collections which compensate for but do not distinguish between uses of commercially published sound recordings and non-commercially published sound recordings shall be allocated via resolution by the Expert Committee of Audio Performers on the basis of periodically conducted usage surveys, in line with the pro rata temporis shares of the used recordings in the distribution categories “commercially published sound recordings” as well as “non-commercially published sound recordings”.

[4]Tariff collections which compensate for but do not distinguish between various uses pursuant to Art. 35 paragraph 4 CopA or Art. 33 paragraph 2 letters b and e CoPA in audiovisual media, shall be allocated via resolution by the Expert Committees on the basis of periodically conducted usage surveys in line with the pro rata temporis shares of the used recordings in the individual distribution categories. In such cases, recordings with performances on the image track shall be weighted at 3/5, those with musical performances on the audio track with 1/5 and those with spoken performances on the audio track also with 1/5. A recording which contains both performances on the image track as well as musical and spoken performances on the audio track shall thus be weighted fully, a recording which only contains performances within the image with 3/5, a recording with performances within the image and musical performances on the audio track with 4/5 and a recording with performances within the image and spoken performances on the audio track, also with 4/5.

[5]The usage surveys in line with paragraphs 3 and 4 shall be undertaken on the basis of the following documents, in the order they become available:

- Importable and electronically processable reports from the users;
- Importable and electronically processable usage surveys from other collective management organisations, especially Suissimage and SUISA;
- Statistical surveys on the usage behaviour with regards to specific tariffs.

[6]Should no respective data be available for a specific use pursuant to paragraphs 3 and 4, the allocation shall be made on the basis of the use determined in the SRG radio and TV channels. In cases where the cost for the determination of the use exceeds the distributable amount by 25%, the Expert Committees may, at its reasonable discretion, also carry out the allocation to the distribution categories on the basis of an estimate.

[7]The allocations in line with the above rules carried out by the Expert Committees in charge are listed in Annex AAT1.

### 2.1.1.5 Allocation rules for music in Audiovision with regard to tariff-based collections pursuant to item 2.1.1.4 paragraph 4 to the distribution categories

[1]The distribution category “music on audiovisual recordings” shall be allocated up front in order to compensate for musical performances fixated only on the audio track of commercially published sound recordings:

- 1/5 of the collections from the use of commercially published sound recordings with feature and TV films. The remaining shares shall be allocated to the distribution category “performances in feature and TV films” to compensate for the artists contributing in the image as well as the narrators contributing to the audio track.
- 1/2 of the collections from the use of commercially published sound recordings with documentaries and cartoons. The remaining shares shall be allocated to the distribution category “other audiovisual performances” to compensate for the narrators contributing to the audio track.
- 19/20 of the collections from the use of music videos to compensate for the musical performances in the visual and audio section of the music videos. The remaining 1/20 goes to the distribution area “other audiovisual performances” to compensate for the performances that merely feature in the picture part.

[2]The distribution category “music on audiovisual recordings” shall be allocated up front in order to compensate for musical performances fixated only on the audio track of non-commercially published sound recordings:

- 1/5 of the collections for the use of non-commercially published sound recordings which contain performances within the image as well as spoken and musical performances on the audio track;
- 1/4 of the collections for the use of non-commercially published sound recordings which contain performances within the image and exclusively musical performances on the audio track, musical performances pursuant to paragraph 4 remain reserved;
- 1/2 of the collections for the use of non-commercially published sound recordings which contain no performances within the image but contain spoken and musical performances on the audio track;
- Full collections for the use of non-commercially published sound recordings which contain no performances within the image and exclusively musical performances on the audio track;

The remaining shares from the collections of non-commercially published sound recordings shall be allocated to the distribution category “other audiovisual performances” to compensate for the artists contributing in the image as well as the narrators contributing to the audio track.

[2bis]The allocations mentioned in paragraphs 1 and 2 may be amended by joint resolution of the Expert Committees in charge if there are, according to Art. 35 paragraph 4 CopA or any international treaty, substantial differences in protection between the distribution categories mentioned in these paragraphs. The regulation in this respect shall be stipulated in Annex AAT1.

[3]Musical performances which are recorded onto the image as well as the audio track (e.g. operas, concert broadcasts) shall be compensated for in the distribution category “other audiovisual performances” to which the relevant shares of the distribution category pursuant to item 2.1.1.4 para. 4 are to be allocated.

[4]The allocation rules of the distribution category “online usage” pursuant to item 2.1.4 remain reserved.

### 2.1.1.6 Reserves and accruals

[1]The Expert Committees in charge decide on the reserves that need to be created for supplementary distributions and distribution risks. Provided that in the following, there are no specific stipulations that apply for individual distribution categories, the reserves must be set up in such a way that any right holders whose registration is done subsequently during the limitation period shall, where possible, receive remuneration at equal levels but under no circumstances at a higher level than the right holders that have the same entitlement and weighting factors which participated in the first, respectively previous distribution run.

[2]Additionally, the Expert Committees in charge may create economically justified reserves for the purpose of further developing the distribution system as well as for covering law enforcement risks within the distribution category. The creation and dissolution of such reserves shall be created in such a way that the right holders of the individual usage years benefit from such costs as evenly as possible.

### 2.1.1.7 Claims and entitlements

[1]With the exception of the tariff-based collections defined in paragraph 3 and 8, all performers shall be entitled based on the same principles, irrespective of their residence and whether reciprocity exists. Sanctions vis-a-vis collective management organisation abroad shall remain reserved, as per Annex AAT2.

[2]In cases where the rights administration takes place outside the remit of the legal areas subject to Art. 40 CopA (Swiss Copyright Act), a participation shall depend on the stipulations of the concluded rights administration agreement.

[3]Only performers with their residence in Switzerland or Swiss nationals, as well as nationals of a country which grants Swiss nationals’ reciprocity, shall be participating in the tariff-based collections from the use of commercially published sound and audiovisual recordings pursuant to Art. 35 CopA.

[4]The entitlement of foreign nationals based on international treaties shall remain reserved.

[5]The assessment of whether the national law of another country (in the sense of Art. 35 para. 4 CopA corresponds to Swiss law or whether an entitlement based on an international treaty is applicable shall be

made based on the criteria as determined in Annex AAT3. The stipulations for individual distribution categories in which the entitlements pursuant to Art. 35 para. 4 CopA are not made for each individual right but rather for a rights category which comprises several rights, shall remain reserved. If tariff-based collections cover several rights without a distinction, the Expert Committees shall decide on the allocation onto the individual rights. Details shall be governed in Annex AAT3.

[6]Under the auspices of bilateral agreements, the question of the entitlement can be assessed in a more detailed manner and may regulated by deviating from paragraph 5.

[7]Should the assessment of an individual entitlement in on a case-by-case-basis turn out to be too elaborate, SWISSPERFORM may allocate it initially based on the details in the membership declaration. Members of collective management organisation abroad may be subject to being allocated certain blanket entitlements. This is, however, subject to the provision of evidence for the entitlement by the right holders as well as the verification of an entitlement by SWISSPERFORM on a case-by-case-basis.

[8]The tariff-based collections pursuant to Art. 35a CopA shall only be distributed among the performers who participate in a work produced or co-produced in Switzerland or in a recognised reciprocal country. The recognised reciprocal countries shall be determined according to the criteria stipulated in Annex AAT4.

#### 2.1.1.8 Lump-sum payments

[1]Lump-sum payments shall be permissible in the following cases:

- if the use cannot at all or not completely be established without reasonable effort;
- if the individual distribution in a specific area would lead to a prevailing number of right holders receiving remuneration which would not reach the payment threshold.

[2]Provided that the use in a specific area is established at detailed level, the collections arising from this use may, subject to item 2.1.1.12, not be distributed on a lump-sum basis.

[3]Otherwise, the Expert Committee in charge shall decide on the share of the performances that are subject to lump-sum payments each year on the basis of the present use data, whereas this share shall not exceed 5% in the case of revenues from broadcast and re-transmission and shall not exceed 10% in the case of revenues from other tariffs.

[4]The lump-sum payments shall be made to the Swiss representative associations of performers, which commit to keep the services they finance by means of the lump-sum payments also open for non-members.

[5]The Expert Committee in charge may decide that foreign and international organisations participate in the lump-sum payments if a significant share of uses which cannot be determined on an individual level, affects foreign right holders.

[6]5% of the annual shares of performers from blank media levies, private copying fees, use of recordings in businesses, rental and use of recordings for educational purposes shall be dedicated to the fight against unauthorised uses and to the support of respect copyright campaigns.

[7]Special stipulations in reciprocal agreements with foreign societies shall remain reserved.

#### 2.1.1.9 “Group rule”

[1]Performers who have contributed to a recording under a joint name (band name) and are affiliated with SWISSPERFORM for their worldwide neighbouring rights may, upon express written request to SWISSPERFORM, appoint a joint representative and a joint paying agent. SWISSPERFORM shall then pay the joint paying agent with discharging effect for the parties having made the appointment.

[2]In cases where not all performers contributing to the recording have signed the joint declaration as per para. 1 above, SWISSPERFORM shall pay the joint paying agent as designated pursuant to para. 1 above, unless the non-signatories to the joint declaration have not given SWISSPERFORM instructions to the contrary.

[3]Elected representatives of orchestras, choirs, dance and ballet companies and other performers regularly appearing in the form of an ensemble shall be considered to be the representatives of the group vis-

a-vis SWISSPERFORM for the recordings they made together. SWISSPERFORM shall pay the paying agent appointed by the relevant representatives.

[4]In cases where the representatives of orchestras, choirs, dance and ballet companies have not appointed a representative, SWISSPERFORM shall be entitled to make payments for the recordings made under the group name in favour of the band members to the supporting sponsor of the group as an agent without a mandate (negotiorum gestio) if said sponsor indemnifies SWISSPERFORM against third party claims.

### 2.1.1.10 Bilateral agreements with sister societies abroad

[1]In cases where bilateral agreements with sister societies abroad provide that the distributable amounts due to their members remain in the country of collection (non-exchange agreements), said amounts shall be distributed to the SWISSPERFORM members and principals. These amounts shall serve as compensation for their claims and entitlements in countries with which SWISSPERFORM holds non-exchange or lump-sum exchange agreements.

[2]In cases where bilateral agreements with sister societies abroad provide that the distributable amount is to be paid to the other society on behalf of each organisations' members and principals, the overall amount due shall be paid to the other society.

[3]Additional conditions for concluding bilateral agreements with sister societies abroad are governed in Annex AAT2.

### 2.1.1.11 Administration deductions and cost allocation for foreign right holders

[1]In cases where the identification of foreign sound or audiovisual recordings and/or its rights holders requires special efforts, SWISSPERFORM may deduct 10% or a minimum of CHF 50.00 from the amount due to those foreign right holders who are not represented by SWISSPERFORM via a sister society.

[2]In cases where users dispute the entitlement of foreign right holders in the context of the application of Art. 35 para. 4 CopA Art. 35a para. 4 CopA and/or applicable international treaty law, SWISSPERFORM shall be entitled but not obliged to enforce the respective claims and entitlements through the courts. It may predicate such a legal enforcement on the condition that the sister societies contribute to the relevant costs.

### 2.1.1.12 Allocation of non-distributable amounts

Amounts that cannot be paid out due to a lack of valid account information, a lack of a legal relationship with SWISSPERFORM, an incomplete identification of the right holder(s) or a lack of having reached the minimum payment threshold may be used for one or more of the following purposes after the limitation period has expired:

- Amounts that have become time-barred may be re-allocated to the distribution and the Expert Committees decide on the procedure in each case;
- Amounts that have become time-barred may be used to reduce the distribution related administration cost and transferred into the reserve fund for supplementary distributions or further developments of the distribution system;
- Amounts that have become time-barred may be transferred to the relevant fund for cultural and social purposes in the audio and audiovisual categories;
- Amounts that have become time-barred may be distributed in the form of a lump-sum payment pursuant to item 2.1.1.8.

The distribution shall be made once the limitation period has expired subject to the resolution of the Expert Committee in charge.

### 2.1.1.13 Involving other organisations for distribution tasks

[1]The Expert Committees may mandate other suitable organisations with tasks related to distributing remuneration in line with the provisions of these distribution rules. The activity of the mandated organisation shall be under the supervision of the Expert Committee in charge. Agreements with mandated organisations shall have to be authorised by the SWISSPERFORM Board of Directors.

[2]The agreements must ensure that all provisions of the distribution rules are adhered to and that the right holders may turn to the Expert Committees in charge in cases of complaints or appeals. The duration of these agreements must be limited, and it must be ensured that it will be possible to ingest the relevant distribution category including the pertaining distribution data at SWISSPERFORM, or transfer it to another organisation upon termination of the agreement.

#### 2.1.1.14 Entry into force of the changes to the distribution rules for performers - general provisions

[1]The changes to the distribution rules for performers (General Provisions, item 2.1.1 ff.) shall enter into force on 01 January 2017 and apply to the distribution of collections made in 2016. The provisions regarding the distribution of the collections from online usage shall come into force upon the approval by the supervisory authority and shall be applicable to the collections realised as from January 1, 2022.

[2]The amendments in connection with the reallocation of musical performances on music videos to the distribution category “music on audiovisual recordings” (2.1.1.2, 2.1.1.3, 2.1.1.4 and 2.1.1.5) shall enter into force on April 1, 2025 and shall apply to the distribution of the revenues for 2024.

### 2.1.2 Distribution among performers in the audio sector

#### 2.1.2.1 Definition of the distribution categories

[1]The distribution category “commercially published sound recordings” shall include all fixations of a work that are commercially available, irrespective whether they are distributed in a physical or a non-physical format.

[2]The distribution category “music on audiovisual recordings” shall include all performances on the audio track of an audiovisual recording with the exception of the distribution category „online usage “.

[3]The distribution category “non-commercially published sound recordings and live performances” shall include all performances which neither fall under distribution category “commercially published sound recordings” nor distribution category “music on audiovisual recordings”.

#### 2.1.2.2 Distribution of the remuneration from the use of commercially published sound recordings

##### 2.1.2.2.1 Creation of distributions and allocation of tariff-based collections

The revenues arising from the re-transmission via cable and transmitters as well as IP-based networks, from non-private broadcast reception, from private copying, from rental, from use in schools and businesses, from the use of works by persons with disabilities, the use of archive recordings, the licensed use of set-top-boxes with storage and vPVR, the use arising from rights in orphan works as well as the broadcast of commercially published audio and audiovisual recordings, the making available, performance and projection of commercially available audio and audiovisual recordings shall be allocated to four distributions. Distributions 1-3 shall correspond to the music channels characteristic of the three SRG broadcasting groups; in distribution 4, the relevant private broadcasters are consolidated. Details shall be governed in Annex APH1.

##### 2.1.2.2.2 Basic distribution principles

[1]The share for each sound recording as part of a distribution is determined by:

- the duration during which a recording was used;
- any weighting factors for the channel;
- the size of the formation;
- any supplements for the first broadcast.

[2]The Expert Committee shall determine the weighting factor for each channel in Annex APH1. This shall take the revenues in distributions 1-3 in line with the collections from the respective SRG channels into

account. There shall be no weighting in distributions 4 and 5. The weightings shall be periodically adapted to the development of the collections from the analysed channels.

[3]The Expert Committee may determine that a sound recording shall receive a supplement for its first broadcast within a distribution period in a distribution. Likewise, the Expert Committee may introduce a degression (Annex APH1).

[4]The size of the formation shall be graded into tiers in accordance with Annex APH1 whereby the biggest category shall receive a maximum weighting of 2.5 times of the smallest formation (Formation factor). The tiers shall be periodically evaluated.

[5]The artists contributing to a recording shall be allocated into three categories.

- Featured Artists: Soloists and conductors referred to by name as well as named members of a named formation with up to 15 contributing members.
- Non-Featured Artists: Unnamed performers or members of named formations with 16 or more contributing members.
- Artistic Producers: Performers of these categories which are or are not referred to by name.

The allocation of income to the participating roles is based on a key of percentage shares per role category and per level of formation size in accordance with para. 4. The keys or shares per role category are defined by the specialist group in Annex APH1 and reviewed periodically.

The shares of the income are distributed equally among the participating contributors for each role category. The details are set out in Appendix APH1.

[6]A contributor can only adhere to one category in each recording. If the requirements of several role categories are met, the highest rated role category shall apply.

[7] Both the determination of the formation sizes and the classification into the categories are carried out by SWISSPERFORM on the basis of the information available from performers and producers of sound recordings, which can be retrieved from international databases or is publicly accessible. In the case of members or principals, a credible self-declaration shall be assumed. In the case of foreign rights holders, the assessment by the competent collecting societies shall be taken as a basis, unless it obviously contradicts the principles of para. 5 and 6 above.

[8]Affected parties may appeal against the categorisation to the respective Expert Committee.

#### 2.1.2.2.3 Entitlements / right holder categories

[1]Entitlements in commercially published sound recordings are assessed according to the individual rights categories in accordance with Annex AAT3. Details shall be governed in Annex APH1.

#### 2.1.2.2.4 Relevant usage data

[1]The distribution shall be carried as much as possible in line with the broadcast reports received for the usage.

[2]The broadcasting data of the main SRG radio channels and of five private radio channels must be used for the distribution as a minimum, taking into consideration:

- language region;
- reach by number of listeners;
- existence of reporting lists;
- quality of the data reported by the broadcaster;
- exploitation revenue per station;
- ratio between the total distribution sum to the producers of sound recordings and the evaluated minutes per station;
- repertoire broadcast.

The Expert Committee of Audio Performers shall determine the details in Annex APH1.

[3]In cases where the revenues from broadcast remuneration originating from different channels are consolidated in the distribution, the Expert Committee of Audio Performers may allocate a weighting factor to each channel.

#### 2.1.2.2.5 Entitled performers' duties

[1]Performers whose performances are fixated on a commercially published sound recording, shall notify SWISSPERFORM of the type of their contribution in this recording, citing all necessary data for an identification of the recording. They shall provide SWISSPERFORM with all further details which may serve the distribution of the remuneration to right holders.

[2]Artistic producers or artistic directors of a recording shall notify SWISSPERFORM on the intended reporting channel of all contributors to their recordings and their relevant musical roles. SWISSPERFORM may also request the respective details from producers of sound recordings.

[3]SWISSPERFORM shall not be liable for faulty or incomplete recording or right holder data.

#### 2.1.2.2.6 Reserves

[1]The expert group shall form the necessary reserves in accordance with Section 2.1.1.6. para. 1.

[2]For contributors who are not yet known at the time of a distribution, the expert group may create distribution reserves, for example by setting a default value for the number of contributors per role category and crediting the known contributors only with their share corresponding to this default value until the distribution reserve is dissolved. Distribution reserves shall be dissolved and distributed among the known contributors when the number of contributors is known, but at the latest after expiry of the statutory period of five years for the subsequent notification of claims to SWISSPERFORM. Details shall be governed in Annex APH1.

[3]SWISSPERFORM shall not be liable for any errors contained in the broadcast data relevant for the analysis pursuant to item 2.1.2.2.4. It shall, however, correct any errors that have been documented by it or by the right holders.

### 2.1.2.3 Distribution of the remuneration from the use of music in audiovisual recordings

#### 2.1.2.3.1 Creation of distribution 'pots'

[1]Each year, the collections allocated to the distribution category "music in audiovisual recordings" pursuant to items 2.1.1.4 and 2.1.1.5 shall be allocated to the distribution pots determined by the Expert Committee of Audio Performers in para. 2. For music which is integrated in the audio track of a work registered with Suissimage, two proper distribution pots shall be created.

[2]The following distribution pots shall be created:

- A Music on the audio track of audiovisual recordings registered with Suissimage with up to 15 contributors;
- B Music on the audio track of audiovisual recordings registered with Suissimage with more than 16 contributors;
- C Music on the audio track of other audiovisual recordings with up to 15 contributors;
- D Music on the audio track of other audiovisual recordings with more than 16 contributors;
- E Music in commercials, jingles, audio logos and the like.
- F Music in music videos

[3]The allocation to the distribution pots shall be made on the basis of the periodically determined uses subject to an analogous application of items 2.1.1.4 and 2.1.1.5.

[4]In order to cater for the various formation sizes in the distribution pots, the distribution pots may be weighted differently, whereas the weighting shall not exceed a ratio of one to five. Contributors in large formations of distribution pots B and D may under no circumstances receive a higher minute remuneration than contributors in small formations of distribution pots A and C.

[5]Contributing soloists and conductors in large formations shall participate in the distribution via distribution pot A or C. As a consequence, a maximum share of 20% each can be transferred to distribution pots A and C from distribution pots B and D created on the basis of the preceding rules.

[6]The Expert Committee of Audio Performers shall determine the details in Annex APH2.

### 2.1.2.3.2 Participation of performers in individual distribution pots

[1]Each performer shall participate in the distribution pots based on personal entitlement pursuant to item 2.1.1.7, and generally in line with the broadcast minutes of the work or the form of expression of folk art presented by the respective right holder and broadcast in a relevant programme. A maximum of ten broadcasts of the same work or the same form of expression shall be taken into account during a year. This shall be subject to the provisions pursuant to item 2.1.1.8.

[2]The authoritative broadcast duration in minutes (in the German text: “minutage”) within the meaning of paragraph 1 shall be deemed to be the duration of the musical work on the audio track of the audiovisual work.

[3]In cases where it is not possible to exactly determine the broadcast minutes, they shall be estimated on the basis of auxiliary quantities which relate directly to the broadcast minutes such as recording duration, number and type of recordings for broadcast purposes.

[4]With the exception of pot E (commercials, jingles, audio logos), short broadcasts of under a minute shall not be taken into account in the distribution.

[5]The analysed TV channels pursuant to item 2.1.3.2.1 shall be authoritative within the meaning of paragraph 1 in relation to distribution pots A and B. Swiss TV channels which have been re-transmitted via cable shall be applicable for distribution pots C, D and E. As such, all SRG main channels and additional channels shall be taken into account. Half of any further channels shall be selected based on their daily reach, the other half on the basis of the shares on the programme contents relevant for distribution. Overall, a minimum of 10 and a maximum of 18 TV channels shall be taken into account. The SRG main channels shall be weighted fully. Other channels may be weighted depending on their daily reach yielded across all of Switzerland or across the linguistic regions. Details are listed in Annex APH2.

[6]The daily reach shall be deemed as the share of households in percent which are watching a channel for a minimum of 30 seconds on an average day. The average value measured for the usage year shall be authoritative.

[7]The Expert Committee of Audio Performers may determine parts of broadcast programmes in which the shares of a right holder can even be established without an available notification and paid out to the right holder.

[8]SWISSPERFORM members who have assigned their rights administration to SWISSPERFORM in a country for whose territory SWISSPERFORM has entered into a non-exchange or lump-sum exchange agreement with the collective management organisations in charge, may additionally send in notifications on broadcasts in the disseminated channels in the respective country. A maximum of 18 TV channels shall be taken into account in the respective country with the selection and weighting of programmes taking place analogously with item 2.1.3.3.2 para. 4. The daily reach may be replaced by the weighting factors or other customary criteria for the channels’ market position applied by the collective management organisation in the relevant country. Details are listed in Annex APH2.

### 2.1.2.3.3 Entitled performers’ duties

Right holders shall notify SWISSPERFORM every year until 30 June about the broadcast minutes in one of the authoritative channels of the previous year to be allocated to them pursuant to item 2.1.2.3.2 by submitting the necessary evidence by way of supporting documents to the point of contact indicated by SWISSPERFORM

### 2.1.2.3.4 Subsequent notification and creation of reserves

[1]A reserve fund for late notifications shall be created to which 30% of the distributable amount shall be allocated. If, however, a CHF/minute value per person of more than CHF 5.00 were to be the result of too few notifications being submitted on time, the reserve fund shall be increased accordingly. 2/3 of the

reserve fund shall be available for the first supplementary distribution where right holders participate who submitted late notifications and who fulfil the respective requirements until 30 June of the second year following the calendar year where the use has taken place. 1/3 of the reserve fund shall be available for the second supplementary distribution where right holders participate who submitted late notifications and who fulfil the respective requirements prior to the end of the sixth year following the calendar year where the use has taken place.

[2]The remuneration to be allocated to individual right holders may, under no circumstances, exceed the remuneration which right holders have been paid during the preceding distribution run. Any further entitlements shall be excluded. This shall be subject to the provisions of bilateral agreements for the compliance of which the Expert Committee of Audio Performers may create special reserves.

[3]For subsequent claims due to errors in the distribution, another reserve fund shall be created to which 1% of the distributable amount due to performers shall be allocated each year.

[4]Any amounts that remain undistributed after the statutory limitation period has expired shall be used pursuant to item 2.1.1.12.

### 2.1.2.4 Distribution of remuneration from the use of non-commercially published sound recordings and live performances

#### 2.1.2.4.1 Creation of distribution ‘pots’

[1]Each year, the collections allocated to the distribution category “non-commercially published sound recordings and live performances” pursuant to items 2.1.1.4 and 2.1.1.5 shall be allocated to the distribution pots determined by the Expert Committee of Audio Performers in para. 2.

[2]The following distribution pots shall be created:

- A Music: Soloists and formations with up to 15 contributors;
- B Music: Orchestras, big bands, other formations incl. brass music, choirs and operas with more than 16 contributors;
- C Performances of narrators in radio plays, readings, recitations;
- D Performances in commercials, jingles, audio logos and the like;
- E Performances of forms of expression of folk art.

[3]The allocation to the distribution pots shall be made on the basis of the periodically determined uses subject to an analogous application of items 2.1.1.4 and 2.1.1.5.

[4]In order to cater for the various formation sizes in the distribution pots, the distribution pots may be weighted differently, whereas the weighting shall not exceed a ratio of one to five. Contributors in large formations of distribution pot B may under no circumstances receive a higher minute remuneration than contributors in small formations of distribution pot A.

[5]Contributing soloists and conductors in large formations shall participate in the distribution via distribution pot A. As a consequence, a maximum share of 20% can be transferred to distribution pot A from distribution pot B created on the basis of the preceding rules.

[6]The Expert Committee of Audio Performers shall determine the details in Annex APH3.

#### 2.1.2.4.2 Participation of performers in individual distribution pots

[1]Each performer shall participate in the distribution pots based on personal entitlement pursuant to item 2.1.1.7, and generally in line with the broadcast minutes of the work or the form of expression of folk art presented by the respective right holder and broadcast in a relevant programme. A maximum of ten broadcasts of the same work or the same form of expression shall be taken into account during a year. This shall be subject to the provisions pursuant to item 2.1.1.8.

[2]In cases where it is not possible to exactly determine the broadcast minutes, they shall be estimated on the basis of auxiliary quantities which relate directly to the broadcast minutes such as recording duration, number and type of recordings for broadcast purposes.

[3]With the exception of pot D (commercials, jingles, audio logos), short broadcasts of under a minute shall not be taken into account in the distribution.

[4]The channels analysed pursuant to item 2.1.2.2.4 as well as Annex APH1 shall be deemed as authoritative within the meaning of para. 1, and weightings shall be relinquished.

[5]The Expert Committee of Audio Performers may determine parts of broadcast programmes in which the shares of a right holder can even be established without an available notification and paid out to the right holder.

[6]SWISSPERFORM members who have assigned their rights administration to SWISSPERFORM in a country for whose territory SWISSPERFORM has entered into a non-exchange or lump-sum exchange agreement with the collective management organisations in charge, may additionally send in notifications on broadcasts in the disseminated channels in the respective country. The rules on the authoritative character of a channel pursuant to para. 4 shall be analogous to the selection of the channels which qualify for distribution in another country.

#### 2.1.2.4.3 Entitled performers' duties

Right holders shall notify one of the points of contact denominated by SWISSPERFORM about the broadcast minutes to be allocated to them in relation to the previous year in the authoritative channels pursuant to item 2.1.2.4.2 by submitting the necessary evidence by way of supporting documents.

#### 2.1.2.4.4 Subsequent notification and creation of reserves

[1]A reserve fund for late notifications shall be created to which 30% of the distributable amount shall be allocated. If, however, a CHF/minute value per person of more than CHF 5.00 were to be the result of too few notifications being submitted on time, the reserve fund shall be increased accordingly. 2/3 of the reserve fund shall be available for the first supplementary distribution where right holders participate who submitted late notifications and who fulfil the respective requirements until 30 June of the second year following the calendar year where the use has taken place. 1/3 of the reserve fund shall be available for the second supplementary distribution where right holders participate who submitted late notifications and who fulfil the respective requirements prior to the end of the sixth year following the calendar year where the use has taken place.

[2]The remuneration to be allocated to individual right holders may, under no circumstances, exceed the remuneration which right holders have been paid during the regular distribution run. Any further entitlements shall be excluded. Subject thereof shall be the provisions of bilateral agreements for the compliance of which the Expert Committee of Audio Performers may create special reserves.

[3]For subsequent claims due to errors in the distribution, another reserve fund shall be created to which 1% of the distributable amount due to performers shall be allocated each year.

[4]Any amounts that remain undistributed after the statutory limitation period has expired shall be used pursuant to item 2.1.1.12.

### 2.1.2.5 Entry into force of the changes to the distribution rules for performers - audio sector

[1]The changes to the distribution rules for performers (audio sector, item 2.1.2 ff.) shall enter into force on 01 January 2017 and apply to the distribution of collections made in 2016.

[2]The changes in connection with the reallocation of musical performances on music videos to the distribution category "music on audiovisual recordings" as well as the new rules in the distribution category "commercial sound recordings" (items 2.1.2.1, 2.1.2.2 and 2.1.2.3.1) shall enter into force on April 1, 2025 and shall apply to the distribution of revenues for the year 2024.

### 2.1.3 Distribution among performers in the audiovisual sector

#### 2.1.3.1 Definition of the distribution categories

[1]In the following, such audiovisual productions shall be referred to as “feature and TV films” which have been registered with Suissimage under the work categories and genres listed in Annex AAV1 of these distribution rules.

[2]Distribution category “Performances in feature and TV films” shall comprise the performances of actors, stunt performers (incl. stunt doubles), dubbing directors, narrators (incl. dubbing narrators, storytellers and audio voice-overs) in feature and TV films in line with the preceding definition.

[3]Distribution category “Other audiovisual performances” shall comprise all audiovisual performances which do not fall under distribution categories “Performances in feature and TV films” or “Online usage”. These comprise, for example, artistic performances in audiovisual recordings of theatre, dance and music productions, artistic performances in shows, documentaries and commercials, artistic performances of form of expression of folk art and contributions of narrators to documentaries and cartoons.

#### 2.1.3.2 Distribution of the remuneration from the use of performances in feature and TV films

##### 2.1.3.2.1 Definition of an authoritative use

The collections allocated to the distribution category “Performances in feature and TV films” pursuant to items 2.1.1.4 and 2.1.1.5 shall be distributed based on the usage in Swiss broadcast programmes established by Suissimage. By way of a resolution by the Expert Committee, other processable usage surveys by Suissimage may be analysed. Details shall be governed in Annex AAV1. The collections from online usage shall be excluded; they shall exclusively be distributed according to the provisions of item 2.1.4.

##### 2.1.3.2.2 Basic distribution principles

[1]The distribution shall be made according to the ratio of the point values allocated to the annual amounts of performances in individual films and the personal entitlement in tariff collections.

[2]The point values allocated to performances in individual films are the product of the following factors:

a) Film point factor
b) Function factor
c) Role weighting factor

[3]The film point factor is made up of the following criteria:

a) Duration of the use
b) Weighting factors for the work categories and for genres pursuant to Annex AAV1
c) Broadcast time pursuant to Annex AAV1
d) supplement for the first broadcast pursuant to Annex AAV1

[4]Function factors for performers in a feature and TV film are determined by whether a performance also involves the picture part or just the audio part. An actor who narrates the role in the broadcast version him/herself, shall receive function factor 4. Actors or stunt performers who only appear in the picture part of the work shall receive function factor 3. Narrators (incl. dubbing narrators, storytellers and audio voice-overs) and dubbing directors who only contribute to the audio part of the audiovisual recording shall receive function factor 1. In cases where a performer contributes to a feature and TV films in several functions, only his/her highest weighted function shall be considered for distribution purposes. This shall not apply in cases of self-dubbing of the role by the actor appearing in the picture part; this shall be treated in the same way as if they were narrating their role in the original score themselves.

[5]Role weighting factors of actors shall, in principle, be determined by the number of shooting days, those of narrators, dubbing narrators and storytellers by the number of takes. Actors and narrators, dubbing narrators and storytellers shall be categorised based on the number of shooting days resp. takes into 3 weighting categories A, B and C, dubbing directors, audio voice-overs as well as stunt performers shall be allocated to category C. The weighting factors allocated to the weighting categories as well as the

shooting days resp. takes authoritative for the allocation into the categories shall be subject to Annex AAV1. If the number of shooting days resp. takes is unknown, the role weighting can, alternatively, be determined based on other criteria. With regard to dubbing narrators, the weighting can be based on the role of the dubbed actor. The weighting of an actor, narrator, dubbing narrator and storyteller can, in clear cases, be determined via SWISSPERFORM or by means of a verifiable declaration of the right holder.

[6]Actors for whom the necessary details on the role weighting are missing shall be allocated to category C.

[7]Personal entitlements in tariffs shall be determined pursuant to item 2.1.1.7. The following three entitlement categories shall be created:

- Category I: Entitlement in all tariff-based collections;
- Category II: Entitlement in all tariff-based collections with the exception of rights for broadcasting (Annex AAT3, item 2.1 BR) and performances (Annex AAT3, item 2.6 PP)
- Category III: Entitlement in tariff-based collections for lending (Annex AAT3 item 2.3 LE), making available (Annex AAT3 item 2.4 MA), private copying (Annex AAT3 item 2.5 PC), rental (Annex AAT 3 item 2.7 RE) and reproduction (Annex AAT 3 item 2.8. RP).

[8]In cases where feature and TV films have been produced in a country with whose collective management organisation(s) SWISSPERFORM has entered into a non-exchange or a lump-sum exchange agreement or where the conditions at the CMO(s) are meet pursuant to Annex AAT2 item VI.5, a reserve shall be created for the films produced in this country in relation to the ratio of their broadcast duration in minutes to the entire broadcast duration in minutes for the analysed films. The documentation status at the end of the first calendar year following the use shall be authoritative for the creation of reserves. Later changes of the documentation regarding the production country will not be taken into account during the assessment of the reserves. The reserved amounts shall be withheld and distributed pursuant to the following paragraph.

[9]The amounts withheld pursuant to para. 8 shall be distributed in the form of a percentage-based supplement on top of the distribution result pursuant to the preceding paragraphs to those performers who have assigned the administration of their rights in the other contractual state to SWISSPERFORM in good time (item 2.1.3.2.3).

#### 2.1.3.2.3 Entitled performers' duties

[1]Only performers who have assigned SWISSPERFORM with the administration of their rights by the end of February of the second calendar year following the use and who were registered in the work documentation of Suissimage either as actors, narrators (incl. dubbing narrators, storytellers and audio voice-overs), dubbing directors or stunt performers as long as their performances were used within the meaning of item 2.1.3.2.1.

[2]SWISSPERFORM's administration shall add further performers to the work documentation even after the notification deadline pursuant to para. 1 has expired, provided that they fulfil all other conditions as per these rules. A request to register a recording into the documentation once the notification deadline pursuant to para. 1 has lapsed shall not have any retroactive character regarding the regular distribution of the relevant usage year.

[3]Actors, narrators (incl. dubbing narrators, storytellers and audio voice-overs), dubbing directors or stunt performers shall, without having to be requested to do so, provide SWISSPERFORM with all details that are necessary for the weighting of their performances pursuant to item 2.1.3.2.2 para. 5 as well as Annex AAV1.

#### 2.1.3.2.4 Subsequent notification and creation of reserves

[1]A reserve fund for late notifications shall be created to which 30% of the distributable amount assigned to performers shall be allocated. 2/3 of the reserve fund shall be available for the first supplementary distribution where right holders participate who submitted late notifications and who fulfil the respective requirements prior to the end of February of the third year following the calendar year where the use has taken place. 1/3 of the reserve fund shall be available for the second supplementary distribution where

right holders participate who submitted late notifications and who fulfil the respective requirements prior to the end of the sixth year following the calendar year where the use has taken place. The participation of retroactively added right holders shall be made in the ratio of the point values pursuant to item 2.1.3.2.2 para. 1.

[2]The remuneration to be allocated to individual right holders may, under no circumstances, exceed the remuneration which right holders have been paid during the preceding distribution run based on the respective point value. Any further entitlements shall be excluded.

[3]Subject thereof shall be unexpected obligations for which the Expert Committee of Audiovisual Performers may create special reserves.

[4]For subsequent claims due to errors in the distribution, another reserve fund shall be created to which 1% of the distributable amount due to this distribution category shall be allocated each year.

[5]Any amounts that remain undistributed based on the preceding paragraphs after the statutory limitation period has expired shall be used pursuant to item 2.1.1.12 of the distribution rules.

### 2.1.3.3 Distribution of the remuneration from the use of other audiovisual performances

#### 2.1.3.3.1 Creation of distribution 'pots'

[1]Each year, the collections allocated to the distribution category "other audiovisual performances" pursuant to items 2.1.1.4 and 2.1.1.5 shall be allocated to the distribution pots defined by the Expert Committee of Audiovisual Performers in para. 2.

[2]The following distribution pots shall be created:

- A Music, dance: Soloists and formations with up to 15 contributors;
- B Music, orchestras, big bands, other formations incl. brass music and choirs, ballet, operas: more than 16 contributors;
- C Performances of actors and narrators in documentaries and cartoons;
- D Performances of actors and narrators in commercials and idents;
- E Performances of forms of expression of folk art.

In distribution pots C and D, the allocation for pure narrator performances shall be made with 1/4, performances only on the image track with 3/4 and performances on both image and audio track in full.

[3]The allocation to the distribution pots shall be made based on the periodically determined uses subject to an analogous application of items 2.1.1.4 and 2.1.1.5.

[4]In order to cater for the various formation sizes in the distribution pots, the distribution pots may be weighted differently, whereas the weighting shall not exceed a ratio of one to five. Contributors in large formations of distribution pot B may under no circumstances receive a higher minute remuneration than contributors in small formations of distribution pot A.

[5]Contributing soloists and conductors in large formations shall participate in the distribution via distribution pot A. As a consequence, a maximum share of 20% can be transferred to distribution pot A from distribution pot B created on the basis of the preceding rules.

[6]The Expert Committee of Audiovisual Performers shall determine the details in Annex AAV2.

#### 2.1.3.3.2 Participation of performers in individual distribution pots

[1]Each performer shall participate in the distribution pots based on personal entitlement pursuant to item 2.1.1.7, and generally in line with the broadcast minutes of the work or the form of expression of folk art presented by the respective right holder and broadcast in a relevant programme. A maximum of ten broadcasts of the same work or the same form of expression shall be taken into account during a year. This shall be subject to the provisions pursuant to item 2.1.1.8.

[2]In cases where it is not possible to exactly determine the broadcast minutes, they shall be estimated on the basis of auxiliary quantities which relate directly to the broadcast minutes such as recording duration, number and type of recordings for broadcast purposes.

[3]With the exception of pot D (commercials and idents), short broadcasts of under a minute shall not be taken into account in the distribution.

[4]Swiss TV channels which are re-transmitted via cable on a national level shall be authoritative within the meaning of paragraph 1. As such, all SRG main channels and additional channels shall be taken into account. Half of any further channels shall be selected based on their daily reach, the other half based on the shares on the programme contents relevant for distribution. Overall, a minimum of 10 and a maximum of 18 TV channels shall be taken into account. The SRG main channels shall be weighted fully. Other channels may be weighted depending on their daily reach yielded across all of Switzerland or across the linguistic regions. Details are listed in Annex AAV2.

[5]The daily reach shall be deemed as the share of households in percent which are watching a channel for a minimum of 30 seconds on an average day. The average value measured for the usage year shall be authoritative.

[6]The Expert Committee of Audiovisual Performers may determine parts of broadcast programmes in which the shares of a right holder can even be established without an available notification and paid out to the right holder.

[7]SWISSPERFORM members who have assigned their rights administration to SWISSPERFORM in a country for whose territory SWISSPERFORM has entered into a non-exchange or lump-sum exchange agreement with the collective management organisations in charge, may additionally send in notifications on broadcasts in the disseminated channels in the respective country. A maximum of 18 TV channels shall be taken into account in the respective country with the selection and weighting of programmes taking place analogously to para. 4. The daily reach may be replaced by the weighting factors or other customary criteria for the channels' market position applied by the collective management organisation in the relevant country. Details are listed in Annex AAV2.

#### 2.1.3.3.3 Entitled performers' duties

Right holders shall notify one of the points of contact denominated by SWISSPERFORM about the broadcast minutes to be allocated to them in relation to the previous year in one of the authoritative channels pursuant to item 2.1.3.3.2 by submitting the necessary evidence by way of supporting documents.

#### 2.1.3.3.4 Subsequent notification and creation of reserves

[1]A reserve fund for late notifications shall be created to which 30% of the distributable amount shall be allocated. If, however, a CHF/minute value per person of more than CHF 10.00 were to be the result of too few notifications being submitted on time, the reserve fund shall be increased accordingly. 2/3 of the reserve fund shall be available for the first supplementary distribution where right holders participate who submitted late notifications and who fulfil the respective requirements until 30 June of the second year following the calendar year where the use has taken place. 1/3 of the reserve fund shall be available for the second supplementary distribution where right holders participate who submitted late notifications and who fulfil the respective requirements prior to the end of the sixth year following the calendar year where the use has taken place.

[2]The remuneration to be allocated to individual right holders may, under no circumstances, exceed the remuneration which right holders have been paid during the preceding distribution run. Any further entitlements shall be excluded.

[3]Subject thereof shall be unexpected obligations for which the Expert Committee of Audiovisual Performers may create special reserves.

[4]For subsequent claims due to errors in the distribution another reserve fund shall be created to which 1% of the distributable amount due to performers shall be allocated each year.

[5]Any amounts that remain undistributed after the statutory limitation period has expired shall be used pursuant to item 2.1.1.12.

#### 2.1.3.4 Entry into force of the changes to the distribution rules for performers - audiovisual sector

[1]The changes to the distribution rules for performers (audiovisual sector, item 2.1.3 ff.) shall enter into force on 01 January 2017 and apply to the distribution of collections made in 2016.

[2]Should the necessary conditions for the changeover of the distribution system have not been met, the previous distribution rules shall be valid for another year based on the resolution of the Expert Committees for performers.

## 2.1.4. Distribution of the collections from online usage

#### 2.1.4.1 Definition of the distribution category

The distribution category comprises the remuneration pursuant to Art. 35a Cop A as well as other tariff revenues from online usage that are allocated to this distribution category by the Expert Committees.

#### 2.1.4.2 Definition of an authoritative use

[1] The collections allocated to the distribution category "online usage" shall be distributed according to the usage of the audiovisual recordings relevant for distribution pursuant to item 2.1.1.7 para. 8 reported annually by SSA. Use is defined on the one hand as the offer to use the works online in the catalogues (catalogue presence) and on the other hand as the number of actual usage (views).

[2] In the absence of sufficient usage data, SWISSPERFORM shall be authorised to estimate the extent of usage in the case of established usage.

#### 2.1.4.3 Principles of distribution

[1]The distribution will be made in proportion to the number of points allocated annually to the performances in the individual films.

[2]The distribution may be made separately for individual distribution categories with separable collections. In this case, the collections of this distribution category shall be distributed exclusively to those performers who have contributed to films which were also used in the respective distribution category.

[3]The scores assigned to the performances in the individual films shall be the product of the following factors:

a) Film point value
b) Function factor
c) Role weighting factor

[4]The calculation of the film point value is based on the following criteria:

a) Online use offer (presence in the catalogues)
b) Number of actual uses (views)
c) Duration of the work used
d) Possible weighting factors for the work categories and for the genres

The details of the calculation are set out in Annex OLN.

[5]The Expert Committees shall be authorised to include in the distribution only films with a minimum usage specified by the Expert Committees for each distribution category. The details are regulated in Annex OLN.

[6]The function factor shall be determined in accordance with item 2.1.3.2.2 para. 4. Musicians and singers with performances on the soundtrack shall receive a function factor of 1.

[7]The role weighting factor shall be determined in accordance with item 2.1.3.2.2 para. 5. Where this is not possible, suitable alternative factors may be used (see Annex OLN).

[8]Musicians who only contribute to the soundtrack shall be divided into the three weighting categories A, B and C according to the duration of their contribution. The details are stipulated in Annex OLN.

[9]Short contributions on the soundtrack of less than one minute shall not be included in the distribution.

[10]Performers who do not provide the necessary information regarding role weighting shall be assigned to the lowest weighting category.

[11]The personal authorisation is governed by Section 2.1.1.7. para. 8 or Annex AAT4.

#### 2.1.4.4 Duty to cooperate and subsequent notifications

The rules in items 2.1.3.2.3 and 2.1.3.2.4 shall apply by analogy and shall also apply to the musicians on the audio track of the audiovisual work.

## 2.2 Distribution of the shares of producers of sound recordings

### 2.2.0 Producers of sound recordings

Producers in the audio sector (producers of sound recordings) shall be defined as natural and legal persons who are organisationally and economically responsible for legally produced sound recordings a large number of which is intended for the market under one label. Managers, sound mixers, sound engineers, recording studios, recording engineers, executing producers (producers), music publishers, broadcasters (with regards to recordings that serve the identification of broadcasters, broadcasting groups and broadcasts or provide a background or framework for them, such as idents, jingles, loops, trailers etc.), master and matrix makers, pressing plants, dubbing plants, parallel importers and sound recording pirates shall, in particular, not be included in this definition as producers of sound recordings.

### 2.2.1 Basic distribution principles

[1]Collections that are allocable to producers of sound recordings shall be distributed to right holders on the basis of the individual usage of the sound recordings. In cases where the effort to ascertain the actual use is disproportionately high or where right holders are difficult to identify, the distribution may be made on the basis of other verifiable and suitable criteria.

[2]In cases where, for specific usage categories (such as private copying), there are no means to ascertain the actual use in detail or where they can only be determined with a disproportionate effort, the distribution shall be made on the basis of market shares of the individual producers of sound recordings pursuant to item Ziff. 2.2.2.2.

[3]Different entitlements in tariff-based collections, e.g. due to reciprocity agreements pursuant to Art. 35 para. 4 CopA, shall only be taken into account, if it the wording of the tariff clearly provides, that the tariff-based collections shall only be allocated to a specific repertoire. Deviating regulations in reciprocity agreements shall remain reserved. The Expert Committee of Audio Producers shall determine the entitlements in the tariff-based collections on the basis of the applicable tariffs for each distribution year.

[4]All institutions and persons entrusted with distribution tasks shall be subject to the respective provisions in relation to trade secrets.

### 2.2.2 Carrying out the distribution

[1]Collections from the re-transmission via cable, and via re-transmitters as well as IP-based networks, the non-private broadcast reception, rental, the use of archived recordings, the use of rights in orphan works as well as the broadcast, making available, presentation and performance of commercially available audio and audiovisual recordings shall be allocated to five distributions. Distributions 1-3 shall correspond to the music channels characteristic of the three SRG broadcasting groups; in distribution 4, the relevant private broadcasters are consolidated; in distribution 5, the share of music videos is separated out. Details shall be determined by the Expert Committee of Audio Producers [cf. Annex PPH (Producers of the audio sector)].

[2]In each of these five distributions pursuant to para. 1 above, the allocated revenues shall first be distributed pursuant to item 2.2.2.1. This shall apply to the recordings that can be identified based on the data

provided by the producers of sound recordings pursuant to item 2.2.2.1.1. para. 1 and clearly allocated to a recording from the broadcasting data pursuant to item 2.2.2.1.2 para. 2. The remaining share of the revenues allocated to these five distributions shall be distributed pursuant to item 2.2.2.2.

[3]The revenues from private copying, use in schools and businesses, use of works by persons with disabilities, the licensed use of storage for private local and network-based recordings of broadcasts and broadcast programmes shall be allocated pursuant to item 2.2.2.2.

[4]10% of the revenues mentioned in para. 3 shall be allocated beforehand to an anti-piracy fund of the audio producers for the fight against sound recording piracy.

[5]The Expert Committee of Audio Producers shall determine the reserves and accruals to be created for each distribution category as well as their dissolution.

### 2.2.2.1 Distribution of the remuneration based on usage reports

#### 2.2.2.1.1 Notification of recordings

[1]Without having to be requested to do so, producers of sound recordings shall regularly notify SWISSPERFORM of the recordings for which they wish to establish their neighbouring rights entitlements, by indicating all data required to identify the recording, the producer of the sound recording, the present right holder, if any, and the party authorised to collect pursuant to para. 2.2.3., if any. They shall, upon first request, provide SWISSPERFORM with all further details which may serve the distribution of the remuneration to right holders.

[2]SWISSPERFORM shall not be liable for faulty or incomplete recording or right holder data.

#### 2.2.2.1.2 Distribution mode

[1]The distribution of revenues for the use of sound recordings to the producers of sound recordings shall, wherever possible, be made in line with the reports received for the respective use.

[2]The broadcasting data of the nine main SRG radio channels and of five private radio channels must be used for the distribution as a minimum, taking the following criteria into consideration.

- Linguistic region
- Reached depending on the audience numbers
- Existence of report logs
- Quality of the data reported by the broadcaster
- Exploitation proceeds per broadcaster
- Ratio between the entire distributable amount to the producers of the audio sector and the analysed minutes per channel
- Broadcast repertoire

The Expert Committee of Audio Producers shall determine the details [(cf. Annex PPH (Producers of the audio sector)].

[3]This shall be subject to the provisions in bilateral agreements via which SWISSPERFORM commits to remunerate its members and principals, also for the use abroad.

[4]In cases where the revenues from broadcast remuneration originating from different channels are consolidated in the distribution, the Expert Committee of Audio Producers may allocate a weighting factor to each channel.

[5]The Expert Committee of Audio Producers may determine that distributable amounts covering several years for specific uses may be consolidated if significant savings in terms of distribution costs can be made and/or amounts can be yielded for a bigger number of right holders reaching the payment threshold.

### 2.2.2.1.3 Calculation of the share in the distributable amount per recording

[1]The distribution of the revenues onto the individually used recordings shall be determined by the duration, during which a recording has been used. In cases where the duration of the use cannot be determined, the following criteria shall apply in the order shown:

- the average duration of the recording determined on the basis of other broadcast data;
- the duration of the recording in accordance with the details on the sound recording or other relevant databases;
- a duration of 2 minutes and 30 seconds shall be applied for the recording.

[2]The Expert Committee of Audio Producers may determine that a sound recording shall receive a supplement for its first broadcast within a year. Likewise, the Expert Committee of Audio Producers may introduce a degression.

### 2.2.2.1.4 Identification of the right holders in the recording

[1]With respect to the identification of the right holders in a recording, SWISSPERFORM shall primarily rely on the reports of the producers of sound recordings pursuant to item 2.2.2.1.1 para. 1 and alternatively on various suitable third-party data sources.

[2]The entitlement in a recording shall normally be registered at SWISSPERFORM in a way that the recording will be attributed to the original producer of sound recordings, to the present right holder, if any, and the party authorised to collect pursuant to para. 2.2.3., if any.

[3]SWISSPERFORM shall consider the entitlement in a recording for a certain usage year that has been reported within the deadline for the respective distribution to be authoritative.

[4]In cases where a recording was published under various labels, the label under which the recording has - to the knowledge of SWISSPERFORM - been published first shall be considered authoritative.

### 2.2.2.1.5 Supplementary distributions

[1]Over the period of five years, SWISSPERFORM shall be entitled to carry out corrections of the distributions on distributable amounts to be credited or charged to right holders if new documentation on the entitlement in the used recordings or on occurred usages lead to another distribution result.

[2]SWISSPERFORM shall not be liable for any errors contained in the broadcast data relevant for the analysis pursuant to item 2.2.2.1.2. If, in the meantime, a right holder provides evidence within five years after the distribution has been run that a channel which is subject to an analysis erroneously failed to report broadcast data, or if a channel reports broadcast data within five years after the distribution has been run, this shall be taken into account in a supplementary distribution accordingly.

[3]Any supplementary distribution pursuant to para. 1 and/or para. 2 shall take place at least once a year.

[4]No supplementary distribution pursuant to item 2.2.2.1 (Distribution of the remuneration on the basis of usage reports) shall be made for recordings

- that could, pursuant to item 2.2.2 para. 2, not be identified based on the data provided by the producers of sound recordings pursuant to item 2.2.2.1.1. para. 1 and/or could not clearly be allocated to a recording from the broadcasting data pursuant to item 2.2.2.1.2 para. 2;
- that could, pursuant to item 2.2.2 para. 2, not be identified based on the data reported by the broadcaster pursuant to item 2.2.2.1.2 para. 2 and/or could not clearly be allocated to a recording reported by one of the producers of sound recordings pursuant to item 2.2.2.1.1 para. 1;
- the notifications pursuant to item 2.2.2.1.1 of which are received by SWISSPERFORM after the deadline for a certain distribution.

However, the right holders concerned still have the option of supplementary distribution pursuant to item 2.2.2.2.1 para. 4, i.e. subsequent distribution on the basis of market shares. Details in this regard shall be determined by the Expert Committee of Audio Producers (cf. Annex PPH [Producers of sound recordings])

### 2.2.2.2 Distribution of the remuneration on the basis of market shares

#### 2.2.2.2.1 Notification of turnover (sales)

[1]The right holders shall declare their net turnover (sales) from sales of commercially published sound recordings in Switzerland and Liechtenstein without VAT, postage, packaging, logistical costs and the like to SWISSPERFORM.

[2]The sales declarations shall be provided on SWISSPERFORM notification form A. The notification form for the previous accounting year (= calendar year) shall be made available prior to 31st January to those registered with SWISSPERFORM and shall be published on the SWISSPERFORM website. Parties submitting notifications which do not use said form shall not be taken into account.

[3]The notification must contain complete details relating to

- sound recording labels separated by own and third party labels
- turnover by the producer's own and third party labels via distributors and their names
- turnover by the producer's own and third party labels via the producer's own distribution services, i.e. via direct sales (physical direct sales, broken down into direct sales to the trade/to distributors, to end customers (consumers) and to (groups of) artists, as well as digital sales).

The notification form must be submitted completely filled in, signed and on time.

[4]Declarations must be submitted no later than by 30 April of the distribution year. Late notifications will only be taken into account during five years after the regular distribution year. Due to the additional effort, such subsequent notifications shall be subject to a deduction of 10% but at least CHF 50.00 from the distributable amount due to the right holder.

#### 2.2.2.2.2 Sales declaration

[1]Sales via distributors shall be reduced to the achieved net turnover on the basis of the price published per dealer. If this reduction has not been made, 35% shall be deducted from the declared turnover.

[2]Turnover from direct sales to trade, retail and end customers shall be reduced to the net turnover on the basis of the price published per dealer. If this reduction has not been made, 35% shall be deducted from the declared turnover.

[3]In the case of turnover from direct sales to artists (bands) and digital sales, the actually yielded net turnover shall be declared. In any case, the underlying unit price for the turnover of the sound recording in the declaration must not exceed the price published per dealer.

#### 2.2.2.2.3 Non-qualifying turnover for declarations

Turnover that cannot be declared includes in particular:
- Sponsoring and licence income;
- Override income;
- Video and DVD sales;
- pure book sales;
- sales of blank media or pirated products.

#### 2.2.2.2.4 Burden of proof of the party submitting the declaration

[1]SWISSPERFORM may request a full submission of all and any documents pursuant to para. 3 that are suitable to verify the details provided by the party submitting the declaration. It shall be authorised to do so particularly

- if there are deviations of the declared turnover figures compared to the previous declaration,

- if the declaration or other existing documents warrant justifiable doubts that non-qualifying turnover pursuant to 2.2.2.2.1 and/or 2.2.2.2.3 might have been included in the declaration, or
- in order to avoid a potential claimants' dispute.

[2]SWISSPERFORM shall also be authorised to request submission of all suitable documents on a random sample basis.

[3]The deadline set by SWISSPERFORM for the submission of the suitable documents shall not exceed a month. Such suitable documents requested by SWISSPERFORM may be, in particular, excerpts from the commercial register, detailed annual accounts, VAT accounts, audit reports, invoice ledgers, orders, delivery notes, pre-sale invoices, invoices, licence statements by SUISA as well as artist and any other licence agreements and licence agreement chains.

[4]The burden of proof regarding the entitlement to participate in the distribution shall lie with the party submitting the notification. Each party submitting notifications must be in a position and prepared to provide complete evidence regarding the claim established via their declaration upon request at any time and without delay. Otherwise, the party will be subject to the default consequences pursuant to item 2.2.2.2.5.

[5]In cases where a party submitting the notification declares several (sub-) labels or submits reams of documents, and where this causes SWISSPERFORM to incur excessively high verification efforts, SWISSPERFORM shall be authorised to charge the audit costs thus caused to the party submitting the notification.

[6]In cases where the turnover determined by SWISSPERFORM after the verification procedure results in a deviation of more than 5% of the declared turnover, the audit costs may be charged in their entirety to the party submitting the notification.

#### 2.2.2.2.5 Consequences of inadequate documents

In cases where after the expiration of the deadline pursuant to item 2.2.2.2.4 para. 3, the requested documents have been submitted only partially or not at all, a short extension of the deadline will be given. If, however, this deadline also lapses without any result or in cases where the desired complementing information is still missing, the turnover subject to verification shall be deemed as having been wrongfully declared and shall not be taken into account for the distribution.

#### 2.2.2.2.6 Retrospective verification

[1]In cases where SWISSPERFORM becomes aware of potential false declarations, SWISSPERFORM shall be authorised to undertake a retrospective verification of already completed distributions up to a maximum of five years after the pay-out to the right holders has been initiated. In cases where the retrospective verification results in SWISSPERFORM being entitled to clawbacks, the amount to be reimbursed shall be subject to a 5% p.a. interest from the day of the pay-out.

[2]In cases where the verification shows a deviation of more than 5% of the declared turnover, the audit costs shall be allocated to the party subjected to the verification. The rights to claim in the case of further damage shall remain unaffected.

### 2.2.3 Agreements on the entitlement to collect

In cases where SWISSPERFORM becomes aware of an agreement according to which the producer of the sound recording has assigned the entitlement to collect remuneration from the use of neighbouring rights to a distributor or another person ("the party authorised to collect") for specific recordings of a label, SWISSPERFORM shall pay the remuneration in relation to all recordings of the respective label to the party authorised to collect. Furthermore, SWISSPERFORM shall pay the remuneration to the party authorised to collect in full even if the entitlement to collect has only been assigned for part of the remuneration. The party authorised to collect shall be obliged to treat the producer of sound recordings in accordance with the contract concluded with it. Moreover, the party authorised to collect shall indemnify SWISSPERFORM against any third party claims.

### 2.2.4 Claimants' disputes

In addition to item 1.7.4 of the General Part, the following shall apply: After pay-out, there shall be no further claims against SWISSPERFORM, irrespective whether a third party claimant becomes known before or after the pay-out. SWISSPERFORM shall, however, inform the third party claimant without delay to which recipient the pay-out has been made.

### 2.2.5 Clarification competence

The Expert Committee of Audio Producers shall have the competence to undertake amendments to or clarifications of the details required for a verification and distribution, where applicable. It shall also be authorised to interpret the basic principles and rules for the distribution of the shares of the producers of sound recordings at its reasonable discretion provided that this is required on a case-by-case-basis to close any regulation gaps.

### 2.2.6 Lump-sum settlements

The Expert Committee of Audio Producers may conclude agreements with individual right holders' groups regarding lump-sum settlements for certain rights.

### 2.2.7 Bilateral agreements with sister societies abroad

[1]In cases where bilateral agreements with sister societies abroad provide that the distributable amounts due to the right holders represented by them remain in the country of collection (non-exchange agreements), said amounts shall be distributed to the right holders represented by SWISSPERFORM. These amounts shall serve as compensation for their claims and entitlements in countries with which SWISSPERFORM holds non-exchange agreements.

[2]In cases where bilateral agreements with sister societies abroad provide that the distributable amount is to be paid to the other society on behalf of the right holders represented by the other society respectively, the due overall amount shall be paid to the other society.

### 2.2.8 Administrative deduction in the case of foreign right holders

In cases where the identification of foreign sound or audiovisual recordings and/or its rights holders requires special efforts, SWISSPERFORM may deduct 10% or a minimum of CHF 50.00 from the amount due to those foreign right holders who are not represented by SWISSPERFORM via a sister society.

### 2.2.9 Assignment of distribution tasks

The Expert Committee of Audio Producers may mandate other suitable organisations with tasks related to the distribution of remuneration in line with the provisions of these rules.

### 2.2.10 Allocation of non-distributable amounts

The Expert Committee of Audio Producers may determine that amounts that cannot be paid out due to a lack of valid account information, a lack of a legal relationship with SWISSPERFORM, an incomplete identification of the right holder or a lack of having reached the minimum payment threshold may be used for one or more of the following purposes after the limitation period has expired:

- Amounts that have become time-barred may be re-allocated to the distribution and the Expert Committees of Audio Producers decide on the procedure in each case.
- Amounts that have become time-barred may be used to reduce the distribution related administration cost and transferred into the reserve fund for supplementary distributions.
- Amounts that have become time-barred may be transferred to the relevant fund for cultural and social purposes in the audio sector.
- Amounts that have become time-barred may be distributed in the form of a lump-sum payment pursuant to item 2.2.6.

### 2.2.11 Entry into force of the changes to the distribution rules for producers of sound recordings (item 2.2.)

[1]The changes to the distribution rules for producers of sound recordings (item 2.2) shall enter into force on August 1, 2020 and apply retroactively to the distributions of the revenues as from the year 2017, with the exception of item 2.2.2 para. 3 which shall only apply to the distributions of the revenues as from the year 2019.

[2]In addition, the following transitional provision shall apply to the distribution of the revenues 2017 and 2018: A share of the collections from private copying, use in schools and businesses, use of works by persons with disabilities, as well as licensed use of set-top-boxes with storage and vPVR shall be distributed to the domestic right holders pursuant to item 2.2.2.2. This share shall be determined by the Expert Committee of Audio Producers based on the available data regarding the shares of the commercially available sound recordings of the domestic right holders broadcast by the radio channels relevant for the analysis.

## 2.3Distribution of audiovisual producers' shares

### 2.3.0 Definition

Producers in the audiovisual sector (producers of audiovisual recordings or audiovisual producers) shall be defined as natural and legal persons who are organisationally and economically responsible for the first recording of a performance onto an audiovisual or visual recording, or for another visual process. Distributors, copying plants, film sound studios, dubbing companies and manufacturers of master tapes/media shall not be included in this definition of audiovisual producers.

### 2.3.1 General provisions

[1]The distribution of audiovisual producers' shares from neighbouring rights income to individual audiovisual recordings shall be made pursuant to the provisions of the agreement between SWISSPERFORM and Suissimage in cooperation with Suissimage and parallel to Suissimage's distribution, unless stated otherwise in the provisions hereinafter.

[2]In the event of any uncertainties, Suissimage's rules shall apply analogously.

### 2.3.2 Special provisions: Allocation of audiovisual producers' shares

#### 2.3.2.1.1 Documentation and process

[1]The allocation shall be made based on the usage documentation from Suissimage and on the work registrations received by Suissimage (see above 1.7.2). SWISSPERFORM shall not keep its own documentation of works or usages.

[2]The deadlines applicable for the distribution at Suissimage shall also apply for the distribution of neighbouring rights to audiovisual producers (SWISSPERFORM distribution).

[3]Control lists sent by Suissimage prior to its distribution to the right holders relating to the usages qualifying for distribution and the subsequent usage data cleaning procedure shall also form the basis for the SWISSPERFORM distribution. The indemnification granted to Suissimage by its sister societies shall also apply to SWISSPERFORM.

#### 2.3.2.2 Notification deadline

[1]Only audiovisual recordings with works which were registered with Suissimage until 31st March (i.e. until 31st March of the year following the broadcast) shall be considered for a usage-based distribution.

[2]If the work has been registered belatedly, and broadcast data are supplied additionally, the following applies for the notification:

- until 30 June: the broadcast will be added and considered in the ordinary distribution;
- after 30 June: the broadcast shall be distributed via the reserve funds in case the work has not been fully distributed yet.

[3]Late registrations without broadcast data shall be included for the ordinary distribution in the year following the broadcast for the first time.

[4]In case of postal deliveries, the date of the postage stamp shall decide whether the deadline has been adhered to; in case of electronic registrations, the date of receipt by the collective management organisation shall apply.

#### 2.3.2.3 Audiovisual works - short duration

[1]Audiovisual works of less than 5 minutes shall be considered for registration and distribution purposes if the right holder has provided evidence for their usage. Audiovisual recordings which were used within another medium or broadcast under a different title must be reported to Suissimage under separate cover, in the case of a broadcast including information on broadcaster/station, date, time and duration of the broadcast.

[2]Audiovisual works categories with a duration of less than 5 minutes requiring an unreasonable effort to analyse them individually may be remunerated via a blanket payment in line with the provisions pursuant to 1.4.

[3]Audiovisual works with a duration of less than one minute as well as individual works' excerpts under 3 minutes shall not be eligible for distribution.

#### 2.3.2.4 Legal succession

[1]With regards to collectively managed exclusive rights (Articles 22, 22a, 22b, 22c, 24b Swiss Copyright Act), a right holder may take the place of the producer provided they have acquired the relevant rights for Switzerland.

[2]In any other cases, legal succession shall only be considered for distribution purposes if all rights relevant to collective management organisations have been transferred to a new right holder.

#### 2.3.2.5 Co-productions

In cases where several producers are involved in one audiovisual recording, the total amount for the audiovisual recording shall – provided there is no agreement to state otherwise - be divided into equal shares.

#### 2.3.2.6 Adjustments for the late registration of a claim; reserve funds

[1]There are two adjustment distribution runs for late claims' registrations.

[2]The first adjustment distribution shall be made one year after the regular distribution. The second adjustment distribution shall be made in the sixth year following the regular distribution.

[3]Reserve funds amounting to 10% of the distributable amounts per tariff per year shall be created for remunerating late claims, unless the Expert Committee decides otherwise (cf. 1.2.4). 80% of these shall be allocated to the first adjustment, and 20% shall be allocated to the second adjustment.

[4]The point/CHF value of an adjustment year may not exceed 90% of the relevant value of the previous (supplementary) distribution for the same distribution year.

### 2.3.3 Remuneration for re-transmission and public reception

#### 2.3.3.1 Distribution category

[1]This distribution category shall comprise remuneration collected from re-transmission and public broadcast reception provided that the remuneration does not relate to the usage of commercially published audiovisual recordings.

[2]Of the revenues collected for the re-transmission and public broadcast reception, a certain share will initially be separated out for the usage of commercially published audiovisual recordings and allocated to the distribution category pursuant to item 2.3.8. The share is influenced by the ratio between the entire play time of the commercially published audiovisual recordings which are used in Swiss TV programmes and the total duration of Swiss TV programmes. Each year, the Expert Committee shall determine the level of the share based on the usage data available to it.

#### 2.3.3.2 Calculation basis

[1]The same TV programmes that form the basis for the distribution by Suissimage in the re-transmission and public reception categories shall be used for the distribution of the collected revenues.

[2]Should the analysis of all TV programmes considered for the Suissimage distribution lead to a major part of the allocated shares in the SWISSPERFORM distribution to be under the minimum payment threshold (cf. 1.5.3), the Expert Committee may limit the number of TV programmes to be analysed.

[3]With regards to the decision which programmes will be relevant for the distribution, contractual arrangements governing blanket payments shall be reserved thereof.

#### 2.3.3.3 Weighting

The share for each individual audiovisual recording shall depend on

- Broadcast duration
- Work categories
- Programme coefficient
- Time and number of broadcasts
- Daily reach.

#### 2.3.3.4 Broadcast duration

The actual duration of the broadcast in whole minutes shall be authoritative.

#### 2.3.3.5 Work categories

[1]Audiovisual recordings may be classified into different categories depending on the underlying production efforts. The categorisation shall be made by the Expert Committee each year.

[2]The value of the highest category may only amount to a maximum of thirty times the value of the lowest category.

[3]Works which were produced in 1998 and afterwards shall be subject to a première supplement (French expression: “majoration création”) if their world broadcast première is an integral part of a programme which is available on a national network free view channel. This supplement shall be subject to a factor between a minimum of 1.5 and a maximum of 5 and its definitive determination shall be carried out by the relevant Committee. Works which were produced before 1998 shall be subject to the supplement if one of the right holders provides evidence that the broadcast was in fact a world première on a national programme.

#### 2.3.3.6 Programme coefficient

Each TV programme shall be subject to a coefficient between 1 and 5 depending on which language the programme is broadcast in. The allocation shall be made by the Expert Committee each year.

#### 2.3.3.7 Time and number of broadcasts

[1]The time of broadcast on TV shall be subject to a coefficient between 0.5 and 3. The co-efficient shall depend on the starting time of the programme. The allocation of the coefficient shall be made by the relevant Expert Committee each year. The allocation of coefficients shall be made by the Expert Committee each year.

[2]In the case of programmes aired by broadcasters which are not obliged to obtain a licence for Switzerland, the distribution may be restricted to those works which were broadcast during ‘prime time’ between 7.00pm and 01.59am . In cases where Suissimage has decreed such a restriction, this shall also apply for the SWISSPERFORM distribution.

[3]A maximum of ten broadcasts of the same production shall be taken into account within one year. This shall be subject to the provisions pursuant to item 2.3.3.2 para. 3 and 2.3.4.4.

#### 2.3.3.8 Daily reach

[1]The Expert Committee shall allocate weighting factors between 1 and 5 to each individual TV programme, taking into account the daily reach, the must-carry programmes pursuant to the Radio and TV Ordinance and any encryption of the programme.

[2]Swiss programmes shall be weighed with factor 2.

### 2.3.4 Blank media remuneration

#### 2.3.4.1 Distribution category

This distribution category shall comprise revenues collected from levies on recordable audiovisual media.

#### 2.3.4.2 Calculation basis

Subject to the provisions of 2.3.4.4, audiovisual media shall be included in the distribution which had been taken into account for distribution pursuant to item 2.3.3.

#### 2.3.4.3 Allocation to the distribution category *use in schools*

[1]In order to compensate for blank media shares reserved under any other tariffs, 2% of the collections shall be allocated up front to the distribution category 'use in schools'.

[2]If no separate distribution is made in this category, the above mentioned allocation shall not take effect.

[3]Income from the rental of set-top-boxes and own personal use by way of third party copying devices (Art. 19 para. 2 CopA) shall be excluded from the allocation to the distribution category 'use in schools'.

#### 2.3.4.4 Allocation to audiovisual recordings without broadcasts or reports

[1]20% shall be deducted from the distributable amounts and reserved for the copying of audiovisual recordings not used on television, in particular for:

- Feature films;
- Documentaries;
- Music video clips
- Corporate and PR films (including commercials)
- Educational and training programmes;
- Short cartoons.

[2]Said 20 % shall be allocated to the associations representing the producers of the relevant category of audiovisual recordings based on the distribution key set by the Expert Committee.

#### 2.3.4.5 Allocation to audiovisual recordings with broadcasts

The remaining distributable amount shall be distributed pursuant to the provisions for re-transmission. While the coefficients for the time of the day of the broadcast shall not apply,

the frequency of recordings shall, however, be taken into account by multiplying the values calculated for the work categories with an additional factor between 1 and 3 based on the decision of the Expert Committee.

### 2.3.5 Rental/Lending remuneration

#### 2.3.5.1 Distribution category

This distribution category shall comprise remuneration collected for the rental of audiovisual recordings.

#### 2.3.5.2 Distribution of the shares

Subject to the stipulations in reciprocal agreements with collective management organisations abroad, the distributable amount shall be allocated to the blank media distribution category.

### 2.3.6 Remuneration for use in schools

#### 2.3.6.1 Distribution category

This distribution category shall comprise remuneration for use in schools.

#### 2.3.6.2 Allocation to audiovisual recordings without broadcasts or reports

[1]20% shall be deducted from the distributable amounts and reserved for the copying of audiovisual recordings not used on television, in particular for:

- Feature films;
- Documentaries;
- Music video clips
- Corporate and PR films (including commercials)
- Educational and training programmes;
- Short cartoons.

[2]Said 20 % shall be allocated to the associations representing the producers of the relevant category of audiovisual recordings based on the distribution key set by the Expert Committee.

#### 2.3.6.3 Distribution of residual shares

[1]The distributable amounts shall be distributed at work level based on the reports of the recorded broadcasts to Suissimage in line with the regulations on blank media distribution.

[2]In cases where the distributable amounts are too low to justify their own distribution category, the Expert Committee may determine that the distribution revenues are allocated to the blank media distribution.

### 2.3.7 Remuneration for use in businesses

#### 2.3.7.1 Distribution category

This distribution category shall comprise remuneration for use in businesses.

#### 2.3.7.2 Allocation to audiovisual recordings without broadcasts or reports

[1]20% shall be deducted from the distributable amounts and reserved for the copying of audiovisual recordings not used on television, in particular for:

- Feature films;
- Documentaries;
- Music video clips
- Corporate and PR films (including commercials)
- Educational and training programmes;
- Short cartoons.

[2]Said 20 % shall be allocated to the associations representing the producers of the relevant category of audiovisual recordings based on the distribution key set by the Expert Committee.

#### 2.3.7.3 Distribution of residual shares

[1]The distributable amounts shall be distributed at work level based on the reports of the recorded broadcasts to Suissimage in line with the regulations on blank media distribution.

[2]In cases where the distributable amounts are too low to justify their own distribution category, the Expert Committee may determine that the distribution revenues are allocated to the blank media distribution.

### 2.3.8 Remuneration for the use of commercially published audiovisual recordings

#### 2.3.8.1 Distribution category

This distribution category shall comprise remuneration from the following uses:

- Performance of commercially published audiovisual recordings (CT E);
- Accessory presentation of commercially published audiovisual recordings (CT 3a);

- Broadcasts of commercially published audiovisual recordings (tariffs A TV, CT S TV, broadcasting right advertising slots DE, CT Y TV, CT 1 initial dissemination and CT 1 mixed offers, initial dissemination part);
- Use of commercially published audiovisual recordings by persons with disabilities (CT 10);
- the share allotted to the use of commercially published audiovisual recordings for remuneration arising from re-transmission and public reception (CT 1, CT 1 mixed offers, re-transmission part, CT 2a, CT 2b, CT 3a, CT 3b and CT 3c) pursuant to Distribution Rules item 2.3.3.1.

#### 2.3.8.2 Reservation regarding reciprocity

[1]Audiovisual producers shall only have entitlements to participate in the revenues from this distribution category provided that artists contributed to the commercially published audiovisual recordings produced by them who have their habitual residence in Switzerland or are Swiss nationals or are residents of a country that grants a corresponding entitlement to artists with Swiss citizenship (Art. 35 para. 4 URG). If reciprocity only extends to individual types of usage (e.g. only to re-transmission) the distribution shall be split accordingly.

[2]Based on the respective legal regulations in the affected countries, the Expert Committee shall determine whether and to which extent there is reciprocity. It shall create a list of countries where reciprocity can be deemed as present for each distribution year and for each usage type that falls into this distribution category.

#### 2.3.8.3 Calculation basis

The calculation of the distribution shares shall by analogous application of the provisions in items 2.3.3.2-2.3.3.8. In such cases, commercially published audiovisual recordings with contributions by artists who have their habitual residence in Switzerland or are Swiss residents or belong to a country where reciprocity is given, shall be allocated coefficient 1, all other audiovisual recordings coefficient 0.

### 2.3.9 Remuneration for the use of archived works by broadcasters and rights in orphan works

#### 2.3.9.1 Distribution category

This distribution category shall comprise the remuneration for the use of archived works and of rights in orphan works.

#### 2.3.9.2 Distribution of the shares

The distributable shares shall be directly allocated to the right holders based on the usage reports after deduction of administration costs. In cases where it is impossible to identify or locate the right holders, the amounts shall be paid out to the Swiss Cultural Foundation for Audiovision.

### 2.3.10 Other remuneration

Other remuneration shall be allocated to the blank media distribution.

## 2.4.0 Distribution of broadcasters' shares

(Since the shares on behalf of the broadcasters is currently governed by a blanket agreement with the IRF, there is no need for a dedicated set of distribution rules.)

# 3. Final provisions

## 3.1. Entry into force

The distribution rules dated 17 February / 19 June 1998 shall enter into force retrospectively as of 01 January 1998 and shall replace the version dated 31 July 1996. Further amendments were authorised by the Swiss Federal Institute of Intellectual Property (IPI) by way of official decrees dated 02/11/1999, 15/05/2001, 29/12/2003, 27/08/2004, 24/06/2005, 13/07/2005, 30/06/2008, 12/01/2009, 05/03/2012, 31/07/2013, 24/09/2013, 29/05/2015, 12/082016, 07/02/2017, 27/02/2017, 02/03/2018, 27/11/2018, 02/03/2018, 27/11/2018, 21/03/2019, 15/08/2019, 25/03/2020, 09/11/2020, 23/09/21, 21/10/21, 28/10/21 02/05/2023, 27/09/2023, 03/10/2024, 26/02/2025, 06/05/2025 and 25/11/2025.

.

## 3.2. Relevance for members and principals

This set of distribution rules shall form an integral part of the membership and rights administration agreements.

## 3.3. Clarification competence

It shall lie in the competences of the Expert Committees to either jointly, provided that general provisions are affected, or separately via each of the affected Expert Committees to define these distribution rules provided that this is necessary for the execution of the distribution.

# ANNEX A

| Generic distribution | | | | | | | |
|---|---|---|---|---|---|---|---|
| **Re-transmission rights** | | **Performers** | | **Producers** | | **Broadcasters** | **Total** |
| | | **Audio** | **Audiovisual** | **Audio** | **Audiovisual** | | |
| **CT 1**<br>Re-broadcasting | Audio<br>25% | 23% | | 22.90% | 0.10% | 54% | 100% |
| | Audiovisual<br>75% | 2.80% | 20.85% | 2.80% | 19.55% | 54% | 100% |
| **CT 1**<br>Additional collections | Audio<br>25% | 23% | | 22.90% | 0.10% | 54% | 100% |
| | Audiovisual<br>75% | 2.80% | 20.85% | 2.80% | 19.55% | 54% | 100% |
| **CT 1**<br>Mixed packages<br>Share re-broadcasting 10% | Audio<br>25% | 23% | | 22.90% | 0.10% | 54% | 100% |
| | Audiovisual<br>75% | 2.80% | 20.85% | 2.80% | 19.55% | 54% | 100% |
| **CT 2a**<br>Re-broadcasting via converters | Audio<br>25% | 23% | | 22.90% | 0.10% | 54% | 100% |
| | Audiovisual<br>75% | 2.80% | 20.85% | 2.80% | 19.55% | 54% | 100% |
| **CT 2b**<br>Re-broadcasting via IP based networks | | 3.08% | 20.56% | 3.08% | 19.28% | 54% | 100% |

| **Performance rights** | | **Performers** | | **Producers** | | **Broadcasters** | **Total** |
|---|---|---|---|---|---|---|---|
| | | **Audio** | **Audiovisual** | **Audio** | **Audiovisual** | | |
| **CT 3a**<br>Making available to the public, background music | Audio | 40% | | 40% | | 20% | 100% |
| | Audiovisual | 2.80% | 21% | 2.80% | 19.40% | 54% | 100% |
| **CT 3b**<br>Airplanes | Audio<br>1/3 | 50% | | 50% | | | 100% |
| | Audiovisual<br>2/3 | 5% | 45% | 5% | 45% | | 100% |
| **CT 3b**<br>Coaches | | 36% | 4% | 36% | 4% | 20% | 100% |
| **CT 3b**<br>Vessels, trains, etc. | | 50% | | 50% | | | 100% |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| **CT 3c**<br>Public Viewing | | 2.50% | 2.50% | 2.50% | 2.50% | 90% | 100% |
| **CT C**<br>Churches | | 25% | 25% | 25% | 25% | | 100% |
| **CT E**<br>Movie screening | Cinemas | 20% | 30% | 20% | 30% | | 100% |
| | Other performances | 3% | 47% | 3% | 47% | | 100% |
| **CT H**<br>Dance/Entertainment in the hospitality industry | | 49% | 1% | 49% | 1% | | 100% |
| **CT Hb**<br>Dance/entertainment | | 49% | 1% | 49% | 1% | | 100% |
| **CT HV**<br>Hotel-Videos | | 2% | 48% | 2% | 48% | | 100% |
| **GT K**<br>Concerts and concert-like performances | Music is paramount | 50% | | 50% | | | 100% |
| | Music is played during the breaks (performance) 80% | 50% | | 50% | | | 100% |
| | Music is played during the breaks (reproduction) 20% | 5% | | 95%* | | | 100% |
| **GT L**<br>Dance/ballet/gymnastic classes | | 50% | | 50% | | | 100% |
| **CT MA**<br>Jukeboxes | Audio | 50% | | 50% | | | 100% |
| **CT Z**<br>Circus | Audio | 50% | | 50% | | | 100% |
| **CT Web**<br>Live-Streaming | Audio | 50% | | 50% | | | 100% |

*without fund deduction

| **Blank media levies** | | **Performers** | | **Producers** | | **Broadcasters** | **Total** |
|---|---|---|---|---|---|---|---|
| | | **Audio** | **Audiovisual** | **Audio** | **Audiovisual** | | |
| **CT 4**<br>Casettes | Audio | 44.5% | 0.5% | 44.5% | 0.5% | 10% | 100% |
| | Audiovisual | 1% | 29% | 1% | 29% | 40% | 100% |
| **CT 4**<br>CD-R | | 32.805% | 15.89% | 32.805% | 15.89% | 2.61% | 100% |
| **CT 4**<br>DVD | | 3.795% | 40.13% | 3.795% | 40.13% | 12.15% | 100% |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| **CT 4i**<br>Digital storage media | Audio | 41.585% | 7.085% | 41.585% | 7.085% | 2.66% | 100% |
| | Audiovisual | 2.5% | 30.835% | 2.5% | 30.835% | 33.33% | 100% |
| **CT 4i**<br>Smartphones | | 43.45% | 5.38% | 43.45% | 5.38% | 2.34% | 100% |
| **CT 4i**<br>Tablets | | 43.45% | 5.38% | 43.45% | 5.38% | 2.34% | 100% |
| **CT 4i**<br>Laptops | | 43.45% | 5.38% | 43.45% | 5.38% | 2.34% | 100% |
| **CT 4i**<br>External hard drives | | 43.45% | 5.38% | 43.45% | 5.38% | 2.34% | 100% |
| **CT 7**<br>Use in schools | Audio | 45% | | 45% | | 10% | 100% |
| | Audiovisual | 1% | 32.33% | 1% | 32.33% | 33.34% | 100% |
| **CT 7**<br>Use in schools/digital copies | | 22.50% | 22.50% | 22.50% | 22.50% | 10% | 100% |
| **CT 8**<br>Use in organisations | | 22.50% | 22.50% | 22.50% | 22.50% | 10% | 100% |
| **CT 12**<br>Recording of programs | | 2% | 26.17% | 2% | 26.17% | 43.66% | 100% |
| **CT 12**<br>Share additional fee 1 (50%) | | 0% | 0% | 0% | 0% | 100% | 100% |

*including share additional fee 1 (50%)

| **Rental rights** | | **Performers** | | **Producers** | | **Broadcasters** | **Total** |
|---|---|---|---|---|---|---|---|
| | | **Audio** | **Audiovisual** | **Audio** | **Audiovisual** | | |
| **CT 5**<br>Rental | Audio | 50% | | 50% | | | 100% |
| | Audiovisual | 2% | 48% | 2% | 48% | | 100% |
| **CT 6**<br>Rental in public libraries | Audio | 50% | | 50% | | | 100% |
| | Audiovisual | 2% | 48% | 2% | 48% | | 100% |

| **Broadcasting rights** | | **Performers** | | **Producers** | | **Broadcasters** | **Total** |
|---|---|---|---|---|---|---|---|
| | | **Audio** | **Audiovisual** | **Audio** | **Audiovisual** | | |
| **CT 1**<br>Initial dissemination | | 49% | 1% | 49% | 1% | | 100% |
| **CT 1**<br>Mixed packages<br>Share initial dissemination 90% | | 25% | 25% | 25% | 25% | | 100% |
| **Tarif A SRG**<br>Radio | Audio | 50% | | 50% | | | 100% |
| **Tarif A SRG**<br>TV | Adopted radio programmes | 50% | | 50% | | | 100% |
| | Commercially published sound recordings in<br>own productions | 50% | | 50% | | | 100% |
| | Commercially published audiovisual recordings | 3% | 47% | 3% | 47% | | 100% |
| | Music films | 47.5% | 2.5% | 50% | | | 100% |
| **CT S**<br>Private radio stations | Audio | 50% | | 50% | | | 100% |
| **CT S**<br>Private TV stations | Commercially published sound recordings | 50% | | 50% | | | 100% |
| | Commercially published audiovisual recordings | 3% | 47% | 3% | 47% | | 100% |
| | Music films | 47.5% | 2.5% | 50% | | | 100% |
| **Broadcasting right**<br>Advertising slots DE | | 42% | 8% | 42% | 8% | | 100% |
| **Broadcasting right**<br>Simulcasting abroad | | 100% | | | | | 100% |
| **CT Y**<br>Subscription channel radio | Audio | 50% | | 50% | | | 100% |
| **CT Y**<br>Subscription channel TV | Commercially published sound recordings | 50% | | 50% | | | 100% |
| | Commercially published audiovisual recordings | 3% | 47% | 3% | 47% | | 100% |
| | Music films | 47.5% | 2.5% | 50% | | | 100% |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| **CT 11**[1]<br>Archived recordings of broadcasters | | | | | | | 100% |

| **Other rights** | | **Performers** | | **Producers** | | **Broadcasters** | **Total** |
|---|---|---|---|---|---|---|---|
| | | **Audio** | **Audiovisual** | **Audio** | **Audiovisual** | | |
| **CT 10**<br>Use of works by persons with disabilities | | 24.75% | 24.75% | 24.75% | 24.75% | 1% | 100% |
| **CT 13**[1]<br>Use of rights in orphan works | | | | | | | 100% |
| Online rights[1] | | | | | | | 100% |

[1] The generic distribution is decided upon on a case-by-case basis.

# ANNEX AAT1

This Annex regulates the distribution of the remuneration of the Audio Performers (APH) and Audiovisual Performers (AAV) to the following five distribution categories pursuant to item 2.1.1.3:

APH - Commercially published sound recordings
- Music on audiovisual recordings
- Non-commercially published audio recordings and live performances

AAV - Performances in feature and TV films
- Other audiovisual performances

According to the provisions of the distribution rules the allocations will be made in several individual steps.

## 1. Deduction of costs and deduction for the fight against unauthorised use and for the recognition of rights

1.1. Based on the respective shares of APH and AAV according to the generic distribution (item 1.3), the right holders' group -specific costs shall be deducted first.

1.2. Thereafter, the costs for the fight against unauthorized use and for the recognition of rights shall be deducted (item 2.1.1.8. para. 6).

## 2. Consolidation of the shares APH and AAV

The net totals of the respective APH and AAV shares resulting after the deductions shall be consolidated (item 2.1.1.4. para. 1).

## 3. Direct allocations

The tariff collections attributable to a specific distribution category shall be allocated directly to this category (item 2.1.1.4. para. 2; e.g. the collections from CT K, CT L, Tariff A Radio, CT S Radio shall be allocated directly to the distribution category “Commercially published sound recordings”).

## 4. Breakdown into APH and AAV shares

The remaining tariff collections shall be divided into the categories APH (item 2.1.1.4. para. 3) and AAV (item 2.1.1.4. para. 4). The breakdown is based on three different methods.

4.1. If a tariff already provides for allocation, it shall be adopted.

4.2. If generic distribution shares exist, the APH and AAV shares shall be extrapolated to 100%. This shall be followed by an allocation of 1/8 of the APH to the AAV (according to the former DR, the music in an audiovisual recording had a value of 1/8; item 2.1.2.1.4. of the former DR; as 1/8 of the AAV share was allocated to the APH in the case of the finalised generic distribution shares, this must now be balanced out).

4.3. In the case of tariffs for which the Expert Committees have agreed on approximate shares (e.g. CT 3c 50% / 50%, CT E Cinemas 40% / 60%), the balancing of 1/8 shall not apply.

## 5. APH allocations

In the case of APH, an allocation shall now be made to the distribution categories "commercially published sound recordings" on the one hand and "non-commercially published sound recordings and live performances" on the other hand (item 2.1.1.4. para. 3) on the basis of a comprehensive analysis.[2]

[2] The calculated shares were last communicated to the IPI in a submission dated 22 June 2017 and acknowledged by the IPI in an e-mail dated 28 June 2017.

## 6. Allocations in „Music Films“

As an intermediate step, the collections from tariff A TV Music Films, CT S TV Music Films and CT Y TV Music Films shall be allocated to the distribution category "Music Films" (item 2.1.1.5. para. 1, third bullet).

## 7. Distribution of the broadcasted audiovisual recordings into eight distribution categories

7.1. Based on a regular analysis of SRG broadcasting statistics, the broadcasted audiovisual recordings shall be divided into eight categories.

Two categories relate to commercially published audiovisual recordings (item 2.1.1.5. para. 1):
- Feature and TV films (weighting 100%)
- Documentaries and animated films (weighting 40%)

Six categories relate to non-commercially published audiovisual recordings (section 2.1.1.5. para. 2):
- Programmes with pictures, speech, and music (weighting 100%)
- Programmes with pictures and music (weighting 80%)
- Programmes with speech and music (weighting 40%)
- Programmes with music only (weighting 20%)
- Musical performances (weighting 80%; item 2.1.1.5. para. 4)
- Programmes with pictures and speech (weighting 80%).

The weighting is based on the rules in item 2.1.1.4. para. 4: Visual performances shall be weighted at 3/5, musical performances on the soundtrack at 1/5 and spoken performances on the soundtrack also at 1/5.

7.2. For certain tariffs (e.g. CT 1 AV, CT 3a AV) the shares of the eight categories based on the analyses of the transmission statistics will be applied directly.

7.3. For tariffs in which the use of commercially published audiovisual recordings is prioritised over the use of non-commercially published audiovisual recordings (e.g. CT HV, CT 4, CT 4i, CT 12), the two commercially published audiovisual recordings categories shall be weighted up to 75% and the six non-commercially published audiovisual recordings categories shall be weighted down to 25%. The ratios between the commercially published audiovisual recordings categories and the non-commercially published audiovisual recordings categories shall remain unchanged.

7.4. CT 8 (Uses in organisations) predominates the use of non-commercially published audiovisual recordings over the use of commercially published audiovisual recordings. Here, the two commercially published audiovisual recordings categories shall be weighted down to 25% and the six non-commercially published audiovisual recordings categories shall be weighted up to 75%. The ratios of the commercially published audiovisual recordings categories and the non- commercially published audiovisual recordings categories to each other shall remain unchanged.

7.5. In the case of tariffs for which the use can only be roughly estimated (e.g. CT H, CT 10), the categories of commercially published audiovisual recordings und of non-commercially published audiovisual recordings shall each be weighted at 50%. The ratios of the commercially published audiovisual recordings categories and the non-commercially published audiovisual recordings categories to each other shall remain unchanged.

7.6. In the case of tariffs that relate exclusively to the use of commercially published audiovisual recordings, the two commercially published audiovisual recordings categories shall be weighted up to 100%.

## 8. AV distribution (commercially published audiovisual recordings) and allocations in „Music on audiovisual recordings “

8.1. According to the shares determined in the previous step, the tariff collections for commercially published audiovisual recordings shall be allocated to the categories feature and TV films as well as documentaries and animated films (based on item 2.1.1.5. para. 1).

8.2. The following shares shall now be allocated to the "Music on audiovisual recordings" distribution category:

- 1/5 from the category feature and TV films; the remaining share shall be allocated to the distribution category "Performances in feature and TV films " (item 2.1.1.5. para. 1 lemma 1).
- 1/2 from the documentaries and animated films category; the remaining share shall be allocated to the distribution category "Other audiovisual performances" (item 2.1.1.5. para. 1 lemma 2).

The Expert Committees AAV and APH have established that in the case of retransmission rights, the US actors in feature and TV films are protected based on reciprocal rights pursuant to Art. 35 para. 4 CopA, whereas there are no reciprocal rights for the music performances of US performers on the soundtrack of these films. The Expert Committees have, therefore, decided the following in accordance with item 2.1.1.5. para. 2bis of the distribution rules[3]:

The allocation pursuant to item 2.1.1.5. para. 1 lemma 1 from the retransmission rights to the distribution category "Music on audiovisual recordings" shall be reduced by an amount corresponding to 80% of the share of US feature and TV films in the corresponding “minutage” (German term for authoritative broadcast duration in minutes) of feature and TV films in the programmes relevant for distribution pursuant to item 2.1.3.2.1.

## 9. AV distribution (non-commercially published audiovisual recordings) and allocation in „music on audiovisual recordings“

9.1. According to the shares determined in step 7, the tariff collections for non-commercially published audiovisual recordings shall be allocated to the categories broadcasts with picture, speech and music, broadcasts with pictures and music, broadcasts with speech and music, broadcasts with music only, musical performances and broadcasts with pictures and speech.

9.2. The following shares shall now be allocated to the "Music on audiovisual recordings" distribution category:

- 1/5 from the category programmes with pictures, speech, and music
- 1/4 from the category programmes with pictures and music
- 1/2 from the category programmes with speech and music
- the entire category programmes with music only

The remaining shares shall be allocated to the distribution category "Other audiovisual performances" (item 2.1.1.5. para. 2).

9.3. The entire category of musical performances shall be allocated to the distribution category "Other audiovisual performances" (item 2.1.1.5. para. 4).

9.4. The entire category of broadcasts with pictures and speech shall be allocated to the distribution category "Other audiovisual performances" (item 2.1.1.5. para. 2).

[3] Resolution of the Expert Committee APH dated 21/09/2022; resolution of the Expert Committee AAV dated 24/10/2022.

## 10. Allocation Music Films

19/20 of the collections from the use of Music Films shall be allocated to the distribution category "Music on audiovisual recordings", and the remaining share of 1/20 to the distribution category "Other audiovisual performances" (item 2.1.1.5. para. 1, third bullet).

## 11. Composition of all allocations

The allocations according to the previous steps shall be combined in order to be able to allocate them to the five distribution categories (according to item 2.1.1.3.) "Commercially published sound recordings and music videos", "Non-commercially published sound recordings and live performances" and "Music on audiovisual recordings" (APH) as well as "Performances in feature and TV films" and "Other audiovisual performances" (AAV).

## 12. Final allocations

12.1. The final allocations to the five distribution categories in accordance with item 2.1.1.3. show the respective percentages of the total distribution amount of APH and AAV.

12.2. In a final step

- the total of the three APH distribution categories and their respective percentage thereof, and
- the total of the two AAV distribution categories and their respective percentage thereof

will be disclosed.

# ANNEX AAT2

## Rights administration of performers in the case of international circumstances (implementation rules in relation to Art. 3 and 6 of the Statutes as well as item 2.1.17 and item 2.1.1.10 of the distribution rules)

### *I. Performers with their residence and/or workplace in Switzerland*

1. Members and principals who permanently work as performers in Switzerland and/or permanently reside in Switzerland shall assign SWISSPERFORM with their global rights administration of the neighbouring rights for performers managed by collective management organisations. For this purpose and the duration of their membership resp. the rights administration agreement, they shall assign any and all rights to SWISSPERFORM that are subject to mandatory rights management as well as rights abroad that are comparable to these rights and shall participate in accordance with the distribution rules in the remuneration realised by way of bilateral agreements with collective management organisations abroad. In the framework of the membership and rights administration agreement it is possible to agree that the rights assignment and mandate for managing the rights can be extended to further rights subject to collective rights management.
2. The rights administration via SWISSPERFORM and the scope of the rights assignment can be limited to the territory of Switzerland. In this case, the member resp. the principal shall have no entitlement to a participation in the remuneration realised by SWISSPERFORM by way of the bilateral agreements with collective management organisations abroad.
3. It is possible that, based on resolutions by the Expert Committees in charge, more refined options can be offered to members and principals to restrict the rights administration agreement regarding territories and/or the scope of the rights assignment such as the option to exclude individual countries and/or rights categories from the rights management mandate and/or its limitation to individual countries and/or rights categories. The Expert Committee in charge shall determine the individual rights categories and also carry out the allocation of the rights to be assigned to SWISSPERFORM in these rights categories. SWISSPERFORM shall, in such cases, be authorised to charge members and principals with the additional documentation costs arising in the wake of such options.

### *II. Performers with their residence and/or workplace outside Switzerland*

1. Performers who do not permanently work as performers in Switzerland and/or do not permanently reside in Switzerland can assign SWISSPERFORM with their rights administration in Switzerland. For this purpose they shall assign any and all rights to SWISSPERFORM that they are entitled to in terms of neighbouring rights for performers in Switzerland that are subject to mandatory rights management. The Expert Committee in charge shall determine the individual rights categories and also carry out the allocation of the rights to be assigned to SWISSPERFORM in these rights categories. With respect to the options to restrict the mandate, SWISSPERFORM shall be authorised to charge members and principals with the additional documentation costs created as a consequence.
2. Principals shall be subject to the regulations of the distribution rules applicable to members as well as its implementation rules with regards to their participation in the distribution.
3. Principals who do not permanently work as performers in Switzerland and/or do not permanently reside in Switzerland, shall not participate in the remuneration realised by SWISSPERFORM by way of the bilateral agreements with collective management organisations abroad.
4. Particular costs regarding the interaction with foreign principals such as special correspondence, legal clarifications, postage, phone and bank fees or special documentation costs based on

extraordinary representation circumstances or payment instructions may be charged against the distribution results for the respective performer. If a distribution result is uncertain, the process of carrying out comprehensive clarifications may be made dependent on the payment of an adequate cost advance.

5. SWISSPERFORM shall not accept mandates from principals that do not permanently work as performers in Switzerland and/or do not permanently reside in Switzerland regarding their rights management abroad. This limitation may be lifted by resolution of the Expert Committees in charge in its entirety or with regards to individual countries or economic areas. In cases where, on the basis of such as resolution, rights administration and management is carried out abroad, item II.3 with respect to the relevant countries shall not be applicable.
6. Foreign artists may choose to be represented by third parties such as agencies, lawyers etc. The following documents must, however, be signed by the performer in person: Assignment of rights as well as mandating SWISSPERFORM. In cases of doubt, a certification of the signature may be requested. By way of exception, a personal signature of the performer may not be necessary provided that the third party produces a sufficient power of attorney signed by the performer and signs a declaration designed by SWISSPERFORM whereby it is specifically stipulated that the third party should, if possible, use their own standard power of attorney, that it must notify SWISSPERFORM with regards to any changes or termination of the power of attorney without delay and that the third party indemnifies SWISSPERFORM with respect to any remuneration sent to it by error. In any case, the foreign performer must indicate a valid domicile and tax residence to which any deliveries can actually be sent. SWISSPERFORM shall be authorised to reveal this address to tax authorities making enquiries.
7. The principal may grant third parties access authorization to its accounts.

### *III. Liechtenstein*

1. As long as SWISSPERFORM continues to be active as a licensed collective management organisation in Liechtenstein, the territory name “Switzerland” in items I and II shall be replaced by “Switzerland and Liechtenstein”.
2. As long as SWISSPERFORM as the licensed collective management organisation continues to be active in Liechtenstein, persons who have their residence or workplace in Liechtenstein shall be treated equally to those persons who have their residence or workplace in Switzerland.

### *IV. Duplicate memberships, multiple assignments*

1. Members and principals who have given a mandate for rights administration and management in the same legal area to another third party, especially another collective management organisation in addition to SWISSPERFORM, will be prompted by SWISSPERFORM in writing to clarify the situation within three months so that it becomes clear who resp. which collective management organisation represents a performer for the respective legal area. Until a definitive clarification of the legal situation has been achieved, the member resp. the principal cannot claim any entitlements arising from the membership resp. the rights administration agreement.
2. In cases where, despite a written request by SWISSPERFORM within three months, no clarification can be achieved regarding the representation mandate of SWISSPERFORM in the respective legal area, SWISSPERFORM may take the following action:
   a) SWISSPERFORM may declare the mandate resp. the membership to be invalid on the basis of an unclear or missing rights assignment and renounce on any further rights administration and management on behalf of the member resp. the principal.

b) SWISSPERFORM may limit a global mandate assigned to it to the territory of Switzerland and exclude the member resp. the principal from the participation in remuneration arising from bilateral agreements.

3. In cases where SWISSPERFORM has to administer the rights of members and principals in such a way that several distributions have to be created for the same person, split into individual rights categories (e.g. to a sister society and an agency), SWISSPERFORM may take a lump-sum cost deduction to be determined by the Expert Committees in charge from each additionally necessary settlement and which may be no higher than the equivalent of the annual average distribution costs per right holders' group which arise for every individual national and international right holder to which a remuneration is payable.

## *V. Cooperation agreements with foreign performers' organisations*

1. Recognised foreign performer organisations which actually represent a significant part of the performers residing in a country in the neighbouring rights sector, may be assigned with the following tasks, irrespective of reciprocity under cooperation agreements:
   - Pay-out of individualised performer shares to right holders residing in their territory.
   - Representation of interests of performers residing in their territory by supporting the documentation process and notification of recordings and broadcasts.
2. The foreign performer organisation shall not have any claim towards the conclusion of a cooperation agreement. A conclusion of such cooperation agreements may also be refused if it were to entail a disproportionate administrative effort or if the foreign organisation is not visibly supporting the interests of Swiss performers.
3. Particular costs regarding the interaction with foreign organisations such as special correspondence, legal clarifications, postage, phone and bank fees or may be charged against the distribution results for the respective organisation. If a distribution result is uncertain, the process of carrying out comprehensive clarifications may be made dependent on the payment of an adequate cost advance.

## *VI. Bilateral agreements with foreign sister societies*

1. Bilateral agreements are concluded with foreign sister societies provided that they fulfil the following requirements:
   - They effectively administer the neighbouring rights of performers in the contractual territory which also belong to the field of activity of SWISSPERFORM.
   - As far as is necessary for carrying out the administrative activities in the field of activity, they shall hold the required licences to do so.
   - They shall distribute at least a part of the exploitation proceeds individually to their members and have carried out the respective distribution process at least once.
   - They shall warrant a sound management as well as the adherence to all commitments they have undertaken.
   - They shall indemnify SWISSPERFORM from claims by their members.
2. Bilateral agreements which do not stipulate an actual exchange of payments but merely the mutual legal representation and which furthermore govern that the collected exploitation proceeds shall remain in the country of the contractual partner and to be used for covering the credits of its members arising from the field of activity of the other contractual partner, shall be concluded upon request with all sister societies who fulfil the conditions provided in item V. Such agreements shall only serve as a transitional solution until an exchange agreement pursuant to item VI.3 can be

concluded. Their term shall therefore be limited and they shall be checked regularly with regards to the conversion into an agreement pursuant to item VI.3.

3. Bilateral agreements which stipulate an actual exchange of payments shall only be concluded with sister societies that fulfil the following additional conditions:
   - The legislation of a country in which they exercise their activity shall provide for a protection of performers which is at least in significant partial material law areas comparable to Swiss law. The tax burdens and transfer of remuneration shall also be taken into account for the assessment.
   - SWISSPERFORM's or the sister society's repertoires shall be used in the territory of the other society to a substantial degree.
   - The sister society shall be prepared to participate Swiss performers without any discrimination in the distribution. In cases where a participation in the distribution depends on the compliance of registration resp. documentation requirements, they shall be designed in such a way that they can be fulfilled by Swiss performers without problem.
   - In as far as the distribution is carried out in accordance with the actual use of the protected performance, it must be captured by the foreign sister society in such a way that Swiss performers have a fair chance for an equal participation in the distribution.
   - Rights for which the foreign sister society cannot guarantee reciprocity may be excluded from the scope of application of the bilateral agreement.

   Instead of an individualised exchange of service, the exchange of blanket usage quota may be used as a transitional solution.
4. Under bilateral agreements, each collective management organisation usually carries its own costs. Any deviating regulations should only be established if an obvious imbalance of the administrative burden arising for both contractual parties can be expected.
5. Collective management organisation abroad that have not allowed Swiss right holders to participate in the exploitation proceeds based on the principle of equal treatment compared to its members upon having been reminded three times subject to a period for replies of 30 days, may be treated in the affected areas in such a way as if a non-exchange agreement had been concluded with them pursuant to item VI.2, until they cease their discriminating behaviour.

*(Approved by the Expert Committee of Audio Performers and Audiovisual Performers during their meetings of 08 September 2003, 26 April 2012, 06 June 2012, 29 August 2012, 13 September 2012, 25 February 2016 as well as 02 February 2016.)*

# Annex AAT3

# Entitlement of performers regarding the tariff-based collections pursuant to Art. 35 para. 4 CopA as well as in accordance with the international treaties binding for Switzerland

1. *Rights*

The assessment whether foreign legislation corresponds to Swiss legislation shall be made in accordance with the system of rights codes in accordance with the International Performer Database (IPD) of SCAPR (Societies' Council for the Collective Management of Performers' Rights), the umbrella association for collective management organisations managing performers' rights. The tariff-based collections which correspond to this standard shall be allocated to these rights codes. In the case of a change to the codes, the classification must be adapted accordingly.

The following rights shall be categorised:

**BR** Broadcasting

**CP** Communication to the public

**LE** Lending

**MA** Making Available

**PC** Private Copying

**PP** Public Performance

**RE** Rental

**RP** Reproduction Rights

**RR** Retransmission Rights

2. *Allocation of tariff-based collections to the individual rights*

2.1 **BR** Broadcasting

This includes tariff-based collections for broadcasts from tariff A, CT S, CT S Swiss commercial minutage slots, CT Y and CT 1 initial dissemination and additional collections for initial dissemination. For collections from tariff A and CT S, the collections for the reproduction for broadcast purposes and making available shall be separated out beforehand. Following this separation, a share for Digital Broadcasting (DB) shall be separated out, comprising simulcasting, webcasting and digital cablecasting. Where such share cannot be separated out directly on the basis of the relevant tariff, it shall amount to 20%.With regard to tariff-based collections arising from the said tariffs for the broadcast of music films, a share of 50% shall be separated out for music videos (VC).

2.2 **CP** Communication to the Public

This includes tariff-based collections for the communication to the public of broadcast and made available performances from CT 3a, CT 3b and CT 3c. Since these collections also include the presentation/performance (PP Public Performance) of commercially published sound recordings and commercially published audiovisual recordings, the tariff-based collections shall be allocated to the two rights CP and PP in equal parts, provided that they have not been separated out in the tariff.

2.3 **LE** Lending

This only includes tariff-based collections from CT 6b from the Principality of Liechtenstein.

2.4 **MA** Making Available

This includes collections for the making available from tariff A, CT S, CT 11.

2.5 **PC** Private Copying

This includes collections from the CT 4 tariffs as well as from CT 12.

2.6 **PP** Public Performance (Presentations and Performances)

This includes collections for the presentation and performance from CT 3a, CT 3b, CT 3c, CT 7, CT C, CT E, CT H, CT HV, CT Hb, CT K, CT L, CT Ma and CT Z. As far as the collections in CT 3a, CT 3b, CT 3c and CT 7 cover the communication to the public of broadcast and made available performances, the presentation and/or the reproduction of sound recordings or audiovisual recordings, without these having been separated out, the collections shall be allocated to the two involved rights in equal parts (CT 3a, CT 3b and CT 3c shall be split in equal parts to PP and CP, CT 7 shall be split in equal parts to PP and RP).

2.7 **RE** Rental

This includes collections from tariffs CT 5 and CT 6a.

2.8 **RP** Reproduction Rights

This includes collections for the reproduction for broadcast purposes or making available purposes from tariff A, CT S and CT 11, collections for the reproduction from CT 7 and collections from CT 9 and CT 10.

2.9 **RR** Retransmission Rights

This includes collections from tariffs CT 1, CT 2a and CT 2b.

2.10 Allocation of collections from CT 13

Collections from CT 13 shall be allocated to those rights for which the tariff-based usage authorisation has been granted. In cases where the usage rights are granted for payment of a uniform payment for several rights, the collections shall be allocated in equal parts to the usage rights for which authorisation has been granted.

## 3. *Method for the assessment of the respective rights pursuant to Art. 35 para. 4 CopA*

3.1 Pursuant to Art. 35 para. 4 CopA, performers who are ordinarily resident in Switzerland or who are nationals of a country which grants Swiss nationals reciprocity, shall have the right to receive remuneration. A right which corresponds to Swiss right shall be assumed to be present provided that it either has been established by the courts or if a functioning, non-discriminatory administration of the respective rights for Swiss performers is carried out in the respective country by a collective management organisation.

3.2. The assessment shall be limited to persons who adhere to SWISSPERFORM as members or principals or claim their entitlements for the sectors defined in items 3.3 and 3.4 via sister societies.

3.3 The assessment shall be limited to the rights **BR, CP, PP** and **RR**. For all other rights, the basic principle of national treatment shall apply, i.e. the entitlement shall exist independently of residence and nationality.

3.4 The assessment shall only affect collections from commercially published sound recordings and commercially published audiovisual recordings and therefore the distribution categories sound recordings, music on the audio track of audiovisual recordings (pots A and B), performances in feature and TV films and other audiovisual performances (pot C).

3.5 In cases where the conditions to apply an international convention or treaty are present, the assessment of the entitlement pursuant to Art. 35 para. 4 CopA shall be carried out in addition to the assessment of the entitlement subject to a treaty.

3.6 The bilateral agreements shall govern which collections members of the sister society shall participate in and which additional requirements they must meet in order to participate in further collections.

4. *Method for the assessment of the entitlement based on the Rome Convention*

In the course of the assessment of an entitlement on the basis of the International Convention for the Protection of Performers, Producers and Broadcasting Organizations (Rome Convention, RC), the contribution of performers to commercially published sound recordings whose producer adheres to a country which is a signatory to the RC without any reservation under Art. 12 RC which restricts or excludes the respective remuneration entitlement, shall be verified.

5. *Method for the assessment of the entitlement based on the WPPT*

In the course of the assessment of an entitlement on the basis of the WIPO Performances and Phonograms Treaty (WPPT), the contribution of performers to commercially published sound recordings whose producer adheres to a country which is a signatory to the WPPT without any reservation under Art. 15 WPPT which restricts or excludes the respective remuneration entitlement or the respective exclusive right, shall be verified.

In support thereof, a verification shall be carried out whether the sound recordings have been published first or simultaneously in another member state of the WPPT which has signed this Treaty without such reservations under Art. 15 WPPT.

*(Approved by the Expert Committee of Audiovisual Performers and Audio Performers during their meetings of 02 February 2016, 25 February 2016, 20 August 2025 and 08 September 2025.)*

# ANNEX AAT 4 (Performers)

# Entitlement of performers to royalties pursuant to Art. 35a para. 4 CopA

## 1. Determination of the production countries recognised for distribution ( item 2.1.1.7 para. 8)

[1]Only performers who are involved in a production that was produced or co-produced by a producer based in Switzerland or whose country of production or co-production is a country according to the list in para. 2 shall be considered in the distribution. Other countries shall be recognised as counter-right countries by decision of the Expert Committees if they are recognised as such by all users or if their status as a counter-right country has been established by a legally binding court decision.

[2]Relevant production or co-production countries are:

- Switzerland
- Italy
- Spain

[3]Provisions in the distribution regulations that do not take into account productions with low usage in the distribution shall be reserved.

## 2. Recognition as a co-production country

Recognition as a co-producing country is based on the applicable tariff CT 14, the wording of which is as follows in Clause 24:

«An audiovisual work with several production countries originates from a relevant production country if:

- • all these production countries are relevant production countries; or
- • Switzerland is one of these production countries (and the work fulfils the film law requirements for obtaining Swiss co-production status and involves at least one Swiss author or performer); or
- • at least one of these production countries is a relevant production country and the original language of the work is a national language of one of these relevant production countries.»

## 3. Personal authorisation

All performers shall be entitled to participate in the distribution, irrespective of their nationality or place of residence, who have participated in a production relevant to the distribution pursuant to clauses 1 and 2.

*(Approved by the Expert Committees of Audiovisual Performers and Audio Performers during their meetings of 16 Mai 2024 and 23 Mai 2024.)*

# Annex APH1

# Distribution category "Commercially published sound recordings"

## Minimum payments - lowering the threshold (item 1.5.3)

In application of item 1.5.3 para. 2, a lower threshold shall apply: Right holders' shares that do not reach the threshold of CHF 10.00 per distribution(CHF 50.00 per distribution in the case of payments abroad) shall not be paid out. However, the allowances from the individual settlements are accumulated in the beneficiary's account and paid out as soon as the total amount has reached the exemption limit.
*(Resolutions of the Expert Committee of Audio Performers dated 17 July 2025.)*

*1. Entitlement (item 2.1.2.2.3)*

[1]Tariff-based collections shall be consolidated into the categories according to Annex AAT3.

[2]The rights holders participate in the tariff revenues allocated to the rights categories to which they are entitled - be it on the basis of membership of SWISSPERFORM, a rights assignment agreement or a reciprocal right.

*2. Analysed broadcast data (item 2.1.2.2.4)*

[1]Distribution revenues shall generally be allocated to four distributions:

Distributions 1 to 4 shall correspond with four characteristic music channels, namely channels with entertainment/folk music, channels with mainly classical music and jazz, channels with pop/rock music as well as private broadcasters' channels.

[2]The Expert Committee shall determine which criteria according to item 2.1.2.2.4 will be applied for the selection of channels. Furthermore, the Expert Committee shall determine whether specific weighting factors shall be granted to the channels (item 2.1.2.2.4). These criteria shall apply for all four distributions.

[3]Apart from the nine main SRG channels the following SRG channels shall be analysed: Musikwelle Radio Rumantsch, Option Musique, Swiss Classic, Swiss Jazz, Swiss Pop and Virus.

[4]The following private channels shall be analysed: Radio 24, Radio Argovia, Radio Basilisk, Radio Berner Oberland (BeO), Radio Central, Radio Chablais, Radio Energy Zürich, Radio Fribourg, Radio Lausanne FM, Radio Pilatus and Radio Zürisee.

[5]The data thus analysed can be reflected in the table below:

| **Distribution 1** | **Distribution 2** | **Distribution 3** | **Distribution 4** |
|---|---|---|---|
| SRF 1 | SRF 2 Kultur | SRF 3 | Radio 24 |
| La Première | Espace 2 | Couleur 3 | Radio Argovia |
| Rete 1 | Rete 2 | Rete 3 | Radio Basilisk |
| SRF Musikwelle | Swiss Classic | SRF Virus | Radio BeO |
| Option Musique | Swiss Jazz | Swiss Pop | Radio Central |
| Radio Rumantsch | | | Radio Chablais |
| | | | Radio Energy Zürich |
| | | | Radio Eviva |
| | | | Radio Fribourg |
| | | | Radio Lausanne FM |
| | | | Radio Pilatus |
| | | | Radio Zürisee |

*(Resolutions of the Expert Committee dated 18 June 2019 and 18 March 2021).*

*3. Supplement for the first broadcast and degression (item 2.1.2.2.2 para. 3)*

At the moment, no supplement for the first broadcast or a degression is applied. The Expert Committee may revert to this resolution for each distribution year.

*4. Allocation of the tariff-based collections (item 2.1.2.2.1)*

4.1 Allocation of broadcast remuneration from tariffs A (SRG), CT S (private broadcasters), CT Y (subscription channels), CT 1 initial dissemination, CT 1 actual additional collections for initial dissemination and broadcasting right advertising slots DE

Distribution revenues from broadcast remuneration shall be allocated as follows:

| **Tariff** | **Distribution 1** | **Distribution 2** | **Distribution 3** | **Distribution 4** | **Music Videos (Music on audio-visual recordings)** |
|---|---|---|---|---|---|
| Tariff A Radio | Distribution revenues shall be allocated to distributions 1-3 pursuant to the shares of the yielded revenues of the individually analysed SRG radio programmes. | | | 0% | 0% |
| Tariff A TV (adopted radio programs) | 44% | 28% | 28% | 0% | 0% |
| Tariff A TV (commercially published sound recordings in own productions) | 44% | 28% | 28% | 0% | 0% |
| Tariff A TV (commercially published audiovisual recordings) | 0% | 0% | 0% | 0% | 100% |
| Tariff A TV (music films) | 10% | 10% | 20% | 10% | 50% |
| CT S Radio | 0% | 0% | 0% | 100% | 0% |
| CT S Radio Simulcastin | 0% | 0% | 0% | 100% | 0% |
| CT S TV (Commercially published sound recordings) | 0% | 0% | 0% | 100% | 0% |

| | | | | | |
|---|---|---|---|---|---|
| CT S TV (Commercially published audiovisual recordings) | 25% | 25% | 25% | 25% | 0% |
| CT S TV (music film) | 10% | 10% | 20% | 10% | 50% |
| CT Y Radio | 0% | 0% | 0% | 100% | 0% |
| CT Y TV (Commercially published sound recordings) | 0% | 0% | 0% | 100% | 0% |
| CT Y TV (Commercially published audiovisual recordings) | 25% | 25% | 25% | 25% | 0% |
| CT Y TV (music film) | 10% | 10% | 20% | 10% | 50% |
| CT 1 Initial dissemination | 25% | 25% | 25% | 25% | 0% |
| CT 1 mixed offers, initial dissemination 90% | 25% | 25% | 25% | 25% | 0% |
| Broadcasting right advertising slots DE | 39.43% | 28.92% | 26.55% | 5% | 0.1% |

4.2. Allocation of distribution revenues from the re-transmission via cable (CT 1) as well as via re-transmitters and IP-based networks (CT 2a and 2b) from the reception of radio programmes and the performance of commercially published sound recording (CT 3a and b) as well as the reception of TV broadcasts via giant screens (CT 3c)

Distribution revenues from re-transmission and broadcast reception shall be allocated as follows:

| Tariff | Distribution 1 | Distribution 2 | Distribution 3 | Distribution 4 | Music Videos (Music on audio-visual recordings) |
|---|---|---|---|---|---|
| CT 1 Radio | Distribution revenues shall be allocated to distributions 1-4 in the ratio of their dissemination in Swiss cable networks, where the channels authoritative for the distribution of the initial broadcast rights pursuant to item 2.1.2.2.4 para. 2 shall be taken into account for distribution purposes. | | | | 0% |
| CT 1 Radio additional income | Distribution revenues shall be allocated to distributions 1-4 in the ratio of their dissemination in Swiss cable networks, where the channels authoritative for the distribution of the initial broadcast rights pursuant to item 2.1.2.2.4 para. 2 shall be taken into account for distribution purposes. | | | | 0% |
| CT 1 Radio mixed offers, re-transmission 10% | Distribution revenues shall be allocated to distributions 1-4 in the ratio of their dissemination in Swiss cable networks, where the channels authoritative for the distribution of the initial broadcast rights pursuant to item 2.1.2.2.4 para. 2 shall be taken into account for distribution purposes. | | | | 0% |
| CT 1 TV | 99.9% of the distribution revenues shall be allocated to distributions 1-4 in analogy with cable tariff CT 1 Radio. | | | | 0.1% |
| CT 1 TV additional income | 99.9% of the distribution revenues shall be allocated to distributions 1-4 in analogy with cable tariff CT 1 Radio. | | | | 0.1% |
| CT 1 TV mixed offers, re-transmission 10% | 99.9% of the distribution revenues shall be allocated to distributions 1-4 in analogy with cable tariff CT 1 Radio. | | | | 0.1% |
| CT 2a Radio | The distribution revenues shall be allocated to distributions 1-4 in analogy with cable tariff CT 1 Radio. | | | | 0% |
| CT 2a TV | 99.9% of the distribution revenues shall be allocated to distributions 1-4 in analogy with cable tariff CT 1 Radio. | | | | 0.1% |
| CT 2b | 99.9% of the distribution revenues shall be allocated to distributions 1-4 in analogy with cable tariff CT 1 Radio. | | | | 0.1% |

| | | | | | |
|---|---|---|---|---|---|
| CT 3a Audio | The distribution revenues shall be allocated to distributions 1-4 in analogy with cable tariff CT 1 Radio. | | | | 0% |
| CT 3a Audiovisual | 25% | 15% | 30% | 30% | 0% |
| CT 3b Airplanes Audio | Distribution revenues shall be allocated to distributions 1-4 in analogy with cable tariff CT 1 Radio. | | | | 0% |
| CT 3b Airplanes Audiovisual | Distribution revenues shall be allocated to distributions 1-4 in analogy with cable tariff CT 1 Radio. | | | | 0% |
| CT 3b Coaches | Distribution revenues shall be allocated to distributions 1-4 in analogy with cable tariff CT 1 Radio. | | | | 0% |
| CT 3b Trains, vessels etc. | Distribution revenues shall be allocated to distributions 1-4 in analogy with cable tariff CT 1 Radio. | | | | 0% |
| CT 3c | Distribution revenues shall be allocated to distributions 1-4 in analogy with cable tariff CT 1 Radio. | | | | 0% |

4.3. Allocation of distribution revenues from private copying (CT 4), rental remuneration (CT 5 and 6), use in schools and businesses (CT 7 and 8), use of works by persons with disabilities (CT 10), use of archive recordings of broadcasters (CT 11), licensed use of set-top-boxes with storage and vPVR (CT 12), use of rights in orphan works (CT 13) and the remuneration for the performance of commercially published sound recording

Due to a lack of documentation, the respective distribution revenues from private copying, rental remuneration, use in schools and businesses, use of works by persons with disabilities, use of archive recordings of broadcasters, licensed use of set-top-boxes with storage and vPVR, use of rights in orphan works and from the performing tariffs shall be assigned to the distribution of broadcast remuneration and allocated as follows:

| **Tariff** | **Distribution 1** | **Distribution 2** | **Distribution 3** | **Distribution 4** | **Music Videos (Music on audio-visual recordings)** |
|---|---|---|---|---|---|
| CT 4 Blank tapes Audio | 39% | 14% | 34% | 13% | 0% |
| CT 4 Blank tapes Audiovisual | 39% | 14% | 34% | 13% | 0% |
| CT 4 CD-R | 30% | 10% | 30% | 30% | 0% |
| CT 4 DVD | 25% | 25% | 25% | 25% | 0% |
| CT 4i digital storage devices Audio | 30% | 10% | 30% | 30% | 0% |
| CT 4i digital storage devices Audiovisual | 30% | 10% | 30% | 30% | 0% |
| CT 4i smartphones | 21% | 12% | 31% | 26% | 0.1% |
| CT 4i tablets | 21% | 12% | 31% | 26% | 0.1% |
| CT 4i laptops | 21% | 12% | 31% | 26% | 0.1% |
| CT 4i external hard drives | 21% | 12% | 31% | 26% | 0.1% |
| CT 5 Audio | 25% | 25% | 25% | 25% | 0% |
| CT 5 Audiovisual | 25% | 25% | 25% | 25% | 0% |
| CT 6 Audio | 25% | 25% | 25% | 25% | 0% |
| CT 6 Audiovisual | 25% | 25% | 25% | 25% | 0% |
| CT 7 Audio | 25% | 25% | 25% | 25% | 0% |
| CT 7 Audiovisual | 25% | 25% | 25% | 25% | 0% |
| CT 7 digital copies | 25% | 25% | 25% | 25% | 0% |
| CT 8 | 25% | 25% | 25% | 25% | 0% |

| | | | | | |
|---|---|---|---|---|---|
| CT 10 | 25% | 25% | 25% | 25% | 0% |
| CT 11 | 44.17% | 22.08% | 33.65% | 0% | 0.1% |
| CT 12 | 30% | 10% | 30% | 30% | 0% |
| CT 13 | 50% | 50% | 0% | 0% | 0% |
| CT C | 25% | 25% | 25% | 25% | 0% |
| CT E Cinemas | 20% | 0 | 40% | 40% | 0% |
| CT E Other performances | 20% | 0 | 40% | 40% | 0% |
| CT H | 22.08% | 0% | 38.91% | 38.91% | 0.1% |
| CT Hb | 22.08% | 0% | 38.91% | 38.91% | 0.1% |
| CT HV | 25% | 25% | 25% | 25% | 0% |
| CT K Front music | 25% | 25% | 25% | 25% | 0% |
| CT K Background music 80% | 25% | 25% | 25% | 25% | 0% |
| CT Background music re-production 20% | 25% | 25% | 25% | 25% | 0% |
| CT L | 25% | 25% | 25% | 25% | 0% |
| CT Ma | 25% | 25% | 25% | 25% | 0% |
| CT T Audio | 25% | 25% | 25% | 25% | 0% |
| CT T Audiovisual | 25% | 25% | 25% | 25% | 0% |
| CT Z | 25% | 25% | 25% | 25% | 0% |

*5. Formation size and weighting (item 2.1.2.2.2 para. 4)*

The recordings shall be allocated with respect to the external relationship vis-a-vis other recordings into the following categories and be weighted in accordance with the following table:

| Formation size | Weighting |
|---|---|
| 1 -7 contributors | 1.0 |
| 8-20 contributors | 1.4 |
| 21 -50 contributors | 1.8 |
| 51 -80 contributors | 2.2 |
| more than 81 contributors | 2.5 |

*6. Shares of the admission revenue per role category (item 2.1.2.2.2 para. 5)*

| Formation Size | FA (Featured Artist) | NFA (Non Featured Artist) | AP (Artistic Producer) |
|---|---|---|---|
| 1 -7 contributors | 60% | 23% | 17% |
| 8-20 contributors | 55% | 35% | 10% |
| 21 -50 contributors | 35% | 55% | 10% |
| 51 -80 contributors | 25% | 65% | 10% |
| more than 81 contributors | 15% | 80% | 5% |

If no AP is involved in a recording, this share is divided between the FA and the NFA in the given ratio. If no NFA is involved in a recording, the share goes to the FA and vice versa. The AP's share remains unchanged. If all contributors are involved in a recording in the same role, the income is divided equally between these contributors.

*7. Reserves on recording (item 2.1.2.2.6)*

[1]For contributors who are not yet known at the time of a distribution, distribution reserves are created on the individual recordings by setting the following default value for the number of contributors:

| Formation Size | FA (Featured Artist) | NFA (Non Featured Artist) | AP (Artistic Producer) |
|---|---|---|---|
| 1 -7 contributors | 3 | 3 | 1 |
| 8-20 contributors | 4 | 8 | 1 |
| 21 -50 contributors | 4 | 20 | 1 |
| 51 -80 contributors | 4 | 50 | 1 |
| more than 81 contributors | 4 | 80 | 1 |

[2]Until the distribution reserves are dissolved in accordance with para. 1, the known contributors shall only be credited with their share corresponding to this default value.

[3]Distribution reserves pursuant to paras. 1 and 2 shall be dissolved and distributed among the known contributors if the number of contributors is known (“line-up complete”). The contributors shall be deemed to be known if they have been expressly confirmed, for example by the producer of the recording or by a publicly available source. The number of contributors shall be deemed to be known at the latest after the expiry of the statutory period of 5 years for the subsequent notification of claims to SWISSPERFORM at the then current status.

*(Resolution of the Expert Committee of Audio Performers dated 25 February 2025.)*

# Annex APH2

# Distribution of the remuneration from the use of music on audiovisual recordings

## Minimum payments - lowering the threshold (item 1.5.3)

In application of item 1.5.3 para. 2, a lower threshold shall apply: Right holders' shares that do not reach the threshold of CHF 10.00 per distribution(CHF 50.00 per distribution in the case of payments abroad) shall not be paid out. However, the allowances from the individual settlements are accumulated in the beneficiary's account and paid out as soon as the total amount has reached the exemption limit.
*(Resolutions of the Expert Committee of Audio Performers dated 17 July 2025.)*

1. Allocation of the annual distributable amount to the distribution pots (item 2.1.2.3.1)

| **Distribution pot** | **Weighting** | **Allocation calculated on the basis of applicable provisions of the regulations** |
|---|---|---|
| **A** Music on the audio track of audiovisual recordings registered with Suissimage with up to 15 contributors | **x 1** | 51.01% (including 20% transfer for soloists) |
| **B** Music on the audio track of audiovisual recordings registered with Suissimage with more than 16 contributors | **x 4** | 16.65% |
| **C** Music on the audio track of other audiovisual recordings with up to 15 contributors | **x 1** | 18.72 (including 20% transfer for soloists) |
| **D** Music on the audio track of other audiovisual recordings with more than 16 contributors | **x 4** | 6.11% |
| **E** Music in commercials, jingles and audio logos | **x 1** | 7.51% |
| **F** Music in music videos | Direct assignment Annex AAT, item 6. | |

Pursuant to item 2.1.2.3.1 para. 5, a transfer of a maximum rate of 20% can be made from distribution pots B and D to distribution pots A or C for soloists and conductors. Any transfers shall be calculated at the time of the allocation and established in the table.

*(Resolution of the Expert Committee of Audio Performers dated 13 November 2018 and 25 February 2025.)*

2. Authoritative domestic TV channels (item 2.1.2.3.2 para. 5)

[1]For distribution pots A and B, the analysed channels pursuant to item 2.1.3.2.1 shall be applicable which means that the channels analysed by Suissimage in the distribution category "performances in feature and TV films" will be taken over.

[2]For distribution pots C, D and E, the statistical surveys regarding the daily reach by Suissimage shall be used to determine the authoritative TV channels per distribution year. The selection of the channels shall be made by the Expert Committee or by a committee delegated by the Expert Committee in application of the provisions pursuant to item 2.1.2.3.2 para. 5 and 6. The following channels have been determined to be relevant (authoritative) for distribution:

Weighting 100%:
SRF1, SRF zwei, SRFInfo, RTSun, RTSdeux, RSILA1, RSILA2

Weighting 50% (based on their daily reach):
3+, 4+, TZüri

Weighting 50% (based on the shares on the programme contents relevant for distribution):
TV24, S1, blue ZOOM D

*(Resolutions of the Expert Committee of Audio Performers dated 20 June 2018 and dated 7 December 2022.)*

[3]All SRG main channels shall be weighted fully. Additional programmes taken into account based on the stipulations of item 2.1.2.3.2 para. 5 shall be weighted with 50%.

3. Authoritative foreign TV channels (item 2.1.2.3.2 para. 8)

The selection of channels and the determination of the respective weighting shall be made by the Expert Committee or by a committee delegated by the Expert Committee in analogous application of the stipulations pursuant to item 2.1.2.3.2 para. 8. The following channels have been determined to be relevant (authoritative) for distribution:

<u>Germany</u>:

Weighting 100%:
ARD, arte, PRO7, RTL, SAT1, VOX, ZDF

Weighting 50%:
BR, HR, MDR, NDR, RBB, SRFer, SWR, WDR

<u>Austria:</u>

Weighting 100%:
3SAT, ORF2, ORFeins, ORFIII

Weighting 50%:
ATV, Servu

<u>France:</u>

Weighting 100%:
ARTEFR, FR2, FR3, FR4, FR5, M6, TF1, TV5

Weighting 50%:
MEZZO

<u>Netherlands:</u>

Weighting 100%:
NOS1, NOS2, NOS3, RTL4

A respective resolution shall be taken by the Expert Committee of Audio Performers in cases where a claim to receive remuneration is being raised under the auspices of a B-agreement or a lump-sum agreement for a usage abroad if the respective country or channel does not appear in the list above.

*(Resolution of the Expert Committee of Audio Performers dated 28 June 2018).*

# Annex APH3

# Distribution of remuneration from the use of non-commercially published sound recordings and live performances

## Minimum payments - lowering the threshold (item 1.5.3)

In application of item 1.5.3 para. 2, a lower threshold shall apply: Right holders' shares that do not reach the threshold of CHF 10.00 per distribution(CHF 50.00 per distribution in the case of payments abroad) shall not be paid out. However, the allowances from the individual settlements are accumulated in the beneficiary's account and paid out as soon as the total amount has reached the exemption limit.
*(Resolutions of the Expert Committee of Audio Performers dated 17 July 2025.)*

*1. Allocation of the annual distributable amount to the distribution pots (item 2.1.2.4.1)*

| **Distribution pot** | **Weighting** | **Allocation calculated on the basis of applicable provisions of the regulations** |
|---|---|---|
| **A** Music: Soloists and formations with up to 15 contributors | **x 1** | 25.46% (including 20% transfer for soloists) |
| **B** Music: Orchestras, big bands, other formations incl. brass music, choirs and operas with more than 16 contributors | **x 4** | 36.72% |
| **C** Performances of narrators in radio plays, readings, recitations | **x 1** | 5.94% |
| **E** Music in commercials, jingles and audio logos | **x 1** | 31.31% |
| **E** Performances of forms of expression of folk art | **x 1** | 0.57% |

Pursuant to item 2.1.2.4.1 para. 5, a transfer of a maximum rate of 20% can be made from distribution pot B to distribution pot A for soloists and conductors. Any transfers shall be calculated at the time of the allocation and established in the table.

*(Resolution of the Expert Committee of Audio Performers dated 13 November 2018).*

### 2. Authoritative domestic radio channels (item 2.1.2.4.2 para. 4)

The selection of the channels subject to analysis shall be in line with item 2.1.2.2.4 and Annex APH1, whereby weightings for the individual channels shall, for the time being, be renounced upon.

### 3. Authoritative foreign radio channels (item 2.1.2.4.2 para. 6)

The selection of channels and the determination of the respective weighting shall be made by the Expert Committee or by a committee delegated by the Expert Committee in analogous application of the stipulations pursuant to item 2.1.2.4.2 para. 4. The following channels have been determined to be relevant (authoritative) for distribution:

Germany:
88-8, BR1, BR2, BR3, BR4, Brem1, Brem4, DLR, HR1, HR2, HR3, HR4, Kult, MDR1S, NDR1, NDR1Well, SWR1, SWR2, SWR3, SWR4, WDR2, WDR3, WDR4, WDR5

Austria:
FM4, OE1, OE2, OE3, RaS, RaTyr, RaVor, RaWie

France:
Fbleu, FCULT, FINFO, FranceBl, FRINT, FRMUS, NRJ, RFA, RFBes, RRTLF, Skyro, Virgi

A respective resolution shall be taken by the Expert Committee of Audio Performers in cases where a claim to receive remuneration is being raised under the auspices of a B-agreement or a lump-sum agreement for a usage abroad if the respective country or channel does not appear in the list above.

*(Resolution of the Expert Committee of Audio Performers dated 28 June 2018).*

# Annex AAV1

# Distribution of the remuneration from the use of performances in feature and TV films

## Minimum payments - lowering the threshold (item 1.5.3)

In application of item 1.5.3 para. 2, a lower threshold shall apply: Right holders' shares that do not reach the threshold of CHF 10.00 per distribution(CHF 50.00 per distribution in the case of payments abroad) shall not be paid out. However, the allowances from the individual settlements are accumulated in the beneficiary's account and paid out as soon as the total amount has reached the exemption limit.
*(Resolutions of the Expert Committee of Audiovisual Performers dated 17 July 2025.)*

### *1. Definition of an authoritative use (item 2.1.3.2.1)*

[1]All SRG main channels shall be deemed as Swiss broadcast programmes.

[2]At present, no additional usage reports are processed yet.

### *2. Work categories, work genres and their weightings (item 2.1.3.2.2 para. 3 b)*

| **Work category:** | **Points** |
|---|---|
| - cinema film | 3 |
| - TV film | 3 |
| - TV series | 1 |

| **Genre:** | |
|---|---|
| - Fiction | 10 |
| - Sitcom and soap | 10 |

The point values of category and genre shall be multiplied with each other. Categories and genres as documented at Suissimage shall be authoritative.

### *3. Broadcast time (item 2.1.3.2.2 para. 3 c)*

How the broadcast time is taken into account shall depend on the provisions of the distribution rules of Suissimage.

### *4. Supplement for the first broadcast (item 2.1.3.2.2 para. 3 d)*

The supplement for the first broadcast shall depend on the provisions of the distribution rules by Suissimage for first broadcasts with the supplement "Création".

### *5. Allocation of actors, narrators, dubbing narrators and storytellers into categories of role weightings (item 2.1.3.2.2 para. 5)*

[1]In the case of TV series, no role weighting shall be applied. Actors and dubbing actors contributing to series shall be allocated to weighting category C for each episode for which evidence of their contribution could be produced.

[2]Furthermore, the allocation into weighting categories shall, in principle be made based on shooting days resp. takes.

Actors:

| | |
|---|---|
| More than 40% of the total shooting days | Category A |
| 10-40% of the total shooting days | Category B |
| Less than 10% of the total shooting days | Category C |

Narrators:

| | |
|---|---|
| More than 14% of the total takes | Category A |
| 6-14% of the total takes | Category B |
| Less than 6% of the total takes | Category C |

Dubbing narrators and storytellers:

| | |
|---|---|
| More than 40% of the total takes | Category A |
| 10-40% of the total takes | Category B |
| Less than 10% of the total takes | Category C |

Dubbing directors, audio voice-overs and stunt performers shall be allocated to Category C.

If the total shooting days resp. the total takes are unknown, the allocation can be based on average values per work.

The default values for the total number of shooting days are:

| Year of production | 40-minute works | 60- minute works | 90- minute works |
|---|---|---|---|
| 2010- | 7 | 13 | 21 |
| 2000-2009 | 7 | 13 | 21 |
| 1990-1999 | 11 | 17 | 26 |
| 1980-1989 | 13 | 19 | 27 |
| 1970-1979 | 15 | 20 | 29 |
| 1900-1969 | 16 | 22 | 30 |

The default values for the total number of takes are:

| | |
|---|---|
| 40- to 50- minute works | 440 |
| 51- to 65- minute works | 561 |
| 66- to 84- minute works | 726 |
| 85- to 105- minute works | 935 |
| As from 106- minute works | 1155 |

[3]The role weighting shall amount to:

- Category A — Factor 3
- Category B — Factor 2
- Category C — Factor 1

[4]Category allocations made by sister societies abroad may be adopted in the framework of bilateral agreements for their members provided that they practically lead to the same result.

*(Resolution of the Expert Committee of Audiovisual Performers dated 8 July 2021).*

# Annex AAV2

# Distribution of the remuneration from the use of other audiovisual performances

*1. Allocation of the annual distributable amount to the distribution pots (item 2.1.3.3.1)*

| **Distribution pot** | **Weighting** | **Allocation calculated on the basis of applicable provisions of the regulations** |
|---|---|---|
| **A** Music, dance: Soloists and formations with up to 15 contributors | **x 2** | 24.28% (including 5% transfer for soloists) |
| **B** Music, orchestras, big bands, other formations incl. brass music and choirs, ballet, operas: more than 16 contributors; | **x 5** | 35.36% |
| **C** Performances of actors and narrators in documentaries and cartoons; | **x 2** | 30.32% |
| **D** Performances of actors and narrators in commercials and idents; | **x 1** | 8.29% |
| **E** Performances of forms of expression of folk art | **x 1** | 1.75% |

Pursuant to item 2.1.3.3.1 para. 5, a transfer of a maximum rate of 20% can be made from distribution pot B to distribution pot A for soloists and conductors. Any transfers shall be calculated at the time of the allocation and established in the table.

*(Resolution of the Expert Committee of Audiovisual Performers dated 22 November 2018 and 19 November 2019.)*

*2. Authoritative domestic TV channels (item 2.1.3.3.2 para. 4)*

[1]The statistical surveys regarding the daily reach by Suissimage shall be used to determine the authoritative TV channels per distribution year.

[2]The selection of the channels shall be made by the Expert Committee or by a committee delegated by the Expert Committee in application of the provisions pursuant to item 2.1.3.3.2 para. 4 and 5. The following channels have been determined to be relevant (authoritative) for distribution:

Weighting 100%:
SRF1, SRF zwei, SRFInfo, RTSun, RTSdeux, RSILA1, RSILA2

Weighting 50% (based on their daily reach):
3+, 4+, TZüri

Weighting 50% (based on the shares on the programme contents relevant for distribution):
TV24, S1, blue ZOOM D

*(Resolution of the Expert Committee of Audiovisual Performers dated 18 September 2017and 14 December 2022).*

[3]All SRG main channels shall be weighted fully. Additional programmes taken into account based on the stipulations of item 2.1.3.3.2 para. 4 shall be weighted with 50%.

### *3. Authoritative foreign TV channels (item 2.1.3.3.2 para. 7)*

The analogous selection of channels and the determination of the respective weighting shall be made by the Expert Committee or by a committee delegated by the Expert Committee in analogous application of the stipulations pursuant to item 2.1.3.3.2 para. 7 of the distribution rules. The following channels have been determined to be relevant (authoritative) for distribution:

Germany:

Weighting 100%:
ARD, arte, PRO7, RTL, SAT1, VOX, ZDF

Weighting 50%:
BR, HR, MDR, NDR, RBB, SRFer, SWR, WDR

Austria:

Weighting 100%:
3SAT, ORF2, ORFeins, ORFIII

Weighting 50%:
ATV, Servu

France:

Weighting 100%:
ARTEFR, FR2, FR3, FR4, FR5, M6, TF1, TV5

Weighting 50%:
MEZZO

Netherlands:

Weighting 100%:
NOS1, NOS2, NOS3, RTL4

A respective resolution shall be taken by the Expert Committee of Audio Performers in cases where a claim to receive remuneration is being raised under the auspices of a B-agreement or a lump-sum agreement for a usage abroad if the respective country or channel does not appear in the list above.

*(Resolution of the Expert Committee of Audiovisual Performers dated 8 May 2019).*

# ANNEX OLN (APH/AAV)

# (Distribution category „online usage“)

## *1. Basic principles of distribution (item 2.1.4.3 para. 2)*

The distribution of collections for a calendar year in the distribution classes settled by SSA is normally carried out in separate distribution runs.

## *2. Film point value (item 2.1.4.3 para. 4)*

[1]The distributable amount of each distribution category is allocated in the ratio 50:50 to the separate distribution runs for the catalogue presence and the number of views.

[2]In the catalogue presence distribution run, each audiovisual recording entitled in accordance with item 2.1.1.7 para. 8 that is present in a catalogue reported by SSA shall receive one point.

[3]In the views distribution run, each audiovisual recording authorised in accordance with item 2.1.1.7 para. 8 shall receive points according to the following formula : Points = quare root x of the number of views reported by SSA.

[4]In order to obtain the film point values relevant for the two distribution runs, the points according to paragraphs 2 and 3 shall each be multiplied by the playing time of the audiovisual recording and the weighting factors of the work.

[5]If it is unclear which language version of a work was used, the following rules shall apply:

- Films that were originally produced in a national language shall be assumed to have been used in the original version.
- For films that were not produced in a national language, it shall be assumed that they were used in a dubbed version, with 4/7 being allocated to the German-language version, 2/7 to the French-language version and 1/7 to the Italian-language version.

## *3. Work categories, work genres and their weightings*

The weightings according to Annex AAV1, item 2 shall apply.

## *4. Role weighting of performers in performances without shooting days and/or takes*

In the case of audiovisual recordings for which the role weighting factor pursuant to item 2.1.3.2.2 para. 5 is not applicable, for example in the case of recorded stage performances, the weighting is analogue according to image and sound presence on the carrier used.

## *5. Allocation of musicians and singers participating in the soundtrack to the categories of role weightings*

[1]The following weighting categories are defined:

| | |
|---|---|
| Participation less than 10% of the film duration | Category C |
| Participation during at least 10% of the film duration | Category B |
| Participation during at least 25% of the film duration | Category A |

[2] The role weighting is:

- Category A Factor 3
- Category B Factor 2
- Category C Factor 1

### *6. Minimum payment threshold in accordance with item 1.5.3 para. 2 of the distribution rules*

The minimum payment threshold pursuant to item 1.5.3 para. 1 is not applicable. SWISSPERFORM is authorized to disregard remuneration attributable to individual beneficiaries in the distribution if it does not reach the annual amount of CHF 1.– from all distribution runs of the online distribution.

*(Approved by the Expert Committees of Audiovisual Performers and Audio Performers during their meetings of 16 September 2024 and 13 November 2024.)*

# ANNEX PPH (Producers of the audio sector)

## I. Distribution - extension of the period for complaints (item 1.5.1)

In application of item 1.5.1 para. 2, a longer period for complaints shall apply to producers of sound recordings regarding the distribution: The relevant payments for their entitlements shall be deemed as received and accepted unless a written complaint has been issued within 90 days of the payment.

*Resolution of the Expert Committee of Audio Producers dated 25/03/2014.*

## II. Minimum payments (item 1.5.3)

In application of item 1.5.3 para. 2 there is a minimum payment of CHF 10.- (CHF 50.- in case of payments abroad) in the distribution pursuant to item 2.2.2.1 (distribution of the remuneration on the basis of usage reports).

The remuneration from the individual statements shall be accumulated on the right holder's account and paid out once the total amount reaches the minimum payment threshold.

*Resolution of the Expert Committee of Audio Producers dated 16/07/2025.*

In the case of distribution pursuant to item 2.2.2.2 (distribution of the remuneration on the basis of market shares), the processing of notifications for transactions that would in any case not reach the minimum payable amount of CHF 50.– per settlement (item 1.5.3 para. 1) is waived.

*Resolutions of the Expert Committee of Audio Producers dated 30/08/2021 and 08/11/2023.*

## III. Entitlements in tariff-based collections (item 2.2.1 para. 3)

The following (partial) tariff, stipulating that payments shall only be made for a specific repertoire, is in force:

- Tariff A Radio US Repertoire:
  Therefore, a reasonable amount of these tariff-based collections shall be paid to right holders exclusively represented by the American collecting society SoundExchange. The details are regulated in the reciprocity agreement with SoundExchange.

Apart from that, no different entitlements in tariff-based collections shall apply. Hence, with regard to all other tariff-based collections, all right holders shall be entitled according to the same principles.

## IV. Distribution of the remuneration to the producers of sound recordings on the basis of usage reports (item 2.2.2 para. 1 i.c.w. 2.2.2.1)

1. Allocation of broadcast remuneration from tariffs A (SRG), CT S (private broadcasters), CT Y (subscription channels), CT 1 initial dissemination, CT 1 additional collections mixed offers and Swiss commercial minutage slots by foreign private channels

Distribution revenues arising from the tariffs for the broadcasting of commercially published sound recordings shall generally be allocated to five distributions:

Distributions 1 to 4 shall correspond with four characteristic music channels, namely channels with entertainment/folk music, channels with mainly classical music and jazz, channels with pop/rock music as well as private broadcasters' channels.

The fifth distribution shall make up the video clip distribution where so-called music videos (video clips) shall be taken into account.

| **Tariff** | **Distribution 1** | **Distribution 2** | **Distribution 3** | **Distribution 4** | **Distribution 5** |
|---|---|---|---|---|---|
| Tariff A Radio | Distribution revenues shall be allocated to distributions 1-3 pursuant to the shares of the yielded revenues of the individually analysed SRG radio programmes. | | | 0% | 0% |
| Tariff A TV (adopted radio programs) | 44% | 28% | 28% | 0% | 0% |
| Tariff A TV (commercially published sound recordings in own productions)* | 44%* | 28%* | 28%* | 0% | 0% |
| Tariff A TV (commercially published audio-visual recordings) | 25% | 25% | 25% | 25% | 0% |
| Tariff A TV (Music films) | 10% | 10% | 20% | 10% | 50% |
| CT S Radio | 0% | 0% | 0% | 100% | 0% |
| CT S TV (commercially published sound recordings) | 0% | 0% | 0% | 100% | 0% |
| CT S TV (commercially published audiovisual recordings) | 25% | 25% | 25% | 25% | 0% |
| CT S TV (Music films) | 10% | 10% | 20% | 10% | 50% |
| CT Y Radio | 0% | 0% | 0% | 100% | 0% |
| CT Y TV (commercially published sound recordings) | 0% | 0% | 0% | 100% | 0% |
| CT Y TV (commercially published audiovisual recording) | 25% | 25% | 25% | 25% | 0% |
| CT Y TV (Music films) | 10% | 10% | 20% | 10% | 50% |
| CT 1 initial dissemination | 25% | 25% | 25% | 25% | 0% |
| CT 1 mixed offers, initial dissemination 90% | 25% | 25% | 25% | 25% | 0% |
| Broadcasting right advertising slots DE | 26.29% | 21.03% | 26.29% | 26.29% | 0.1% |

*The distributable revenues arising from Tariff A TV (HTT in in-house productions) shall be allocated to an additional distribution category entitled “Music on TV”. Producers of production music sound recordings shall participate in this distribution. The share allocated to this distribution category shall be determined on the basis of the evaluated SRG television programmes and shall correspond to the share of production music in the total broadcast duration of commercially published sound recordings used in in-house productions. The percentages allocated to distributions 1, 2 and 3 shall be reduced accordingly by this share.
(Resolution of the Expert Committee of Audio Producers dated 3 December 2025.)**

2. Allocation of distribution revenues from the re-transmission via cable (CT 1) as well as via re-transmitters and IP-based networks (CT 2a and b) from the reception of radio programmes and the performance of commercially published sound recording (CT 3a and b) as well as the reception of TV broadcasts via giant screens (CT 3c)

| **Tariff** | **Distribution 1** | **Distribution 2** | **Distribution 3** | **Distribution 4** | **Distribution 5** |
|---|---|---|---|---|---|
| CT 1 Radio | Distribution revenues shall be allocated to distribution 1-4 in the ratio of their dissemination in Swiss cable networks, whereby the channels authoritative for the distribution of the initial broadcast rights pursuant to item 2.2.2.1.2 para 2 shall be taken into account for distribution purposes. | | | | 0% |
| CT 1 Radio additional collections | Distribution revenues shall be allocated to distribution 1-4 in the ratio of their dissemination in Swiss cable networks, whereby the channels authoritative for the distribution of the initial broadcast rights pursuant to item 2.2.2.1.2 para 2 shall be taken into account for distribution purposes. | | | | 0% |
| CT 1 Radio mixed offers, re-transmission 10% | Distribution revenues shall be allocated to distribution 1-4 in the ratio of their dissemination in Swiss cable networks, whereby the channels authoritative for the distribution of the initial broadcast rights pursuant to item 2.2.2.1.2 para 2 shall be taken into account for distribution purposes. | | | | 0% |
| CT 1 TV | 99.9% of the distribution revenues shall be allocated to distributions 1-4 in analogy with cable tariff CT 1 Radio. | | | | 0.1% |
| CT 1 TV additional income | 99.9% of the distribution revenues shall be allocated to distributions 1-4 in analogy with cable tariff CT 1 Radio. | | | | 0.1% |
| CT 1 TV mixed offers, re-transmission 10% | 99.9% of the distribution revenues shall be allocated to distributions 1-4 in analogy with cable tariff CT 1 Radio. | | | | 0.1% |
| CT 2a Radio | The distribution revenues shall be allocated to distributions 1-4 in analogy with cable tariff CT 1 Radio. | | | | 0% |
| CT 2a TV | 99.9% of the distribution revenues shall be allocated to distributions 1-4 in analogy with cable tariff CT 1 Radio. | | | | 0.1% |
| CT 2b | 99.9% of the distribution revenues shall be allocated to distributions 1-4 in analogy with cable tariff CT 1 Radio. | | | | 0.1% |
| CT 3a Audio | The distribution revenues shall be allocated to distributions 1-4 in analogy with cable tariff CT 1 Radio. | | | | 0% |

| | | | | | |
|---|---|---|---|---|---|
| CT 3a AV | 25% | 15% | 30% | 30% | 0% |
| C 3b Airplanes Audio | The distribution revenues shall be allocated to distributions 1-4 in analogy with cable tariff CT 1 Radio. | | | | 0% |
| CT 3b Airplanes AV | The distribution revenues shall be allocated to distributions 1-4 in analogy with cable tariff CT 1 Radio. | | | | 0% |
| CT 3b Coaches | The distribution revenues shall be allocated to distributions 1-4 in analogy with cable tariff CT 1 Radio. | | | | 0% |
| CT 3b Trains, vessels, etc. | The distribution revenues shall be allocated to distributions 1-4 in analogy with cable tariff CT 1 Radio. | | | | 0% |
| CT 3c | The distribution revenues shall be allocated to distributions 1-4 in analogy with cable tariff CT 1 Radio. | | | | 0% |

3. Allocation of the distribution revenues from rental remuneration (CT 5 and 6), use of archive recordings of broadcasters (CT 11), use of rights in orphan works (CT 13) and the remuneration for the performance of commercially published sound recordings

Due to a lack of documentation, the respective distribution revenues from rental remuneration, use of archive recordings of broadcasters, use of rights in orphan works and from the performing tariffs shall be assigned to the distribution of broadcast remuneration and allocated to the five distributions as follows:

| **Tarif** | **Distribution 1** | **Distribution 2** | **Distribution 3** | **Distribution 4** | **Distribution 5** |
|---|---|---|---|---|---|
| GT 5 Audio | 25% | 25% | 25% | 25% | 0% |
| GT 5 Audio-visual | 25% | 25% | 25% | 25% | 0% |
| GT 6 Audio | 25% | 25% | 25% | 25% | 0% |
| GT 6 Audio-visual | 25% | 25% | 25% | 25% | 0% |
| GT 11 | 44.17% | 22.08% | 33.65% | 0% | 0.1% |
| GT 13 | 50% | 50% | 0% | 0% | 0% |
| GT C | 25% | 25% | 25% | 25% | 0% |
| GT E Cinemas | 20% | 0% | 40% | 40% | 0% |
| GT E Other perfor-mances | 20% | 0% | 40% | 40% | 0% |
| GT H | 22.08% | 0% | 38.91% | 38.91% | 0.1% |
| GT Hb | 22.08% | 0% | 38.91% | 38.91% | 0.1% |

| | | | | | |
|---|---|---|---|---|---|
| GT HV | 25% | 25% | 25% | 25% | 0% |
| GT K Front music | 25% | 25% | 25% | 25% | 0% |
| GT K Back-ground music 80% | 25% | 25% | 25% | 25% | 0% |

| | | | | | |
|---|---|---|---|---|---|
| GT K Back-ground music reproduction 20% | 25% | 25% | 25% | 25% | 0% |
| GT L | 25% | 25% | 25% | 25% | 0% |
| GT Ma | 30% | 0% | 35% | 35% | 0% |
| GT T Audio | 25% | 25% | 25% | 25% | 0% |
| GT T Audio-visual | 25% | 25% | 25% | 25% | 0% |
| GT Z | 25% | 25% | 25% | 25% | 0% |

4. Analysed broadcast data (item 2.2.2.1.2 para. 2)

[1]The Expert Committee of Audio Producers shall determine which criteria pursuant to item 2.2.2.1.2 para. 2 will be applied for the selection of channels. Furthermore, the Expert Committee of Audio Producers shall determine whether specific weighting factors shall be granted to the channels (cf. item 2.2.2.1.2. para. 6). These criteria pursuant to item 2.2.2.1.2 para. 2 shall apply to all five distributions.

[2]Apart from the nine main SRG channels the following SRG channels shall be analysed: SRFMusikwelle Radio Rumantsch, Option Musique, Swiss Classic, Swiss Jazz, Swiss Pop and Virus.

[3]The following private channels shall be analysed: Radio 24, Radio Argovia, Radio Basilisk, Radio Berner Oberland (BeO), Radio Central, Radio Chablais, Radio Energy Zürich, Radio Fribourg, Radio Lausanne FM, Radio Pilatus and Radio Zürisee.

[4]In the audio distribution to be carried out for music videos (video clips), the reports by SRF Selection shall be analysed.

[5]The data thus analysed can be reflected in the table below:

| **Distribution 1** | **Distribution 2** | **Distribution 3** | **Distribution 4** | **Distribution 5** |
|---|---|---|---|---|
| SRF 1 | SRF 2 Kultur | SRF 3 | Radio 24 | SRF Selection |
| La Première | Espace 2 | Couleur 3 | Radio Argovia | |
| Rete 1 | Rete 2 | Rete 3 | Radio Basilisk | |
| SRF Musikwelle | Swiss Classic | SRF Virus | Radio BeO | |
| Option Musique | Swiss Jazz | Swiss Pop | Radio Central | |
| Radio Rumantsch | | | Radio Chablais | |
| | | | Radio Energy Zürich | |
| | | | Radio Eviva | |
| | | | Radio Fribourg | |
| | | | Radio Lausanne FM | |
| | | | Radio Pilatus | |
| | | | Radio Zürisee | |

*Resolution of the Expert Committee of Audio Producers dated 25/09/2018, 22/01/19 and 27/01/21.*

## V. Supplementary distributions (item 2.2.2.1.5 and item 2.2.2.2.1 para. 4)

[1]During five years after the respective distribution, any supplementary distributions pursuant to item 2.2.2.1.5 and item 2.2.2.2.1 para. 4 will be run on an annual basis, via which right holders will be paid remuneration from the reserves pursuant to para. 2.

[2]For each regular distribution, the Expert Committee of Audio Producers shall create reserves; these reserves are used

- in the supplementary distributions pursuant to item 2.2.2.1.5 para. 1, to remunerate the right holders if new documentation on their recordings have become available that lead to a different distribution result;
- in the supplementary distributions pursuant to item 2.2.2.1.5 para. 2, to remunerate the right holders whose recordings were erroneously not included in the usage reports that are authoritative for the ordinary distribution;
- and in the supplementary distributions pursuant to item 2.2.2.2.1 para. 4, to remunerate the right holders who failed to submit their turnover reports in due time.

[3]For each regular distribution pursuant to item 2.2.2.1 (Distribution of the remuneration on the basis of usage reports), a minute value shall be determined on the basis of the analysed usage reports for each of distributions 1 to 5. It shall be calculated based on a division of the collections on behalf of the producers of sound recordings after deduction of the reserves pursuant to para. 2 by the entire analysed minutes from the usage reports of the respective distributions 1 to 5. This minute value shall then also be used as a basis for the relevant supplementary distributions.

# ANNEX PAV (Audiovisual Producers)

*(Resolution of the Expert Committee of Audiovisual Producers dated 29/06/2009)*

## I. Remuneration for re-transmission and public reception

1. Work categories (Distribution Rules (DR) item 2.3.3.5)

*Type*

| | |
|---|---|
| Cinema movie (long and short films) | 3 points |
| TV film | 3 points |
| TV series | 2 points |
| other contributions | 1 point |

*Genre*

| | |
|---|---|
| Fiction | 10 points |
| Documentary - cinema presentations/festival shows | 10 points |
| Cartoon - cinema presentations/festival shows | 10 points |
| Video art | 10 points |
| Film recordings of stage performances | 5 points |
| Video clip | 5 points |
| Reports/documentaries | 5 points |
| Cartoon | 5 points |
| Sitcom | 5 points |
| other genres | 1 point |

*Première supplement (para. 3)*

| | |
|---|---|
| Pro memoria | factor 3 |

2. Programme coefficient (DR item 2.3.3.6)

The same language coefficients are applicable as at Suissimage:

| | |
|---|---|
| National languages (D, F, I, Rhaeto-Romanic) | 5 |
| English and Spanish | 3 |
| Other | 1 |

3. Time of broadcast (DR item 2.3.3.7 para. 1)

| | |
|---|---|
| 02.00am–10.59am: | Factor 0.5 |
| 11.00am–1.59pm: | Factor 2 |
| 2.00pm–4.59pm: | Factor 1 |
| 5.00pm–6.59pm: | Factor 2 |
| 7.00pm–1.59am: | Factor 3 |

4. Daily reach (DR item 2.3.3.8)

The daily reach shall be deemed as the share of households in percent which are watching a channel for a minimum of 30 seconds on an average day. The average value measured for the collection year shall be authoritative.

The Expert Committee shall allocate weighting factors between 1 and 5 to each individual TV programme, taking into account the daily reach, the must-carry programmes pursuant to the Radio and TV Ordinance and any encryption of the programme.

Swiss programmes shall be weighed with factor 2.

5. Reservation regarding mutual rights (reciprocity) (DR 2.3.8.2)

The following shall be deemed to be countries that grant mutual rights (reciprocity) in terms of the usage types presentation, broadcast, re-transmission and public broadcast reception of commercially published audiovisual recordings:

- Germany
- Greece
- Italy
- Croatia
- Portugal
- Spain

*(Resolution: Expert Committee meeting dated 10/11/2015)*

## II. Blank media remuneration

1. Blanket allocations to associations for audiovisual recordings that were not broadcast or not captured (DR item 2.3.4.4)

The share of 20% of the blank media remuneration which is allocated to the representative association pursuant to item 2.3.4.4 of the distribution rules to cover the usage of productions which were not captured in terms of TV related usage analysis shall be allocated with

- 10% (2% of the total amount) to IFPI Video;
- 10% (2% of the total amount) to the STFG;
- 20% (4% of the total amount) to the SFA.

The shares for feature films (40% or 8% of the total amount) and documentaries (20% or 4 % of the total amount) shall be allocated to the associations FDS, SFP, GARP and IGP based on the ratio of the portfolio in original producers' rights as represented by their members. In such cases, productions of the years 1993-2007 will be used for the first distribution. Only those productions shall be taken into account that have been registered with the required details by the respective associations within a deadline to be specified by the Expert Committees.

The Expert Committees shall determine the specifics. The new calculation shall take place for the first time for distribution year 2013 (distribution of collected revenues from 2012).

*(Resolution: Expert Committee meeting dated 20/11/2012)*

2. Frequency of Recording (DR item 2.3.4.5)

*Additional weightings of the work categories:*

| | |
|---|---|
| Cinema movie (long and short film) | factor 3 |
| TV film | factor 3 |

## III. Remuneration for use in schools

Blanket allocations to associations for audiovisual recordings that were not broadcast or not captured (DR item 2.3.6.2)

The share of 20% of the remuneration for use in schools which is allocated to the representative association pursuant to item 2.3.6.2 of the distribution rules to cover the usage of productions which were not captured in terms of TV related usage analysis shall be allocated in the same way as determined above in item II.1.

*(Resolution: Expert Committee meeting dated 29/08/17)*

## IV. Remuneration for use in businesses

Blanket allocations to associations for audiovisual recordings that were not broadcast or not captured (DR item 2.3.7.2)

The share of 20% of the remuneration for use in businesses which is allocated to the representative association pursuant to item 2.3.7.2 of the distribution rules to cover the usage of productions which were not captured in terms of TV related usage analysis shall be allocated in the same way as determined above in item II.1.

*(Resolution: Expert Committee meeting dated 29/08/17)*