

Copyright Licensing and Administration Society of Singapore

DISTRIBUTION POLICY

Last updated on 22 April 2024

1. GENERAL

- 1.1 This distribution policy may only be amended by a general meeting of CLASS members.
- 1.2 Any amendment is void to the extent that it is inconsistent with the Copyright (Collective Management Organisations) Regulations (the “**Regulations**”).

2. CALCULATION OF TOTAL AMOUNT OF TARIFFS TO BE DISTRIBUTED

CLASS shall distribute all the tariffs that it collects on behalf of its members to the members, save that CLASS shall be entitled to:

- (a) deduct (i) its reasonable expenses (including anticipated expenses) incurred in the implementation of its Membership Agreements with its members; and (ii) up to 1% of the tariffs collected in each financial year for social and cultural purposes (including but not limited to the Annual CLASS Bursary Award and other educational awards and grants), before distributing the tariffs to the members; and
- (b) reassign a portion of the tariffs in accordance with paragraph 5.2(a) below.

3. CALCULATION OF THE AMOUNT OF TARIFFS TO BE DISTRIBUTED TO EACH MEMBER

- 3.1 The method that CLASS will use to calculate the amount of tariffs to be distributed to each member shall be based on the estimated use of the member’s portfolio.
- 3.2 CLASS shall require its licensees to keep records of their usage of CLASS’s portfolio, including (i) details of the work copied; (ii) the number of pages used from the work; and (iii) the number of physical copies made or the number of individuals to whom digital copies were made available (“**Usage Records**”), for a period of at least two (2) months in every academic year.
- 3.3 For the purposes of paragraph 3.1 above, the use of a member’s portfolio shall be estimated based on:
- (a) the Usage Records submitted to CLASS by its licensees; and
- (b) any records similar to the Usage Records which may be furnished to CLASS by foreign reproduction rights organisations which have entered into a bilateral agreement with CLASS (“**Foreign RROs**”).
- 3.4 For each Financial Year, the amount of tariffs that each member shall receive shall comprise of:
- (a) its share of the tariffs collected from CLASS licensees in the previous year;
- (b) its share of the tariffs collected from Foreign RROs in the previous year; and
- (c) its share of previously undistributed tariffs which are due to be distributed in that Financial Year, in accordance with paragraph 5.2 below.
- 3.5 For the purposes of paragraph 3.4(a) above, subject to paragraphs 2 and 5, each member shall be entitled to receive a share of the tariffs received by CLASS in each Financial Year

that is proportionate to ratio of the usage of the member's portfolio to the usage of CLASS's entire portfolio by its users.

- 3.6 For the purposes of paragraph 3.4(b) above, the amount of tariffs collected from Foreign RROs to be distributed to each member shall be determined as follows:
- (a) for Foreign RROs which have furnished to CLASS records similar to the Usage Records, each member shall be entitled to receive a share of the tariffs collected from those Foreign RROs calculated based on the usage of the member's portfolio to the total usage of CLASS's entire portfolio by the users of those Foreign RROs; and
 - (b) for Foreign RROs which have not furnished any records to CLASS, the tariffs collected from those Foreign RROs will be dealt with in accordance with paragraph 5.2 below.
- 3.7 For the purposes of paragraph **Error! Reference source not found.** and 3.6 above, the usage of each of a member's portfolio or CLASS's portfolio shall be determined based on the sum of the product of (i) the number of pages used from each work in the portfolio; and (ii) the number of physical copies made or the number of individuals to whom digital copies were made available (as the case may be) of the pages used.
- 3.8 Where a member has given notice to CLASS to vary or terminate the rights granted to CLASS, the member shall be entitled to continue to receive distributions of tariffs in relation to the use of its portfolio or the affected part of his portfolio, as the case may be, for a period of 18 months after the effective date of termination or variation. Following the 18-month period, the member shall be treated as a non-member for the purposes of distributions in relation to the use of its works for which the rights granted to CLASS have been withdrawn.
- 3.9 Where CLASS has terminated the agreement with a member, the member shall be entitled to continue to receive distributions of tariffs in relation to any tariffs collected in relation to any use of its portfolio for a period of 3 years after the effective date of termination.

4. FREQUENCY AND MANNER OF DISTRIBUTION

- 4.1 Tariff distributions shall ordinarily be made:
- (a) once a year; and
 - (b) by electronic funds transfer to a members' designated Singapore bank account.
- 4.2 CLASS shall distribute all tariffs received during a Financial Year within 18 months from the end of the Financial Year.
- 4.3 Paragraph 4.2 shall not apply if and to the extent that CLASS is unable to make a distribution despite its best efforts as a result of the conduct of a user or a Foreign RRO, including but not limited the failure of the user or a Foreign RRO to provide information about its use of CLASS's portfolio despite CLASS's best efforts to collect that information.

5. TARIFFS THAT CLASS IS UNABLE TO DISTRIBUTE

- 5.1 In relation to tariffs that CLASS is unable to distribute according to this distribution policy, CLASS shall:
- (a) keep a record of those tariffs, including the reasons for being unable to distribute those tariffs, which may include one or more of the following:
 - (i) the relevant usage records are missing or incomplete;
 - (ii) CLASS is unable to identify the rightsholder of the work used;

- (iii) the rightsholder is not a CLASS member;
 - (iv) the CLASS member who is entitled to receive a distribution cannot be contacted based on the contact information provided to CLASS; and
 - (v) the CLASS member who is entitled to receive a distribution has refused or failed to do any of the following: (1) confirm that he owns, controls or represents the relevant part of CLASS's portfolio which the tariffs collected relate to; (2) confirm his bank account details; (3) undertake to review its contractual arrangements to determine whether any other person(s) is entitled to a share of the distribution, to notify CLASS if that is the case, and to pay those person(s) (if any) their share of the same within 60 days of receipt of the distribution from CLASS; and (4) agree to indemnify CLASS against any and all claims (including full legal costs and disbursements) made by any persons for any or all of the distribution;
- (b) take commercially reasonable steps towards obtaining the relevant records or information, identifying the rightsholder, or inviting the rightsholder to become a CLASS member (as the case may be), in order that those tariffs may be distributed;
 - (c) safeguard those tariffs by depositing the monies in a bank account until they are distributed or otherwise dealt with in accordance with this distribution policy; and
 - (d) inform members about the steps taken under sub-paragraph (b), and the amount safeguarded under sub-paragraph (c) for each Financial Year.

5.2 If CLASS remains unable to distribute the tariffs referred to in paragraph 5.1 despite taking the steps mentioned in paragraph 5.1(b), it shall, after safeguarding the monies in accordance with paragraph 5.1(c) for a period of 4 years, deal with those tariffs in the following manner:

- (a) not more than 40% of those tariffs may be used for social and cultural purposes (including but not limited to the Annual CLASS Bursary Award and other educational awards and grants); and
- (b) the remainder shall be distributed to CLASS members, in the same share as that of the tariffs collected from CLASS licensees that it is entitled to receive in the same Financial Year.

6. COLLECTION OF USAGE INFORMATION

6.1 CLASS shall do its best to collect accurate and timely information about the use of its portfolio, including:

- (a) the following information for each tariff scheme operated by CLASS:
 - (i) general information about the users of the scheme;
 - (ii) the frequency at which permission is granted under each class of case to which the scheme applies;
 - (iii) the categories of rights for which permission is granted under the scheme;
 - (iv) the frequency at which permission is granted for each category of rights;
- (b) for every member's portfolio:
 - (i) general information about the users and usage of the member's portfolio;

- (ii) information about the period of use for each work in the member's portfolio;
- (iii) for each tariff scheme operated by CLASS that applies to a work in the member's portfolio:
 - (A) the frequency at which permission is granted under each class of case to which the scheme applies;
 - (B) the categories of rights for which permission is granted under the scheme; and
 - (C) the frequency at which permission is granted for each category of rights; and
- (c) any information that the CMO is required to give to a member pursuant to paragraph 7.

6.2 CLASS shall, if required by a member, explain to the member the efforts it has taken to collect the information referred to in paragraph 6.1.

7. PROVISION TO MEMBERS OF USAGE OF PORTFOLIOS AND DISTRIBUTION OF TARIFFS

7.1 When making a distribution to a member, CLASS shall furnish the following to the member:

- (a) the information referred to in paragraph 6.1(b), insofar as it relates to the member's portfolio; and
- (b) how the distributed amount was calculated for the use of works in the member's portfolio.

7.2 CLASS shall provide the information collected under paragraph 6.1(a) to a member if so requested by the member.

7.3 CLASS is not required to provide any information under this paragraph 7 if it does not have the information because of the conduct of a user and explains to the member the efforts it has taken to collect that information.

8. OPPORTUNITY TO QUERY DISTRIBUTION BASIS

8.1 After making a distribution to a member and providing the member with the information required under paragraph 7, CLASS shall:

- (a) give the member the opportunity to, within 60 days after the date on which the member is provided with the information:
 - (i) ask for information about how the distribution to the member was calculated; and
 - (ii) dispute the amount that should have been distributed on the basis that:
 - (1) the distribution had not been calculated in accordance with this dispute resolution policy; or
 - (2) the amount actually distributed to the member is not the same as the calculated amount.

(b) provide any information asked for under paragraph 8.1(a)(i); and

(c) deal with any dispute in accordance with its dispute resolution policy.

8.2 CLASS is not required to give any information if it does not have the information because of the conduct of a user and explains to the member the efforts it has taken to collect that information.

9. DEROGATION OF THE CLASS MEMBERSHIP AGREEMENT FROM THIS POLICY

9.1 The CLASS Membership Agreement may derogate from this distribution policy in respect of any matter:

9.1.1 for which provision is not required under Division 4 of the Regulations; and

9.1.2 that this distribution policy expressly specifies is subject to derogation.