

COLLECTIVE MANAGEMENT DISTRIBUTION RULES OF ROYALTIES:

Regulations as adopted in 1995, at the Society Annual General Meeting.

A. General

1. Remuneration in connection with public performance and mechanical reproduction with NASCAM, in accordance with its articles of association and current membership contracts, shall pay to composers, arrangers of musical works, authors, arranger of lyrics and translators of lyrics relating to musical, works, as well as to music publishers of the following called the beneficiaries – shall be distributed on the basis defined in the present regulations.

In the case of remuneration for works other than those listed in the paragraph above, distribution will be made in accordance with the conditions agreed between NASCAM and the parties concerned according to the prevailing circumstances.

2. Remuneration will be paid to a NASCAM – affiliated publisher of an original work where an agreement has been signed between the publisher and the originator of a work with regard to the right to make arrangements concerning the work in the form of producing copies of the work and of making the work available to the general public (publishing agreement), provided that the agreement gives the publisher the right to receive remuneration for public performance and mechanical reproduction.

In the event that the publisher does not within the period stipulated by the agreement – although at the most within four years of the date on which the originator delivers to the publisher a complete original manuscript or other material approved by the publisher at the time the agreement is signed – publish the work in the way specified in the agreement, and in the event it is not published within three months of the date on which the originator requests the publisher in writing to fulfill his duty in this respect, the originator is entitled to draw NASCAM attention to the fact. If settlement cannot otherwise be arranged, the matter shall be submitted to a board of arbitration, appointed

by NASCAM's Board of Directors, consisting of: NASCAM's Managing Director/ Chief Executive Officer (Chairperson); two members representing the originator; and two members representing the publishers. Following the decision of the arbitration board, NASCAM has the right to withhold remuneration due and accruing in respect of public performance and mechanical reproduction, until the dispute is settled. If the Board finds, in conclusion, that the publisher has fulfilled its obligations with regard to publication of the work, the funds withheld shall accrue to the originator, and the work shall subsequently be considered a work in manuscript form until further notice. In such circumstances, the publisher shall pay the originator the proportion of the remuneration pertaining to public performance and mechanical reproduction received up to then, together with interest in a reasonable compensatory amount.

To the degree that the publisher does not comply with his obligations according to the decision of the arbitration board, NASCAM is entitled to withhold, by deduction from amounts accruing to the publisher in the future, and pay to the originator that which the latter is entitled to demand from the publisher.

3. Remuneration accruing to copyright holders who are members of a foreign copyright organisation, with which NASCAM maintains a reciprocal agreement, will be credited to the organisation concerned.
4. "Sub-publishers" are defined, for the purposes of the present regulations, as music publishers, to whom an original publisher has transferred its right to publish musical works in a specified territory for a specified period of time, including the right to receive the publisher's share of remuneration for public performance and/or automatic copying. However, the right to receive such a share in remuneration does not accrue to a NASCAM-affiliated sub-publisher as regards remuneration attributable to public performance in Namibia, or mechanical reproduction which pertains to Namibia, and to works originally published by a Namibian publisher.

B. Special regulations on distribution of remuneration for public performances of musical works with or without text

The performance of a work will be recorded on the basis of music reports, or some other board-approved basis for distribution – taking account of the length of the performance and, in certain circumstances, the specified time for the work, as well as the nature (grading) of performance and work according to the grading table below throughout each distribution of remuneration (known as “distribution areas”).

The Board will determine the amount for distribution for each area, after deduction of expenses. In so doing, the Board shall take into account the requirement that reasonable remuneration shall be paid even where the remuneration collected by NASCAM is based on a subsidized, or otherwise reduced, price.

Valuation table

Grading for work	a	b	c	d	e
Remuneration factor	1	1.5	2	2.5	3

Key for Distribution of Remuneration*) The following table indicates some of the main categories for distribution. The examples refer to works in grading category a, which have been published only in their original form. For works in other grading categories, sub-published works, etc., see

Appendices DISTRIBUTION OF REMUNERATION TABLES.

Public performances

Musical work (without lyrics or with optional lyrics)	Composer 100%		
Musical work with lyrics	Composer 50%	Author 50%	

Published musical work (without lyrics or with optional lyrics)	Composer 66.67%		Publisher 33.33%
Published musical work with lyrics	Composer 33.33%	Author 33.33%	Publisher 33.33%
Literary work (music has no copyright protection)		Author 50%	
Published literary work (music has no copyright protection)		Author 33.33%	Publisher 33.33%
Arrangement of musical work (copyright protected)	Composer 75%	Arranger 25%	
Published arrangement of musical work (copyright protected)	Composer 50%	Arranger 16.67%	Publisher 33.33%
Arrangement of musical work (no copyright protection)		Arranger 33.33%	Publisher 33.33%
Published		Arranger 33.33%	Publisher 33.33%

arrangement of musical work (no copyright protection)			
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*) The key to distribution of Remuneration is used unless otherwise agreed as per D, below. Special regulations apply to “unprotected” performance and/or mechanical reproduction.

Note 1. In order to become eligible for remuneration for public performance, the beneficiary shall, by means of a form provided by NASCAM, advise NASCAM of details of the manuscripts and published works concerned.

Note 2. Arrangers of copyright protected works, authors of new lyrics for such works and translators of foreign lyrics for copyright protected vocal works are entitled to receive a share of remuneration in respect of public performance only in the event that the copyright holder concerned has provided written consent to such payments. At the request of NASCAM, the arrangement or text shall be presented for approval. Composers who have arranged, or written lyrics for, their own works will thus not be entitled to receive remuneration in respect of such work.

Note 3. In the event that a NASCAM-affiliated publisher acquires by agreement with a foreign publisher the publishing rights in Namibia to a foreign work, and the agreement stipulates that the former – as sub-publisher – shall be entitled to receive payment of a share in remuneration for public performance, a maximum of 50% of the remuneration, i.e. the maximum publisher’s share, may be paid, provided that the organisation to which the original publisher is affiliated permits this to be done, to the NASCAM-affiliated music publisher in its capacity of sub-publisher. With regard to sub-published works, a total maximum of 16.67% may be paid, where appropriate, to a NASCAM-affiliated music arranger and/or editor/translator. The amount not allocated to NASCAM-affiliated parties are paid to the organisation representing the original publisher for its own account, and to the organisation representing the originator concerned, for their own accounts.

NASCAM-affiliated publishers are in all circumstances obliged as sub-publishers to state on being requested so to do by NASCAM, the obligations they are under according to the publishing agreement, as well as the proportion of remuneration in respect of public performance to which they are entitled under the agreement.

Note 4. In the event that a NASCAM-affiliated publisher (original publisher) should by agreement with the originators concerned sign over the publishing rights to a work which it has published, to a foreign publisher (sub-publisher), no more than 50% of the remuneration for public performance may accrue jointly to the publishers; in addition, a foreign arranger of music and/or lyrics is entitled to receive a total maximum of 16.67%.

C. Special regulations on distribution of remuneration for mechanical reproduction

Key for Distribution of Remuneration*) The following table indicates some of the main categories for distribution of remuneration. The examples refer to works in grading category a, which have been published only in their original form. For sub-published works, etc., see the regulations described in section C.

Mechanical reproduction

Musical work (without lyrics or with optional lyrics)	Composer 100%		
Musical work with text	Composer 50%	Author 50%	
Published musical work (without lyrics or with optional lyrics)	Composer 50%		Publisher 50%

Published musical work with lyrics	Composer 33.33%	Author 33.33%	Publisher 33.33%***)
Literary work (no music)		Author 100%	
Published literary work (no music)		Author 50%	Publisher 50%

*) They Key to Remuneration Distribution is used unless otherwise agreed as per D, below.

Special regulations apply to “unprotected” performance and/or mechanical reproduction.

**) Composers also include arrangers of unprotected works.

***) Where the composer and the author are one and the same person, remuneration may, if agreement has been reached to this effect, be divided equally between the originator and the publisher.

Arrangers of copyright protected works will receive a share of composer remuneration only if the copyright holder has consented in writing for this to happen. In such an event, the share may – by application of the key for distribution of remuneration C – be set at a maximum of 1/3 of the remuneration accruing to the composer. Arrangements of both unprotected and protected works shall be notified to NASCAM and, if requested, be presented for inspection. Should a NASCAM-affiliated publisher enter into an agreement with a foreign publisher concerning assignment of publishing rights to a work published by the former, the foreign copyright holders will be entitled to no more than 50% of the total remuneration payable for mechanical reproduction. Other schemes may be agreed provided the approval of NASCAM is obtained. The portion of the remuneration that, under the agreement, accrues to Namibia, is shared between the original copyright holders for the work, as shown in the Key to distribution of remuneration C.

If the publishing agreement refers to a foreign work, the NASCAM-affiliated sub-publisher may receive the whole of the share of remuneration for mechanical reproduction that is stipulated according to the agreement. In the event that the work is recorded with Namibia

lyrics, the share of remuneration accruing to NASCAM affiliated copyright holders shall be distributed as agreed by the publisher and the translator.

With regard to the obligations of the sub-contracted publisher, see the relevant sections of the regulations under Note3, Section B.

D. Special regulations on “free” distribution of remuneration for public performance and/or mechanical reproduction.

Originators who are entitled to receive remuneration may enter into separate agreements as to respective shares that deviate from the shares indicated by the tables of fixed remuneration percentages.

Such an arrangement requires that an agreement be reached between all originators entitled to receive remuneration, and that such originators personally sign notification to NASCAM specifying the particular arrangement; alternatively, NASCAM must be provided with an opportunity of inspecting the publishing agreement signed by the beneficiaries.

The original publishing shares indicated in the tables in Sections B and C may not be affected by free distribution arrangements.

Neither may an agreement with regard to free distribution arrangements conflict with the provisions concerning distribution stipulated by NASCAM / third parties with sister Organisations abroad, nor with CISAC Regulations.

Any dispute arising from interpretation or application of the present rules on distribution of remuneration shall, other than is stipulated by section A 2, above, be referred to settlement by an arbitration panel consisting of the Board members appointed by the Government Authority representing the Intellectual Properties, together with two impartial persons with knowledge of the area of the dispute to be specially appointed – from within or outside the Board – to judge the dispute.

An arrangement for distribution of remuneration, in accordance with a publishing agreement and current distribution of remuneration regulations, with regard to public performance and/or mechanical reproduction, between originator and publisher shall, unless otherwise agreed, be valid during the contractual period specified in the publishing agreement,

irrespective of whether amendment of the remuneration distribution regulations should be approved.

Remuneration distribution tables

Percentage of remuneration paid for public performance.

Layout of table:			The following terms are used in the table:	
Table	Music	Lyrics	Grading	According to the NASCAM Grading Table (See section B1).
A	Protected	--		Corresponds to last symbol in category code for work as specified in the NASCAM Table of Categories.
B	Unprotected	--	C	Composer
C	Protected	Protected	C-AR	Music arranger
D	Protected	Unprotected	A	Author
E	Unprotected	Protected	A-AR	Translator/arranger of lyrics
F	Unprotected	Protected	PD	Public Domain, i.e. no copyright protection for music/lyrics.

A. Music only

Composer has shares in remuneration (per cent)

Table	Grading	Music		Lyrics		Publisher	Total
		C	C-AR	A	A-AR		
A1	A	100	--	--	--	--	100
	B	100	--	--	--	--	100

	C	100	--	--	--	100
	D	100	--	--	--	100
	E	100	--	--	--	100
A2	A	66.67	--	--	33.33	100
	B	66.67	--	--	33.33	100
	C	66.67	--	--	33.33	100
	D	66.67	--	--	33.33	100
	E	66.67	--	--	33.33	100
A3	A	75	25	--	--	100
	B	75	25	--	--	100
	C	75	25	--	--	100
	D	75	25	--	--	100
	E	75	25	--	--	100
A4	A	50	16.67	--	33.33	100
	B	50	16.67	--	33.33	100
	C	50	16.67	--	33.33	100
	D	50	16.67	--	33.33	100
	E	50	16.67	--	33.33	100

B. Music only

Composer is public domain, no share in remuneration (per cent)

Table	Grading	Music		Lyrics		Publisher	Total
		C	C-AR	A	A-AR		
B1	A	PD	33.33	--	--	--	33.33
	B	PD	41.67	--	--	--	41.67
	C	PD	50	--	--	--	50
	D	PD	75	--	--	--	75
	E	PD	100	--	--	--	100
B2	A	PD	33.33	--	--	33.33	66.66
	B	PD	41.67	--	--	33.33	75
	C	PD	50	--	--	33.33	83.33
	D	PD	58.34	--	--	33.33	91.67
	E	PD	66.67	--	--	33.33	100

C. Music and lyrics

Composer and lyric writer have shares in remuneration (per cent)

Table	Grading	Music		Lyrics		Publisher	Total
		C	C-AR	A	A-AR		
C1	A	50	--	50	--	--	100
	B	62.50	--	37.50	--	--	100
	C	75	--	25	--	--	100
	D	79.16	--	20.85	--	--	100

	E	83.33	--	16.67	--	100	
C2	A	33.33	--	33.33	--	33.33	100
	B	41.67	--	25	--	33.33	100
	C	50	--	16.67	--	33.33	100
	D	52.77	--	13.90	--	33.33	100
	E	55.55	--	11.12	--	33.33	100
C3	A	37.50	25	37.50	--	--	100
	B	43.13	28.74	28.13	--	--	100
	C	48.75	32.50	18.75	--	--	100
	D	50.63	33.74	15.63	--	--	100
	E	52.50	35	12.50	--	--	100
C4	A	25	16.67	25	--	33.33	100
	B	28.28	19.64	18.75	--	33.33	100
	C	31.56	22.61	12.50	--	33.33	100
	D	33.28	22.97	10.42	--	33.33	100
	E	35	23.34	8.33	--	33.33	100
C5	A	37.50	--	37.50	25	--	100
	B	53.12	--	28.13	18.75	--	100
	C	68.75	--	18.75	12.50	--	100
	D	73.96	--	15.62	10.42	--	100
	E	79.17	--	12.50	8.33	--	100

D1	A	100	--	PD	--	--	100
	B	100	--	PD	--	--	100
	C	100	--	PD	--	--	100
	D	100	--	PD	--	--	100
	E	100	--	PD	--	--	100
D2	A	66.67	--	PD	--	33.33	100
	B	66.67	--	PD	--	33.33	100
	C	66.67	--	PD	--	33.33	100
	D	66.67	--	PD	--	33.33	100
	E	66.67	--	PD	--	33.33	100
D3	A	66.67	--	PD	33.33	--	100
	B	75	--	PD	25	--	100
	C	83.33	--	PD	16.67	--	100
	D	86.11	--	PD	13.89	--	100
	E	88.89	--	PD	11.11	--	100
D4	A	44.45	--	PD	22.22	33.33	100
	B	50	--	PD	16.67	33.33	100
	C	55.56	--	PD	11.11	33.33	100
	D	57.41	--	PD	9.26	33.33	100

	E	59.26	--	PD	7.41	33.33	100
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E. Music and lyrics

Composer is PD, has no share in remuneration. Author of lyrics has shares in remuneration (per cent)

Table	Grading	Music		Lyrics		Publisher	Total
		C	C-AR	A	A-AR		
E1	A	PD	--	50	--	--	50
	B	PD	--	37.50	--	--	37.50
	C	PD	--	25	--	--	25
	D	PD	--	20.84	--	--	20.84
	E	PD	--	16.67	--	--	16.67
E2	A	PD	--	33.33	--	33.33	66.66
	B	PD	--	25	--	33.33	58.33
	C	PD	--	16.67	--	33.33	50
	D	PD	--	13.89	--	33.33	47.22
	E	PD	--	11.11	--	33.33	44.44
E3	A	PD	33.33	50	--	--	83.33
	B	PD	41.67	37.50	--	--	79.17
	C	PD	50	25	--	--	75
	D	PD	66.67	20.84	--	--	87.51

	E	PD	83.33	16.67	--	--	100
E4	A	PD	33.33	33.33	--	33.33	100
	B	PD	41.67	25	--	33.33	100
	C	PD	50	16.67	--	33.33	100
	D	PD	52.78	13.89	--	33.33	100
	E	PD	55.55	11.12	--	33.33	100

F. Music and lyrics

Composer and author of lyrics are PD and have no shares in remuneration (per cent)

Table	Grading	Music		Lyrics		Publisher	Total
		C	C-AR	A	A-AR		
F1	A	PD	33.33	PD	--	--	33.33
	B	PD	41.67	PD	--	--	41.67
	C	PD	50	PD	--	--	50
	D	PD	75	PD	--	--	75
	E	PD	100	PD	--	--	100
F2	A	PD	33.33	PD	--	33.33	66.66
	B	PD	41.67	PD	--	33.33	75
	C	PD	50	PD	--	33.33	83.33
	D	PD	66.67	PD	--	33.33	100
	E	PD	66.67	PD	--	33.33	100

F3	A	PD	--	PD	33.33	--	33.33
	B	PD	--	PD	25	--	25
	C	PD	--	PD	16.67	--	16.67
	D	PD	--	PD	13.89	--	13.89
	E	PD	--	PD	11.11	--	11.11
F4	A	PD	--	PD	33.33	33.33	66.66
	B	PD	--	PD	25	33.33	58.33
	C	PD	--	PD	16.67	33.33	50
	D	PD	--	PD	13.89	33.33	47.22
	E	PD	--	PD	11.11	33.33	44.44
F5	A	PD	33.33	PD	33.33	--	16.66
	B	PD	41.67	PD	25	--	16.67
	C	PD	50	PD	16.67	--	16.67
	D	PD	52.78	PD	13.89	--	16.67
	E	PD	55.56	PD	11.11	--	16.67
F6	A	PD	33.33	PD	33.33	33.33	100
	B	PD	41.67	PD	25	33.33	100
	C	PD	50	PD	16.67	33.33	100
	D	PD	52.78	PD	13.89	33.33	100
	E	PD	55.56	PD	11.11	33.33	100