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**Phonographic Performance Limited**  
**Members' Licence Fees Distribution/ Payment**  
**Basis & Methodology (Distribution Scheme)**

Applicable for Financial Year 2020-21 & onwards

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## 1. Introduction

Phonographic Performance Limited (PPL) is, a company limited by guarantee, set up under the Companies Act, 1956. We are authorized by our members (i.e. copyright holders) to issue non-exclusive licences for the radio broadcasting and public performance of our members’ sound recordings.

The collected amount is distributed to member music labels, after recouping costs and outgoings. For this purpose, PPL is entitled to defer recoupment of some of the costs to next year, if the benefit of such costs would continue to accrue in next year also.

## 2. Applicability Period

These rules apply to the distribution of monies in respect of the licence income collected starting 1st April 2020 and ending 31st March 2021 and any subsequent financial years.

## 3. Types of PPL Licences

PPL issues licences to organisations and individuals in the following broad categories:

<b>Radio Broadcasting</b>	These licences for the use of sound recordings granted to radio broadcasters.
<b>Public Performance</b>	<p>These licences are issued for commercial and other activities that involve the public playing of sound recordings.</p> <p>These range from public performance of sound recordings being used at dance studios, fitness centres, pubs, clubs, hotels, malls, multiplexes, offices, commercial premises, cinemas, shops, chain stores etc.</p>

#### 4. Distribution of revenue from Radio Broadcasting

From the radio broadcasting revenue, all administrative, operating costs, expenses and out-goings (both direct and allocated of common over-heads), legal & litigation expenses are to be deducted first.

The net income (post deduction of all the expenses as mentioned above) is distributed as follows:

**4.1 Revenues from All India Radio (AIR)** - On the basis of member-wise summary report provided by AIR, usually provided bi-annually. AIR, usually, does not provide track-wise details.

**4.2 Revenues from Private FM Radio** - On the basis of track-wise usage log reports or needle hours' usage report, as periodically provided by the Licencees / Broadcasters.

#### 5. Distribution of revenue from Public Performance

From the revenue collected (net of TDS suffered, commission and collection charges) all administrative, operating costs, expenses and out-goings (both direct and allocated of common over-heads), legal & litigation expenses are deducted. The amount so arrived shall be termed as 'Income available for distribution'

The 'Income available for distribution' is distributed as follows:

**5.1 Logged Income Distribution** - From 'Income available from distribution' all Logged Income shall be distributed on an actual revenue basis. The term 'logged income' here means public performance revenue collected for which the licencees have provided the log/details/playlist of the music/tracks being played. The term logged income includes revenue from storage/reproduction income generated from the play out of these tracks from background music service providers. This shall also be distributed in the ratio of the logs/details/playlist of the music/tracks being used.

The amount so arrived post deducting Logged Income from Income available for distributions and also deducting any other contractual payments is termed as 'Net Distributable Income'.

The 'Net Distributable Income' is distributed as follows:

## 5.2 Extrapolation of Logged Income

In addition to logged income, as mentioned above, for which actual usage/logs are available, an additional amount may be distributed basis extrapolation of such logged income. This extrapolation shall be used for distributing income generated by licencees within similar tariff categories. The total of logged and extrapolation of logged income shall be 10% of total revenue from public performance or actual logged income whichever is higher. PPL shall take into account the distribution so determined shall be reasonable in all circumstances.

## 5.3 Distribution based on surrogate data

The amount left unallocated out of the 'Net Distributable Income' post deducting the Extrapolation of logged income, as mentioned in clause 5.2, shall be distributed basis Individual members' share, computed basis the following formula:

- A. 60% weightage to usage-based song stream counts through Airtel-Wynk, Gaana, and Saavn for FY 2020-21. Such weightage shall be computed on streaming counts reported and not on amounts.
- B. 20% weightage to private FM radio broadcast plays for FY 2020-21 (excluding All India Radio and community radio broadcasters). Such weightage shall be computed on needle-hours reported and not on amounts.
- C. 15% weightage to the net physical domestic sales turnover of audio products pertaining to FY 2020-21.
- D. 5% weightage to the You Tube views reported in the Indian territory, for FY 2020-21.

## 5.4 Method for collecting surrogate data

- A. For streaming data, each member shall authorize the above mentioned digital platforms to share the song stream counts information with PPL and also work towards ensuring the data is submitted to PPL by the platforms within the timeline specified by PPL.
- B. For Radio, if a member has not assigned its radio broadcasting rights to PPL, the member will share a certificate from a Chartered Accountant as declaration for radio needle hours of usage as played on private FM radio stations.

- C. For Physical Sales, members will share a certificate from a Chartered Accountant as declaration for physical turnover.
- D. For YouTube, members will share a snapshot of their channel analytics for total views in the respective financial year with percentage of views for Indian territory.
- E. The specimen format of the CA certificate will be as communicated by PPL to its members in due course.

**5.5** In case any of the data is not forthcoming from the sources/platforms etc. the Board is authorized to decide any alternative methodology for collection of data.

**5.6** In case of declarations that are apparently exaggerated or out-of-alignment with known market conditions or not apparently authentic, etc., PPL is entitled to further audit the records and call for supporting documents for validation. Royalties for such members will be put on hold till the supporting documents provided are cleared and approved by PPL appointed auditors. Further, if the supporting documents are not valid or in case no supporting documents as called for are submitted within the stipulated time period, the submission of relevant data of such members will be considered as “Nil” and the royalty/licence fee shall be computed accordingly.

**5.7** In case of data received from multiple sources, for the computation of individual members share, as mentioned above PPL reserves the right to select the most appropriate source on a reasonable basis.

**Note:** The afore-said turnover for the purpose of net physical domestic sales as mentioned in clause 3 (iii) (b) (c) is of audio products in physical formats (i.e. audio cassettes, audio CDs, MP3 CDs and audio DVDs), net of sales returns or provision for sales returns and channel discounts.; excludes export sales; and excludes home video (full movie VCDs, DVDs). In the event that it is not explicitly declared that the sales figure provided is of Audio products only, it will be assumed that 75% is of audio products and the same shall be eligible for being considered for payment of licence fees. Only trade i.e. bazaar retail sales are eligible. Sales figures of devotional albums to be excluded, in view of exemption in Copyright Act for licensing of religious places/functions. Premium sales, OEM sales, Corporate sales, “CD club” sales, direct marketing sales, and such or similar sales are not eligible. Only third party sales are taken in account; inter-company sales are excluded.

## 6. Eligibility for receiving licence fees payments

- 6.1** A new member is eligible for share in Public Performance revenue from the effective date of joining mentioned in his agreement.
- 6.2** A new member, joining during the course of the financial year, will have to share details of his streaming counts on the online streaming platforms, as mentioned in clause 5.3.A, for the preceding financial year. This data shall be certified by an independent Chartered Accountant in the template as required by the company. This data will be used as basis to determine his interim payouts for the current financial year. The final payout for the current financial year for a new member will be on the same principles and data collection method as for an existing member.
- 6.3** A member who resigns within the year, royalty will be calculated on pro-rata basis up to the last month of being an active member.

## 7. Periodicity of payments

Revenue stream	Periodicity	Basis of computation
Radio	Quarterly	Basis processing of logs and revenue receipts.
Public Performance	Quarterly	For determining the interim payout to a member, for the current financial year, the members payout share in the previous financial year shall be used.
Public Performance	Monthly	In the event the estimated licence fee payable to a member exceeds Rs.60 lakhs p.a., the Company shall endeavour to process 'on account' monthly licence fee payouts.  For determining the interim payout to a member, for the current financial year, the members payout share in the previous financial year shall be used.

The final payout of public performance licence fees, after finalization of PPL audited accounts, shall be paid out latest by January 31<sup>st</sup> of the subsequent financial year subject to timely receipt of all documents/data from members/platforms/agencies and their validation thereof.

## 8. Deductions

From the licence fees received from the licencees (net of TDS suffered, commission and collection charges), all administrative expenses, legal expenses, anti-piracy/advocacy charges, member welfare scheme contributions are deducted. As far as practicable, such deduction may be identified separately for each stream (i.e. public performance and radio broadcasting). In the event expenses were not fully recouped from the payment of the relevant year, such un-recouped expense may be carried over and recovered from the payment of licence fees consideration for the subsequent year. In the event of temporary inability to distribute a part of the revenue or part of the collected amounts due to Court order, or litigation or government intervention or orders by authorized government agencies/institution, the same may be withheld and kept aside, till the litigation or intervention or order is resolved.

9. PPL may apply its 'Other Income', mainly, bank interest earned out of temporary surplus of funds to subsidize the costs in expense recoupment in both radio and public performance distribution. The Board is empowered to decide the ratio and/or amount of apportionment of other Income to radio and public performance distribution basis a reasonable methodology.
10. Where an overpayment has been made in respect of a member, PPL may deduct all or part of that overpayment from any subsequent payment that is due in respect of that member.
11. In case of any other licence fee income received where usage data is partial/incomplete/not available the Board may approve of a reasonable methodology for distribution.

## 12. Computation methodologies in special cases

- 12.1 In case of fixed value or lump-sum value licences or settlements, the licence fees per track is to be computed on quarterly or monthly rests (or, alternately, the entire contract term, at the option of PPL), by dividing the lump-sum or fixed value or settlement amount for the quarter (or the contract term, as the case may be) by the total actual reported usage for that quarter (or the contract term, as the case may be) of all PPL members.



- 12.2** In the event of a lump-sum or fixed-value licence fee across multiple locations or services (e.g. multiple stations of a radio broadcaster), same can be allocated to individual location or service on reasonable basis, utilizing available data and market information.
- 12.3** In cases where the Licencee fails to provide the periodic usage log report or a report is found to be erroneous or incomplete or inconsistent or unreliable and is not rectified expeditiously by the Licencee or there are practical difficulties in precisely identifying the song to a member, PPL may apply a suitable surrogate method, for that amount, on a case-to-case basis. Such basis of such schemes may include, but not restricted to, the number of songs owned /registered by the member, or licence fees earnings of member in that stream or in aggregate, or logs given by a similar licensee, etc.
- 12.4** In case of monies received not identifying a specific track or a specific label, or excess receipts, such amounts may be utilized /applied, for members benefit, towards recoupment or absorption of PPL costs in any stream, including public performance stream, while computing net distributable amount.

### **13. Payments to Foreign Collective Management Organizations**

Licence fees received and distribution to International Collective Management Societies as part of Bilateral Agreements Signed shall be in accordance with the binding resolutions of the current distribution policy.

### **14. Distribution Cut-Off Date**

PPL cannot assure that it will be able to process any information, from Members, received after the Distribution Cut-Off Date as doing so may cause delays in the distribution process and potentially impact PPL’s ability to make timely payments to Members. While we urge you to provide information as often and as quickly as you can, you are requested to submit it to us before the Distribution Cut-Off Date to ensure that it will be taken into account in that year’s distribution. A reminder about the Distribution Cut-Off Date will be included from time to time in member communication and its newsletters.



## 15. Distributions are Final

PPL's policy is always to pay out the full distributable amount by January 31<sup>st</sup> each year based on the information outlined above. This means that once they are determined by PPL and paid out, all distributions are final and cannot be altered or revisited.

We do not retain any reserve funds to pay out in respect of sound recordings or music videos that do not appear in the logs but that may have been broadcast or performed in public during the relevant Financial Year.

We also do not hold any reserve funds to pay out in respect of sound recordings for which the PPL Member had not, prior to the applicable Distribution Cut Off Date, provided all relevant information to PPL. This is why it is very important for members to provide the information to us and ensure it is kept up to date.

## 16. Counter-Claims & Disputes on Titles

In the event of counter-claims of ownership / control disputes on a song or album or catalogue, whether involving judicial proceedings or not, the licence fees on the same is liable to be kept suspended or withheld till the satisfactory resolution of the dispute upon production and examination of necessary documentary evidence of ownership of copyright preferably issued by the court of law in favour of the member claiming the amount. The decision of PPL in such cases will be at its sole and exclusive discretion and binding on the members and claimants concerned.

The member shall produce such documentary proofs, including agreements with film producers, artists, etc., as may be required by PPL or its lawyers from time to time. PPL may choose to take legal advice/opinion on the counter-claim; in which case, the counter-claimant shall be required to deposit in advance the full legal cost with PPL, failing which the counter-claim is liable not to be processed. PPL also may issue suitable "public notice" in newspapers, in the event of counter-claims.

No interest is payable on suspended licence fees. Members affirm that they shall not raise any claim or dispute on PPL, in respect of alleged, direct or indirect loss or loss of gains / profit attributable to the disputed titles.

## 17. Temporary Suspension of Payment

- 17.1** PPL may temporarily suspend payments from a member's account if he, at any time, withdraws or terminates or restricts or derogates exclusive assignment/transfer of his repertoire or in parallel exploits the same through third-parties, in a manner inconsistent with the agreement signed by him with PPL. No interest is payable on suspended licence fees.
- 17.2** Licence fees payments may be temporarily withheld, at discretion of PPL, till the Member executes any pending documentation or evidence related to membership or assigned works. No interest is payable on suspended licence fees.
- 17.3** In the event of any funds of the Company being un-available on account of any legal action or Court order, including for example provisional attachment of funds, or bank account freeze or attachment of funds by an authority or Court, PPL is entitled and empowered to delay and/or with-hold the distribution of licence fee to members to such extent, on a pro-rata basis to each member, out of his eligible licence fee as calculated. The basis, time-frame, formula, methodology and decisions adopted by the Board in this regard shall be final and binding on all members. Amounts so withheld or delayed can be released only upon release of the funds by the authority or Court concerned.

## 18. Unclaimed Royalties

In case of repeated return (three attempts to reach the member) of the royalty payouts to members, an advertisement shall be made in the local newspaper in the state where the member is based. Post thirty days from the publishing of the local newspaper advertisement, such unclaimed licence fees / royalties, pertaining to inaccessible or defunct members, will be parked or set aside for a period of 3 years from the date of deposit of unclaimed royalties into a separate account earmarked for this purpose and after three years thereon the said unpaid amount shall be moved to Members Welfare Scheme.

## 19. Allocation & Distribution issues not covered by this Policy

The allocation and distribution process, of collected licence fees, is set out in this Policy. Occasionally, an issue will arise in relation to the allocation and distribution of net

licence fee revenue that is not covered by this Policy. In such cases, PPL Board will determine, by a board resolution, how to handle the issue, taking into account appropriate professional advice. Any such resolution will be treated by PPL as part of this Policy for the purpose of allocating and distributing licence fee revenue.

If the issue is likely to have an ongoing effect on PPL's activities (for example, where it has risen as a result of a legislative change), this Policy may be amended to incorporate the approach determined by PPL Board.

## 20. Changes to this Policy

From time to time, PPL may need to amend this Policy to reflect changes to its operations or to take account of legal changes (e.g. amendments of the Copyright Act, or a decision of a court or the Copyright Tribunal). This Policy will only be amended by the approval of the members at a general meeting and at all times we will ensure that a copy of the revised policy is made available on PPL's website, as soon as possible, after any changes. Any such amendment will only be made in line with the terms of the Articles of Association of the company.

## 21. Verifications

- 21.1** While reasonable efforts, within available resources and within the time constraints, are made to validate or scrutinize the usage logs reports from licencees, PPL does not assume responsibility for errors at the source i.e. in the usage log reports submitted by the licencees, including errors, mis-spellings, etc. in identification and description of the song, album, label, code number, etc. Attempt will be made to resolve unidentified and mis-matched reported usages by applying best-fit criteria, but with no guarantee. It is the responsibility of member to declare and register the full metadata of his repertoire, on timely basis with PPL.
- 21.2** Licence fees received against mis-matched songs, that could not be satisfactorily resolved, may be directly applied to recoup administrative and legal expenses or, alternately, paid on a reasonable surrogate basis.

## 22. Adjustments

PPL may adjust or deduct, from any future payments to a member, any past over-payments that have been made to that member. Over-payments might have occurred where a member supplied incorrect information or has incorrectly registered his songs or due to sale of audio catalogue, or due to clerical oversight/error, or dispute/counter-claim, etc.

PPL may offset or reduce the licence fees payable to a member to the extent of dues or claims from the same member to PPL, in his capacity as a licensee or user or in any other manner whatsoever.

## 23. Mode of Payment

Licence fees payments are made by online bank payments and in exceptional circumstances by account payee cheques. Payouts shall be made only to the member to their designated bank account. Payment assignment or endorsement requests shall not be taken into account. In the event any taxes or levies are applicable on licence fees distributed to member, same shall be borne by (or charged to) the member.

## 24. TDS Procedures

Licence fees payment will not be made to a member till he furnishes his income-tax PAN number and copy of PAN certificate. Certificates for tax deducted at Source (TDS) will be issued to the member quarterly. Any discrepancy, to be notified within 15 days of the receipt of the said certificate. If any member has obtained concessional/lower TDS certificate from the income tax department, the same will be applied on the next licence fees payment due after the receipt of the said certificate. The certificate will be applied for the period and amount for which it is issued, and only until the closure of books/audit of accounts of PPL. Thereafter, for any payment of licence fees for the prior period, normal TDS rate will prevail.

## 25. Tax Procedures

GST or other tax payment will be made to a member on his furnishing valid tax invoice as prescribed by the tax authorities, within the statutorily prescribed time-limits and as per the statutory prescribed format. Invoices not statutorily compliant cannot be processed for payment of tax.



## **26. Registration of Works**

It is the sole responsibility of assignors/members to register their new songs, with full and correct particulars, duly supported by album inlays or covers, on a timely basis with PPL. Any omission or delay in this regard is at the consequence of the member.

## **27. Variations**

In the event of any variation, if any, between the basis and methodology as per this document and the methodology specifically agreed in the agreement with an individual member, the latter shall prevail.

## **28. PPL Obligation**

PPL has an ongoing obligation, of Confidentiality, to all its members.

All our staff are subject to a duty of confidentiality in respect of the information they acquire and use in the course of their duties for PPL. This means they generally cannot disclose details about the allocation and distribution process, especially the individual rupee amounts or percentages of usage logs attributable to particular member tracks or PPL Members (apart from the information routinely provided to PPL members on their respective distribution statements).

PPL staff will not reveal to members of the public the confidential contact details and other information we hold about our members.

## **29. Notification Requirement**

Members must ensure that they keep PPL informed of any changes to the record labels they own or control, including any labels that are discontinued and any new labels that are introduced.



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