

# DISTRIBUTION RULES

AUTHORS' LICENSING & COLLECTING SOCIETY LIMITED (ALCS)

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Under the terms of its Memorandum and Articles of Association, ALCS is empowered to collect fees from the exploitation of the works of its Members and other rightsholders in the UK and overseas. These Rules set out the types of use involved and the methodology applied in the distribution of the resulting payments.

The ALCS Board is permitted to vary these Rules, subject to the approval of the Members in a general meeting.

## **(A) Published Works**

### **Photocopying, scanning and digital source copying**

Revenues in respect of photocopying, scanning and digital source copying are derived from licences and agreements entered into with users and licensing bodies in the UK and overseas by the Copyright Licensing Agency (CLA) on behalf of ALCS and the Publishers Licensing Society (PLS) and other bodies representing rightsholders. The terms on which the CLA exercises the mandates provided to it by ALCS are set out in the CLA Members Agreement and the Authority to Act signed by ALCS and CLA.

**Books:** Detailed rules for the distribution of revenue from the photocopying, scanning and digital source copying of books shall be determined from time to time by the Board. The current methodology works as follows:

Fees are allocated to books based on CLA survey information recording the number of copies made and the number of pages copied under the licence.

**Serials:** Detailed rules for the distribution of revenue from the photocopying, scanning and digital source copying of journals, magazines and similar publications ('Serials') shall be determined from time to time by the Board. The current methodology works as follows:

Each Serial must have an ISSN to be eligible to be included in the licensing schemes. Currently the data received by ALCS only lists the titles which have been copied, not the individual articles copied. The data also does not specify the edition of the Serial as the ISSN remains the same for each separate edition. ALCS therefore operates a claims scheme whereby authors register their published articles with ALCS and receive a share of the total licensing income collected.

To reflect trends in licensed copying, each Serial is categorised by their subject matter and separate funds are available for each category.

The same methodology applies irrespective of publishing format however, if a claim is made for both the print and digital version of the same article, it will only count as one claim.

**Images:** Detailed rules for the distribution of revenue from the photocopying, scanning and digital source copying of images (e.g. illustrations, diagrams, photographs) shall be determined from time to time by the Board.

### **Public Lending Right**

Although UK fees are administered directly under the Public Lending Right scheme, ALCS has concluded agreements with organisations in other territories to receive the share attributable to UK authors for

public lending in those countries. These payments are subject to the distribution rules applied in the country of collection.

### Overseas Miscellaneous Income Sources

Overseas smaller income sources include: collections from schemes providing for remuneration in respect of the reading of limited extracts of literary works on radio and TV programmes and statutory remuneration schemes in respect of creating accessible copies of works. Any revenue arising out of licensing schemes for the creation of accessible copies shall be distributed in accordance with the survey or other data provided by the overseas societies or, if no data is supplied, on such clear and equitable basis as the Board shall direct.

### Allocations

The rules set out in Table 1 are applied to the allocation of fees received from UK and overseas published works sources.

CONTRIBUTOR	PERCENTAGE ALLOCATION
Author	100% to a sole author, or 100% divided between co-authors in equal shares, or according to contractual shares by agreement of ALCS and all the co-authors.
Editor*	30% to a sole editor or 30% divided in equal shares between co-editors.
Adapter	50% to adapter or 50% divided in equal shares between multiple adapters. For edited adaptations the overall splits are original author - 50%, adapter - 35%, editor – 15%.
Translator	50% to a sole translator or 50% divided in equal shares between co-translators. For edited translations the overall splits are translator – 40%, original author - 30%, editor - 30%.

Table 1

\*Series editors and general editors do not qualify for distribution purposes.

## **(B) Audiovisual Works**

### **Retransmission**

UK TV and radio programmes are subject to a number of secondary transmissions including re-transmission on cable, satellite and on-line platforms. Through licensing agreements with broadcasters, re-transmission operators and overseas collecting societies ALCS collects the fees due to UK writers for such uses.

### **Educational Uses**

ALCS is a member of the Educational Recording Agency (ERA). ERA operates a licensing scheme permitting copying from broadcasts of UK channels by educational establishments in the UK. ERA licences provide terms allowing educational establishments to copy and access works for educational purposes. Through its membership of ERA ALCS collects the authors' share of these payments. ALCS also collects revenues for equivalent schemes operating overseas via agreements with the operators of the schemes in those territories.

### **Private Copying**

Under its agreements with overseas bodies, ALCS is paid the UK authors' share of fees collected in those territories for levies charged on copying media and equipment. Payment from these sources shall be distributed based on the data provided by the overseas societies or, if no data is supplied, on such clear and equitable basis as the Board shall direct.

### **Overseas Miscellaneous Income Sources**

Smaller income sources in respect of audiovisual works include statutory schemes operating in overseas territories for the public broadcast of works and equitable remuneration for rental.

### **Allocations**

Revenues from the sources described above are allocated in accordance with Table 2. For the purposes of Table 2 a scriptwriter is a writer of an original dramatic work. A dramatisation involves the conversion of an existing literary work (such as a novel) into a dramatic work (such as a script), while an adaptation involves the conversion of an existing dramatic work (such as a theatre script) into a new dramatic work (such as a script for TV/radio). A concept is the origination of a programme idea.

WORK	PERCENTAGE ALLOCATION x MINUTAGE RATE
Script	100% to a sole scriptwriter or 100% divided in equal shares between co-scriptwriters, or according to contractual shares by agreement of ALCS and all the co-scriptwriters.
Dramatisation	60% to the scriptwriter. 40% to the author of the underlying work on which the script is based.
Adaptation	60% to the author of the adaptation. 40% to the author of the adapted work.
Concept/ Storyline	10% to the author who devised the original concept/ storyline leading to a work/ series of works.
Translation	30% of the fee allocated to the script, underlying work, dramatisation or adaptation.
Abridgement	25% to the author of an abridgement of a work.

Table 2

## (C) General Rules

### Agency Agreements

The Board may from time to time approve ALCS entering into agency agreements with third parties whereby ALCS distributes fees due to authors based on the distribution rules set by the third party. The current ALCS agency agreements are listed in Schedule 1.

### Re-Allocations Policy

While ALCS always endeavours to allocate the correct share due to authors for the use of their works, the data accompanying payments from certain sources is not always conclusive. Consequently ALCS undertakes considerable work to identify and contact the authors concerned. To account for those fees that remain unallocated even after this process, the following system is applied:

- Fees for published works for which ALCS receives no data identifying the works (non-title specific income) will be divided amongst all eligible Members in equal shares for payment in the following financial year.
- Fees for published works for which ALCS has no information identifying the author, or where the number of authors and the level of fees received make individual payments impractical, will be allocated amongst all eligible Members in equal shares. Payments will be made in the first year-end distribution 3 years after receipt of income unless further information or funds are received during that period to allow for the allocation of fees to the appropriate author or authors.
- Any fees for audiovisual works that remain unallocated to an author due to insufficient data will be divided amongst all eligible Members in equal shares to be paid in the first year-end distribution 3 years after receipt of income unless further information is received during that period to allow for the allocation of fees to the appropriate author or authors.
- In the case of estates with multiple Successor Members, all re-allocated fees will be divided equally between those Members or according to shares agreed by them.

### Author Research Policy

In accordance with statutory provisions concerning collective licensing, ALCS collects fees on behalf of both Members and non-members. Using the available data identifying copied works, ALCS undertakes research to confirm the identity and location of 'non-member authors'. Once the author has been identified and located the necessary paperwork is sent to them to register with ALCS as a Member. In the case of non-responses, a due diligence process is followed that involves sending periodic follow-up communications to the author.

Any fees due to an author who has been identified but, following the due diligence process either a) has not been located or b) has been located and contacted but has not responded, shall be considered as Undistributable Fees for the purposes of these Rules.

Collective licensing involves the allocation of high volumes of micropayments amongst multiple authors. In some cases the cost of tracing an author may be higher than the fee due to be paid to that individual. To ensure that operational costs do not adversely impact on the level of administration fees ALCS charges to authors, the author research process must be reasonable and proportionate. The Board shall from time to time determine the level at which due diligence is undertaken in respect of fees due to authors. For all sums falling below this level ALCS will take reasonable and proportionate steps to publicise the works for which fees are outstanding.

**Undistributable Fees**

Fees due to authors that remain unpaid at the end of a due diligence process shall be considered Undistributable Fees. Undistributable Fees shall be redistributed amongst authors on a clear and equitable basis determined by the Board. The Board may in its discretion direct that a proportion of Undistributable Fees be used to improve the efficacy of collective licensing and distribution operations to the benefit of authors.

Any substantiated claims by authors who are located subsequent to the conclusion of the due diligence process will be met out of Undistributable Fees.

**Distribution Statements**

Every payment will be accompanied by a statement detailing the gross, the ALCS deductions and the net sum payable (including any tax adjustments), the source of the revenue and, where the information is available to ALCS, the work(s) against which the fees were collected.

**Minimum Threshold for Payment**

Members and those registered with ALCS who reach the minimum payment threshold of £10 for UK payees and £50 for overseas payees will be paid during the next main scheduled distribution. Any sums below this threshold shall be carried forward until the aggregate reaches the payment level.

**Deductions**

A commission of 9.5% will be deducted by ALCS at the point of distribution to cover operational costs.

The income from certain investments held by ALCS is used to offset operational costs enabling the company to maintain a stable commission rate. Any surplus commission arising as a result of investments performing beyond expectation is returned to Members in the following financial year.

**UK Withholding Tax**

Where applicable, UK withholding tax shall be deducted on UK sources of income at a rate determined from time to time by HMRC. Withholding tax is deducted from fees due to writers based overseas.

**Overseas Withholding Tax**

Withholding tax may be deducted on payments from overseas collecting societies. Details of these countries are updated and made available on the ALCS website.

**Payment Correction**

Any overpayments to any writer made by ALCS in error, shall be repaid on demand or (at ALCS's entire discretion) may be recouped from future payments. Repayment may not be demanded more than twelve months after the date of the relevant distribution, but this shall not affect ALCS's right to recoup overpayments from future payments. ALCS will always endeavour to rectify any substantiated underpayments or non-payments at the earliest possible opportunity.

**Appeals Procedure**

In the event of any writer disputing any amount payable or paid, the matter shall be referred to the Company Secretary for determination. If the matter remains unresolved, it shall firstly be referred to the relevant subcommittee of the Board of Directors and then to the Board of Directors for decision. If the writer remains aggrieved, the matter shall be referred to an independent arbitrator appointed by the Chairperson or Vice-Chairperson of the Board of Directors, whose decision will be final and binding upon the writer and ALCS.

*These Rules were adopted at the AGM held on the 18th November 2004, and amended at the AGMs held on the 30th November 2006, 24th November 2011, 27th November 2014, 19th November 2015 and 24 November 2016.*

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1. An agreement with Writers' Digital Payments Limited for the distribution of fees in respect of use of works on BBC digital platforms.
  2. An agreement with Writers' Digital Payments Limited for the distribution of fees in respect of the use of works on ITV digital platforms.