

**Copyright Society of Composers Authors and
Publishers Incorporated**
(COSCAP Inc.)
Distribution Rules

Enacted the 22nd day of November 2008

Registered office
No.11,
8th Avenue Belleville
Saint Michael
BARBADOS
WEST INDIES

PART I

GENERAL PROVISIONS

Authority: These Rules were made on the 22nd day of November 2008 by the Council of Directors of the Copyright Society of Composers Authors and Publishers Incorporated (COSCAP Inc) under Article 4.12 of the By-Laws of COSCAP Inc.

Commencement: [22 day of November 2008].

CITATION

1. These Rules may be cited as the Distribution Rules of the Copyright Society of Composers Authors and Publishers Inc (COSCAP Inc.).

DISTRIBUTABLE REVENUE

2. (1) The distributable revenue of COSCAP Inc. shall be determined in accordance with Article 4.12 of the By-Laws.
- (2) The distributable revenue may include:
 - (a) licensing revenues less administrative expenses and provisions for reserved funds;
 - (b) royalties received from affiliated societies less administrative expenses;
 - (c) interest earned from investments after the deduction of administration fees received during relevant period;
 - (d) the application of credits allocated to the various distribution pools.
- (3) Distributable revenue may vary from one period to the next.

SPECIAL PROVISIONS FOR FUNDS
DEVELOPMENT AND PROMOTION OF OTHER INTERESTS

3. Article 4.12 of the By-Laws makes special provisions as follows:

The Council may before making any allocation and distribution among the members and affiliated societies:

- (a) Apply out of the receipts such sums, as it thinks proper but not exceeding 10% of the Society's distributable income or, which it has agreed to contribute towards:

Superannuation Fund, etc.:

- (i) Any superannuation, benevolent, pension or similar fund which has been or may be established for the benefit of employees or ex-employees of the Society, or the wives, widows, children or other dependents of such persons.

Foundation, etc. for music and related matters:

- (ii) Any foundation, trust or fund which has been established for purposes including developing and promoting the music industry, the awareness of copyright and related rights and any music-related activity deemed to be in the interests of and or beneficial to the objects of the Society.

(b) Reserve Fund:

- (i) Set aside, out of the receipts of the Society, such sums not exceeding five percent of the receipts of the Society for the preceding financial year as it thinks proper as a reserve fund to meet contingencies, or for special allocations or for repairing, improving and maintaining any of the property of the Society, or for such other purposes as the Council shall in its absolute discretion think conducive to the interests of the Society, and to invest the several

sums so set aside upon such investments as it may think fit, and

- (ii) from time to time deal with and vary such investments and dispose of all or any part thereof for the benefit of the Society and to divide the Reserve Fund into such special funds as it thinks fit with full power to employ the assets constituting the Reserve Fund in the business of the Society and that without being bound to keep the same separate from the other

DETERMINATION OF ROYALTY ALLOCATIONS

- 4. (1) Royalty allocations and distributions duly authorised by the Council of Directors of COSCAP Inc. (the Council) are final and shall be binding save and except when the Council determines that it is necessary to make adjustments as a result of:
 - (a) a claim by an interested party made within three years of the date of approval of the allocation or distribution concerned; or
 - (b) any other claim made within three years of the date of approval of the allocation or distribution concerned.
- (2) Any amount paid in error to any member may be recovered by COSCAP Inc. by recovering that amount from the member or by deducting that amount from any other royalty allocation or distribution distributable to the member.
- (3) Where a claim is disputed then the affected royalty share shall be withheld until the dispute is resolved.
- (4) No claim shall be allowed in respect of any membership of less than one year.

RETROSPECTIVE CLAIMS AND SELF REPORTING SYSTEMS

5. (1) The retrospective claim period for self-reporting systems for Live Performance Returns is limited to one year. That period may on application by the claimant be extended by the Council for a further period not exceeding 1 year, in cases where extrinsic evidence deemed sufficient by the Council, is provided in support of the claim and or application.
- (2) Where a retrospective claim is to be credited by COSCAP Inc., unless otherwise approved by the Council, payment shall be made in the next distribution of the General pool and shall be credited at the rate applicable to the distribution in which it is paid.
- (3) No claim shall be allowed in respect of any membership of less than one year.

QUANTIFICATION OF MONETARY VALUE

6. (1) Licensees have an obligation to provide COSCAP Inc. with the details of musical works performed (“programme returns” or “logs”). COSCAP Inc. may use the information provided or any part thereof either by itself or in addition to information provided by members or affiliated societies to identify the copyright owner(s) of each work that was performed or transmitted and to calculate royalty entitlements.
- (2) The information provided as set out at 6(1) shall be compared against the works in the COSCAP Inc. database and the reported performances converted into credit points which shall in turn be given a credit value depending on the quantum of the distributable revenue approved for the particular distribution.

- (3) The monetary value of each credit point shall be determined by dividing the distributable revenue for that pool by the aggregate number of credit points in each distribution pool.
- (4) The distribution value of each work is to be calculated by multiplying the number of credit points the work has accumulated in each distribution pool by the monetary value of a single credit point in the relevant pool.

DISTRIBUTION METHODS

COSCAP Inc. shall seek to ensure, as far as possible, that royalties are paid directly to the owners of the works performed through any of the following methods deemed fit:

- (a) Direct Allocation – where licence fees are distributed on a 100 percent census, e. g. events with gross licence fees of BDS \$5,000.00 or more;
- (b) Sample Analysis – where licence fees from similar users are pooled and distributed using a sample analysis of programme returns;
- (c) Sample/Direct Allocation – where licence fees paid by a single licensee are allocated to the musical works used by that licence based on a sample analysis of the programme returns;
- (d) Distribution by Analogy – where licence fees are added to an existing distribution pool which has similar music usage.

HONOURING AGREEMENTS AND REGARD FOR PRINCIPLES

8.(1) In the formulation of Distribution Rules from time to time COSCAP Inc. shall:

- (a) honour the terms of any agreement with:
 - (i) its members; and/or
 - (ii) affiliated societies

have regard to the resolutions of the International Confederation of Societies of Authors and Composers (CISAC) concerning the principles for the fair and equitable distribution of royalties.

PART II

COPYRIGHT

DIVISION A

PUBLIC PERFORMANCE RADIO AND TELEVISION

The following provisions apply to composers, authors and publishers who are members of COSCAP Inc. or its affiliated societies.

POOL DIVISION

- 9. Performing royalties collected in a fiscal year shall be allocated into the following pools:
 - (a) Broadcasting;
 - (b) General (Annual, Series and Single Events);
 - (c) Festivals;
 - (d) Major Live Events (with gross licence revenue of BDS \$5,000.00 or more).

FREQUENCY AND TIMING OF DISTRIBUTIONS

- 10. (1) Performing right royalties for the Broadcasting and General pools may be distributed twice yearly. There may be a period of 6 months between any 2 distributions.

- (2) Festivals and Major Live Events royalties may be distributed within ninety (90) days of the final official event of the Festival or Major Live Event as the case may be.
- (3) Interim or supplementary distributions may also be made.
- (4) Royalties payable to members and which do not exceed BDS \$49.00 may be withheld from payment in the usual manner and paid instead upon request by the member.
- (5) Royalties payable to affiliates and which do not exceed BDS \$199.00 may be withheld from payment in the usual manner and distributed instead in the next distribution when the accumulated royalties payable amounts to a sum exceeding BDS \$199.00.

ALLOCATION OF SHARES

DEFINITIONS

11. (1) In this rule, the following expressions have the meanings hereby respectively assigned to them:
- (a) “Member Shares” shall mean those parts of a musical work that:
 - (i) consist of music, lyrics or both, that were created by a writer-member of COSCAP Inc. or an affiliated society;
 - (ii) are published or administered by a publisher who is a member of COSCAP Inc. or an affiliated society.
 - (b) “Non-Member Shares” shall mean those parts of a musical work that:
 - (i) are not protected by copyright in Barbados;
 - (ii) are created by a writer who is not a member of COSCAP Inc. or an affiliated society.
 - (c) “Performance Credits” shall mean the performance

credit points allotted to a musical work based on logged performances or similar data.

- (2) Member shares shall be entitled to royalty allocation in accordance with the Distribution Rules of COSCAP Inc. Non-member shares shall not be entitled to royalties.

NOTIFICATION OF SHARES AND RE-ALLOCATION OF COPYRIGHT SHARES

12. (1) Each member must notify COSCAP Inc. in sufficient detail of the allocation of shares (or, “division of fees”) and the full names of all interested parties, in each musical work to be administered by COSCAP Inc.
- (2) Where notification of the allocation of shares is provided to COSCAP Inc. by a publisher, COSCAP Inc. shall verify the allocation of shares by contacting the writer(s) concerned. In the case of notification of works, all interested parties must sign the notification.
- (3) Where the interested parties in any given title seek a re-allocation of shares for the title, their agreement thereto must be in writing and each such interested party and or holder of a share must consent in writing to the re-allocation.

WORKS ORIGINATING FROM COSCAP INC. REPERTOIRE

13. (1) The distribution of performing right royalties to interested parties shall be based on the Schedule of Division of Shares in rule 17. The divisions are in every case modifiable where it is so agreed in writing between the interested parties, with the limitation that in no instance may the share of the publisher, or the combined share of all publishers of a particular work, exceed one-half of the total distribution fees.

(2) Where a publisher, composer or lyricist is not a member of COSCAP Inc. his share shall be placed in the Non-Member Special Account.

(3) For performances of a work originally in the vocal form, the author will receive his or her normal share. In cases where a vocal version is made of a work originally in the instrumental form, the author will receive a share only when the vocal version is performed.

14. COSCAP Inc. shall use the share division provided and conditions mandated by the society from which the work originated in so far as those are consistent with CISAC recommendations.

COSCAP INC. ORIGINATING WORKS SUB-PUBLISHED ABROAD

15. (1) Where an agreement between the writer(s) and the original publisher of a work provides for a specific total publisher-share, that share alone is divisible in accordance with the provision of the sub-publishing contract.

(2) Where the original publishing contract does not specify the share payable to the writer(s) and publisher(s) respectively, then the COSCAP Inc. rules will apply by default, and as such COSCAP Inc. shall allocate the publisher with a maximum of 50% of the total share and the remaining 50% shall be divided equally between the composers and authors of the work.

FOREIGN ORIGINATED WORKS

16. (1) Where an author or composer is not a member, his share shall be paid to the society of the original publisher.

(2) If the work is unpublished, the non-member's writer share shall be paid to the society of the co-writer, if any.

SCHEDULE OF DIVISION OF SHARES

17. (1) UNPUBLISHED (MANUSCRIPT) WORKS

(a) Composer 100% aa. Composer Public Domain
Arranger 100%

(b) Composer 50% bb. Composer Public Domain
Author 50% Author 100%

(2) PUBLISHED WORKS

(a) Composition with lyrics
Composer 25%
Author 25%

(b) Composition without lyrics (or public domain lyrics)

Composer 50%
Publisher 50%

(c) Public Domain Composition with copyright lyrics

Author 50%
Publisher 50%

(d) Composition with lyrics, composer share only published

Composer 25%
Author 50%
Publisher 25%

(e) Composition with lyrics, author share only published

| | |
|-----------|-----|
| Composer | 50% |
| Author | 25% |
| Publisher | 25% |

(3) Where a musical work is licensed for use in an advertisement and new or substantial lyrics are used in the advertisement, the parties may agree that the new lyricist's or sub-lyricist's share of performing right income be waived in favour of the original copyright owner(s).

(4) ARRANGEMENTS OF MUSICAL WORKS

(a) Where an arrangement of a copyright musical work is made, no share shall be allocated to the arranger unless the share is established according to an agreement in writing, between the copyright owner and the arranger.

(b) Unpublished arrangement without lyrics (or with public domain lyrics)

| | |
|--------------------------|-----|
| Arranger | 50% |
| Non-copyright proportion | 50% |

(c) Published arrangement without lyrics (or with public domain lyrics)

| | |
|---------------------------|-----|
| Arranger | 25% |
| Publisher | 25% |
| Non- copyright proportion | 50% |

(d) Unpublished arrangement with unpublished copyright lyrics

| | |
|--------------------------|-----|
| Arranger | 25% |
| Author | 50% |
| Non-copyright proportion | 25% |

(e) Unpublished arrangement with published copyright lyrics

| | |
|--------------------------|-----|
| Arranger | 25% |
| Author | 25% |
| Publisher | 25% |
| Non-copyright proportion | 25% |

(f) Published arrangement with unpublished copyright lyrics

| | |
|--------------------------|-------|
| Arranger | 12.5% |
| Author | 50% |
| Publisher | 12.5% |
| Non-copyright proportion | 25% |

(g) Published arrangement with published copyright lyrics

| | |
|--------------------------|-------|
| Arranger | 12.5% |
| Author | 25% |
| Publisher | 37.5% |
| Non-copyright proportion | 25% |

(5) TRANSLATIONS OF LYRICS AND ADDITION OF AMENDED OR SUBSTITUTED LYRICS

(a) Where an authorised translation of copyright lyrics is made, or lyrics are changed or substituted with the authority of the copyright owner, shares are allocated in accordance with the following provisions:

(i) Published Works

| | |
|-----------------|-------|
| Composer | 25% |
| Original author | 12.5% |
| Translator | 12.5% |
| Publisher | 50% |

(ii) Unpublished Works

| | |
|-----------------|-----|
| Compose | 50% |
| Original author | 25% |
| Translator | 25% |

Where a translation of non-copyright lyrics is made, or non-copyright lyrics are changed or substituted, shares are allocated in accordance with the following provisions:

i. Published Works

| | |
|--------------------------|-------|
| Arranger | 12.5% |
| Translator | 12.5% |
| Publisher | 25% |
| Non-copyright proportion | 50% |

ii. Unpublished Works

| | |
|--------------------------|-----|
| Arranger | 25% |
| Translator | 25% |
| Non-copyright proportion | 50% |

MUSIC CLASSIFICATION

18. (1) In this rule, the following expressions have the meanings hereby respectively assigned to them and are used to identify types of usage for registration of works and the distribution of royalties:

- (a) **Specially Featured Music Use** – All specially featured music performed at live events and festival events;
- (b) **Title Music** – Music used on television and radio and found at the beginning and/or end of an individual programme or each programme of a series or a film;

- (c) **Signature Tune** – Music used on radio or television to identify or set the mood of an individual programme or each programme of a series and which is used before and or after each commercial break; or music used on radio and which may be found at the beginning and/or end of each non-music programme;
- (d) **Commercial Jingle** – A short musical item performed on radio or television to advertise a product or to promote an event;
- (e) **Station Identifier** – A short musical item on radio or television to identify and promote a particular broadcasting station or channel;
- (f) **Programme Identifier** – Music used on television at the end of a voluntary or involuntary break in transmission and which does not form part of advertised programmes but relates to subsequent programmes.

DISTRIBUTION PERFORMANCE CREDITS

19. (1) RADIO

Those performances analysed for the radio broadcast distribution with the exception of commercial jingles, advertisements, programme identifiers and public service announcements shall receive 1 credit point for each performance.

(2) JINGLES

- (a) Music used in commercial jingles, advertisements, programme and station identifiers and public service announcements on radio or television shall receive credit points in the following amounts:

| | |
|------------|------|
| 15 seconds | 0.25 |
| 30 seconds | 0.50 |

| | |
|------------|------|
| 45 seconds | 0.75 |
| 60 seconds | 1.00 |

(3) TELEVISION

- (a) licensing revenue from Channel 8 of the national broadcaster, the Caribbean Broadcasting Corporation, shall be distributed on the basis of cue sheets received from Channel 8 or in the absence of reliable cue sheet information, on the basis of programme logs from Q FM and or 92.9 FM;
- (b) licensing revenue from all other television, cable and satellite stations shall be on the basis of analogy with the radio broadcast returns;
- (c) the performances analyses for the television broadcast distribution with the exception of commercial jingles, advertisements, programme identifiers and public service announcements shall receive 1 credit point for each performance.

GENERAL PERFORMANCES

- (1) All net distributable revenue from domestic sources other than for radio, television and live performances shall be pooled and distributions shall be based on representative samples of programme returns received in respect of radio broadcasts, licensed events and premises and Festival events.
- (2) All performances analysed on the basis of analogy with radio broadcasts, live events and Festival events shall receive respectively one credit equal to a performance credit that is ordinarily attributed to a performance in radio distribution, live events distribution and Festivals distribution.

LIVE PERFORMANCES

21. (1) All licensed live performances, other than at Crop-Over Festival events, with licensing revenue of BDS \$5,000.00 or more and for which programme returns have been received, shall receive 8 credit points.
- (2) All program returns received for those live events taking place in each bi-annual general distribution period shall be included in the general distribution of the corresponding period.
- (3) For live events for which there is no admission fee or for which the licence value is less than BDS \$5,000.00, the credit value shall be 4 points.
- (4) For Major Live Events for which no licensing fees have been paid the credit value shall be 2 points.
- (5) For other live performances at other events or venues for which no licensing fees were paid the credit value shall be 1 point.
- (6) In the absence of complete and reliable programme returns in relation to particular events, all licence fees received from such events shall be pooled and distributions shall be on the basis of a representative sample of programme returns received from radio distributions.

NATIONAL FESTIVALS PERFORMANCES

22. (1) Net distributable revenue in respect of live performances at each National Festival and other live events during such Festival period shall be allocated directly to COSCAP Inc. members and affiliate societies on the basis of programme returns received by COSCAP Inc. for such events. Live performances during Festival period shall be credited with

12 credit points except where such events have not been licensed (see Rule 21).

- (2) All programme returns received for those Festival events taking place in each general distribution period for which licences have been granted under the applicable tariff shall be included in each general distribution.
- (3) For live events during Festivals not produced by the National Cultural Foundation for which there is no admission fee or for which the gross licence value is less than BDS \$5,000.00, the credit value shall

ROYALTIES RECEIVED FROM AFFILIATED SOCIETIES

23. (1) Royalties received from affiliated societies will be distributed to members in the general distribution following receipt, except where the distributable amount exceeds BDS \$1,000.00 in which case the amount concerned shall be distributed within 30 days of receipt and verification of the accompanying documentation.
- (2) A deduction of 5 percent of net royalties received from affiliated societies in respect of the costs associated with the analysis and processing of the royalty payments shall be made.

DISTRIBUTION ACCOUNTS

- (1) Upon completion of each distribution, royalties allocated to a work or to certain interested parties of a work may be held in suspense in the following Special Accounts:
 - (a) Non-Member Special Account

If one of the interested parties of a COSCAP Inc. originated work is not a member, that non-member's share will be

placed in the Non-Member Special Account. In the next distribution, the monies so placed in the Non-Member Special Account in respect of that non-member's share shall be used to cover distribution, other administration and capital expenses and distributed pro-rata to all parties receiving royalties during the preceding three-year period as determined by the Council.

(b) Dispute Special Account

Royalties or a share of royalties for a work in dispute, such as where there is a conflicting ownership claim shall be held in a Dispute Special Account. Royalties shall remain in suspense until COSCAP Inc. is duly notified of the resolution or other determination of that dispute.

(c) Undistributed (Pending Identification) Royalties Special Account

Royalties allocated to a work later found to be in the public domain or which for any other reason are not distributed such as in cases where there is a lack of documentation, shall be placed in the Undistributed (Pending Identification) Royalties Special Account. Monies held in this account may be used to pay, after validation, performances which ought to but which were unpaid in previous distributions or other adjustments necessary for previous distributions. Where any sum of money in this account remains undistributed for a period of 3 years, the Council may in its discretion use any such sum or part thereof to cover distribution, other administration and capital expenses or distribute the same pro-rata to all parties receiving royalties during the preceding three-year period.

APPLICATION OF THE AMALFI RESOLUTION

24. The AMALFI resolution shall apply in respect of all performances which take place from and after 1 January 1991. By virtue of the application of that resolution the author of an authorised local version shall be entitled to a share in the distribution of performance royalties only if:
- (a) it is the local version which has been performed; or
 - (b) the performance was of an instrumental version;
 - (c) there is genuine doubt as to which version was performed.

DISTRIBUTION RULES OF THE MEMBER SOCIETIES OF CISAC SHOULD PROVIDE

25. (1) That for performance of a local version the shares distributed to the original lyricist and the local sub-lyricist respectively should be equal.
- (2) That for performances of an instrumental version, or where it is not known whether the original version or the local version was performed, the share distributed to the original lyricist should be double the share distributed to the local sub-lyricist.

DIVISION B COPYRIGHT AND REPRODUCTION RIGHTS REPRODUCTION RIGHTS

26. (1) Licensees are obliged to report details of all works reproduced. In cases where a “blanket licence”
- is issued details of the music usage must be reported. The reports so made may be used to calculate fees to be distributed.

- (2) COSCAP Inc. distributions are based on the principle that the licence fees should, wherever possible and economically viable to do so, be paid directly to the musical works reproduced.

DISTRIBUTION METHODS

27. (1) Distributions in relation to reproduction rights may be based on:
 - (a) A “pay-per-use/work-by-work” basis: in such cases, licence fees shall be calculated and collected for each work reproduced.
 - (c) Direct Allocation: in such cases, blanket licence fees are paid by the licensees and are allocated directly to the musical works used by that licensee.
 - (c) Sample Direct Allocation: in such cases, licence fees are paid by a single licensee with a sample reporting system established.

UNIDENTIFIED WORKS

28. COSCAP Inc. shall use its best efforts to identify all works performed. In the event that COSCAP Inc. is unable to identify the copyright owner of a work within a period of three years from the date of receipt of royalties COSCAP Inc. shall be entitled to credit the payment towards distribution, other administration and capital expenses and or distribute the royalties pro-rata to all parties receiving royalties during the preceding three year period as determined by the Council.

DEDUCTIONS

29. COSCAP Inc. shall be entitled to deduct and retain the following commission from:

- (a) Members: a commission at the rate of 10 per cent of all fees, royalties and other sums received in respect of the licensing of reproduction rights;
- (b) Affiliated Societies: a commission at the rate of 5 percent of net royalties received from an affiliated society in respect of costs, which costs may be associated with the analysis and processing of such royalty payments.

SOURCES OF REVENUE

30. (1) Distributable revenue means gross licence fees collected, less commission payable to COSCAP Inc.

(2) The principal licence categories are:

- (a) Audio-Products – Local Manufacture
- (b) Audio-Products – Imported
- (c) Audio-Visual Products – Local Manufacture
- (d) Audio-Visual Products – Imported
- (e) Crop-Over Recordings
- (f) Broadcasters Clearance
- (g) Commercial Advertising
- (h) Synchronisation
- (i) Online/Ringtones
- (j) Foreign Receipts

(3) There are two categories of distributable revenue:

- (a) Pay-per-use/work-by-work; and
- (b) Blanket pools.

DISTRIBUTION – AUDIO PRODUCTS AND AUDIO VISUAL PRODUCTS

31. Licence fees shall be calculated on a pay-per-use basis and such sum as may be collected per work less commission shall be paid to the copyright owner(s) at the time of distribution.

DISTRIBUTION - FESTIVALS RECORDINGS

32. Distributable revenue from licences for Festivals recordings shall be distributed to musical works based on data from the Festival Performance Pool for the relevant licence period.

DISTRIBUTION – BROADCASTERS

33. Distributable revenue from licences for Broadcasters Reproduction Rights shall be distributed to musical works based on data from the Festival Performance Pool for the relevant licence period.

DISTRIBUTION – ADVERTISING/SYNCHRONISATION

34. Licence fees shall be calculated on a pay-per-use basis and such sum as may be collected per work less commission.

DISTRIBUTION – ONLINE GENERAL

35. (1) Licensed on a pay-per-use basis or blanket basis.
(2) If licensed on a pay-per-use basis each work shall receive 0.5 credit point per 30 seconds or part thereof. Where there is no information or insufficient information as to duration, fees are distributed equally on a song occurrence basis.

If licensed on the basis of a blanket licence each work shall receive 0.5 credit point per 30 seconds or part thereof. If there is no information as to duration, fees are distributed equally on a song occurrence basis.

DISTRIBUTION – RINGTONES DOWNLOADS’

36. These shall be licensed and distributed on a pay per use basis based on sales.

FREQUENCY AND TIMING OF DISTRIBUTIONS

37. (1) Commencing November 2008 COSCAP Inc. shall distribute reproduction royalties for all licence categories, except broadcast clearance, on collection. Broadcast clearance royalties may be paid twice annually.
- (2) Distributions shall only be made for invoices which are paid in full at the end of each quarter to the copyright owner(s) of the works.
- (3) Where the distributable amount to a member exceeds BDS \$5,000.00 the amount concerned may be distributed 7 working days after receipt of the full licence fee.
- (4) Royalties payable to members and which do not exceed BDS \$49.00 shall be paid upon request by the member. Where the royalties payable to affiliates do not exceed BDS \$199.00 such royalties may be withheld and distributed in the next distribution when the accumulated amount of such royalties exceeds \$199.00.
- (5) Royalties received from affiliated societies shall be distributed to members within 90 days of the end of the calendar quarter in which it was received.

PART III

RELATED RIGHTS

DIVISION A

PUBLIC PERFORMANCE RADIO AND TELEVISION

The following provisions apply to eligible performers and producers of phonograms who are members of COSCAP Inc.

DEFINITIONS OF ELIGIBLE PERFORMERS

MAIN ROLE DESCRIPTION CODES OF PERFORMANCES:

38. (1) The following are the main role description codes of performances:

- (a) Brass
- (b) Electronics
- (c) Guitar
- (d) Keyboards
- (e) Miscellaneous
- (f) Non payable Roles
- (g) Percussion
- (h) String Instruments
- (i) Studio Personnel (Performing)
- (j) Vocals
- (k) Wind Instruments

(2) NON-FEATURED PERFORMERS

(a) These are session musicians defined as performers, including background vocalists, engaged for a specified period of time to make one or more backing performances which are included in the sound recording.

(3) CONTRACTED FEATURED PERFORMERS

(a) These are performers with an exclusive agreement with the record company producing the sound recording. This does not include agreements to do session work or producer/remixer agreements.

(4) OTHER FEATURED PERFORMERS

(a) Performers within this category include those not exclusively contracted to the commissioning record company whose personal or professional names appear

with or is linked with the name of the Contracted Artist. Other Featured Performers are entitled under the terms of the contract with the Contracted Artist to receive royalties from sales of the recording.

(5) PERFORMING PRODUCERS

- (a) A Performing producer is a studio producer who makes a performing contribution whether audible or inaudible to the live performance that is recorded. An audible performance includes playing an instrument or singing and an inaudible performance includes conducting or directing the live performance as it is recorded.

EVIDENCE SUPPORTING CLAIMS OF ELIGIBLE PERFORMANCES

39. To claim royalties as an eligible performer evidence must be provided in one of the following forms:

(1) NON-FEATURED PERFORMANCES

- (a) CD/DVD/record/tape sleeve inlay crediting performance;
- (b) Official correspondence from the commissioning Record Company;
- (c) Signed verification from the Contracted Performer;
- (d) Notification of works form signed by all contributing parties showing the division of fees by all contributors.

(2) CONTRACTED FEATURED PERFORMANCES

- (a) A copy of the exclusive recording agreement with the commissioning record label under which the claimed track was recorded;
- (b) Official correspondence from the record company confirming an exclusive contract with the commissioning

record label at the time of the record label at the time of recording;

- (c) Notification of works form signed by all contributing parties showing the division of fees by all contributors.

(3) OTHER FEATURED PERFORMANCES

- (a) A copy of the product sleeve front cover or spine showing the performer's name;
- (b) Official correspondence from the Contracted Performer entitling the performer to receive royalties as a singer or musician and the level of entitlement;
- (c) Notification of works form signed by all contributing parties showing the division of fees by all contributors.

(4) PERFORMING PRODUCERS

- (a) Evidence of a contract entitling the Producer to royalties.
- (b) Notification of works form signed by all contributing parties showing the division of fees by all contributors.

SAMPLED RECORDINGS

DEFINITION OF A SAMPLED RECORDING

- 40. A sampled recording is part of a pre-existing sound recording incorporated into a new sound recording.

ELIGIBLE SAMPLED PERFORMANCES

- 41. (1) Only eligible performers on the sampled recording will qualify for payment on the new sound recording.
- (2) All eligible performers on the sampled sound recording will be added to the new sound recording as Non-Featured performances, by default. However if any of

the sampled performers are featured on the new sound recording, their contribution will be documented as Other Featured Performances.

- (3) Sampled performers are subject to the same rules regarding the provision of evidence of claims as other performers.

POOL DIVISION

42. Performing royalties collected in a fiscal year shall be allocated into the following pools:
 - (a) Broadcasting;
 - (b) General (Annual, Series & Single Events).

FREQUENCY AND TIMING OF DISTRIBUTIONS

43. (1) Performing right royalties shall be distributed twice yearly and such distribution maybe 6 months apart for the Broadcasting and General pools. Interim distributions may also be made from time to time at the discretion of the Council.
 - (2) Royalties payable to local members which do not exceed BDS \$49.00 will be paid upon request by the member.

ALLOCATION OF SHARES

44. (1) DEFINITIONS

- (a) “Member Shares” shall mean those parts of a sound recording that:
 - i. Consist of vocals or instrumental performances by a performer-member of COSCAP or an affiliated society;
 - ii. Are produced by a producer of phonogram who is a member of COSCAP or an affiliated society.

- (b) “Non-Member Shares” shall mean those parts of a sound recording that:
 - i. are not protected by under the provisions of the Barbados Copyright Act 1998-4;
 - ii. are the recorded performances of a performer or producer of phonogram who is not a member of COSCAP or an affiliated society.
- (c) “Performance Credits” shall mean the performance credit points allotted to a performance based on logged performances or similar data.

(2) Non-member shares shall not be entitled to royalties.

NOTIFICATION OF SHARES AND RE-ALLOCATION OF RELATED RIGHTS SHARES

45. (1) Each member must notify COSCAP Inc. of the allocation of shares (or, ‘division of fees’) and the full names of all interested parties, in sufficient detail, of each sound recording to be administered by COSCAP Inc.
- (2) Where notification of shares is provided to COSCAP by a producer of phonograms, COSCAP verifies the allocation of shares by contacting the performer(s) concerned. In the case of notification of works, all interested parties must sign the notification forms.
- (3) Where the interested parties in a given title seek a re-allocation of shares for the title, all such sharers must sign consent to the re-allocation and as a statement confirming agreement between the interested parties.
- (4) Where COSCAP Inc. is not provided with the division of fees then a default system will be applied whereby there will be a division of fees equal to a total of 100% between all performer-members whose contribution has

been duly confirmed. For Featured and Other Featured Performers the default allocation is 65% and for Non-Featured Performers 35%.

- (5) In all cases the producer(s) of phonogram will be entitled to a share of 100% of the royalties.
- (6) The total shares to be paid to the performers and producer(s) of phonogram will be 200%.

MUSIC CLASSIFICATION

- 46. The following definitions are used to identify types of usage for works registration and the distribution of royalties
 - (a) Specially Featured Music Use – All specially featured music performed at live events and Crop-Over Events.
 - (b) Title Music – Music used on television and radio and is found at the beginning and/or end of an individual programme or each programme of a series or a film.
 - (c) Signature Tune – Music used on radio and television to identify or set the mood of an individual programme or each programme of a series used before and after each commercial break; or music used on radio and is found at the beginning and/or end of each non-music programme.
 - (d) Commercial Jingle – A short musical item performed on radio and television to advertise a product or to promote an event.
 - (e) Station Identifier – A short musical item on radio or television to identify and promote a particular broadcasting station or channel.

DISTRIBUTION PERFORMANCE CREDITS

47. (1) RADIO

Those performances analysed for the radio broadcast distribution with the exception of commercial jingles, advertisements, programme identifiers and public service announcements shall receive 4 credit points for each performance.

(2) JINGLES

Music used in commercial jingles, advertisements, programme and station identifiers and public service announcements on radio and television shall receive credit points in the following amounts:

| | |
|------------|------|
| 15 seconds | 0.25 |
| 30 seconds | 0.50 |
| 45 seconds | 0.75 |
| 60 seconds | 1 |

After 60 seconds, the work will be credited with 4 points as a full work.

(3) TELEVISION

- (a) Licensing revenue from Channel 8 of the national broadcaster, the Caribbean Broadcasting Corporation shall be distributed on the basis of analogy with the Crop Over Festival returns.
- (b) Licensing revenue from television stations shall be pooled pro rata in accordance with the radio distribution. Distributions shall be on the basis of analogy with radio broadcast returns.

DISTRIBUTION METHODS

48. (1) GENERAL PERFORMANCES

All net distributable revenue from domestic sources other than for radio and television shall be pooled and distributions shall be based on representative samples of programme returns received in respect of radio and television broadcasts and samples of recorded music used at licensed venues and events.

(2) UNLOGGED PERFORMANCE ALLOCATION (UPA)

- (a) The UPA is made to compensate for performances that are omitted in the analysis due to sampling and other factors. The allocation is paid to COSCAP performer-members from non-licence revenue;
- (b) UPA shall be fixed by the Council and is payable to all eligible COSCAP Inc. performer-members;
- (c) An eligible COSCAP Inc. performer-member is an active member;
- (d) Non-licence revenue means income received by COSCAP Inc. otherwise than royalties e.g. interest income, membership application fees etc.;
- (e) UPA shall not be allocated to a COSCAP Inc. performer member who has not earned at least \$50.00 in performance royalties, exclusive of UPA, in the 3 consecutive years beginning from the last performance royalties received. However, UPA will re-apply in the year the performer member begins to receive royalties again.

DIVISION B
DUBBING/DUPLICATION

49. (1) COSCAP Inc. administers the duplication/dubbing right of its members, the producers of phonograms and performers. The dubbing/duplication right is defined as the re-recording for subsequent broadcast or public performance of pre-existing recordings.
- (2) Licensees are contractually obliged to report details of all performances reproduced in order that licence fees are calculated and distributed.
- (3) Under the terms of COSCAP Inc. licence agreements, licensees are contractually obliged to report details of performances reproduced in order for licence fees to be calculated and distributed. Where a blanket licence is issued details of the music usage should be supplied.
- (4) COSCAP Inc. distribution is based on the principle that the licence fees should be paid directly to the performances reproduced where possible and economically viable to do so.

DISTRIBUTION METHODS

50. (1) COSCAP Inc. distribution methods in relation to reproduction rights are based on a pay-per-use/work-by-work basis. Licence fees are calculated and collected for each performance reproduced.
- (2) Direct Allocation – blanket licence fees are paid by the licensees and are allocated directly to the performances used by that licensee.
- (3) Sample/Direct allocation – licence fees are paid by a single licensee. A sample reporting system is in place.

UNIDENTIFIED WORKS

51. COSCAP Inc. shall use its best efforts to identify all performances submitted for licensing. In the event that COSCAP Inc. is unable to identify the related rights owner of a work within a period of three years from the date of receipt of royalties COSCAP Inc. shall be entitled to credit the payment for the work to a COSCAP Cultural Fund Account.

DEDUCTIONS

52. (1) COSCAP Inc. is entitled to deduct and retain the following commission from:
- (a) Members: 10% of all fees, royalties and other sums received in respect of the licensing of duplication rights;
 - (b) Affiliated societies in accordance with the terms of reciprocal agreements.
- (2) All commissions deducted under Rule 52.1 above shall be allocated towards administration expenses.

SOURCES OF REVENUE

53. (1) Distributable revenue means gross licence fees collected, less COSCAP Inc. commission.
- (2) The main licence categories are:
- (a) Broadcast Dubbing;
 - (b) Commercial dubbing.
- (3) There are two categories of distributable revenue:
- (a) Work-by-work/Pay per use;
 - (b) Blanket pools.

DISTRIBUTION METHODS

54. (1) Broadcast Dubbing - royalties are distributed based on returns from broadcasters.
- (2) Commercial Dubbing – royalties are distributed on a pay-per-use basis based on licensing information provided.

DIVISION C RECORDING RIGHTS

55. (1) COSCAP administers the recording rights of its performer-members such that where there is no exclusive agreement for the recording of the live performance, the recording of these performances are licensed by COSCAP Inc.
- (2) Licensees are contractually obliged to report details of all performances recorded in order that licence fees are calculated and distributed.
- (3) Under the terms of COSCAP Inc. licence agreements, licensees are contractually obliged to report details of performances recorded in order for licence fees to be calculated and distributed. Where a blanket licence is issued details of the music usage should be supplied.
- (4) COSCAP Inc. distribution is based on the principle that the licence fees should be paid directly to the performances reproduced where possible and economically viable to do so.

DISTRIBUTION METHODS

56. (1) COSCAP Inc. distribution methods in relation to recorded rights are based on a pay-per-use/work-by-work basis. Licence fees are calculated and collected for each performance recorded.

- (2) Direct Allocation – blanket licence fees are paid by the licensees and are allocated directly to the performances used by that licensee.
- (3) Sample/Direct allocation – licence fees are paid by a single licensee however a sample reporting system is in place.

UNIDENTIFIED WORKS

57. (1) COSCAP Inc. shall use its best efforts to identify all performances submitted for licensing. In the event that COSCAP Inc. is unable to identify the related rights owner of a work within a period of 2 years from the date of receipt of royalties COSCAP Inc. shall be entitled to credit the payment for the work to a COSCAP Inc. Cultural Fund Account.

DEDUCTIONS

58. (1) COSCAP is entitled to deduct and retain the following commission from:

(a) Members: 10% of all fees, royalties and other sums received in respect of the licensing of duplication rights;

(b) Affiliated societies in accordance with the terms of reciprocal agreements.

(2) All commissions deducted under Rule 58.1 above shall be allocated towards administrative expenses.

SOURCES OF REVENUE

Distributable revenue means gross licence fees collected, less COSCAP Inc. commission.

PART IV
DIGITAL MASTER RIGHT RECORDING LICENSING

60. The following provisions apply to eligible producers of phonograms whose rights are administered by COSCAP Inc.
61. (1) An eligible producer owns or controls the copyright in Master Recordings or is a member of COSCAP Inc. and has already exclusively licensed to COSCAP Inc. certain rights in the Master Recordings and who has engaged COSCAP Inc. to license certain aspects of the right of reproduction and the performing right in his Master Recordings in an Online environment on the terms set out in the COSCAP Inc. Master Rights Licensing Agreement.
- (2) Licensees are contractually obliged to report details of all works reproduced in order that licence fees are calculated and distributed.
- (3) Under the terms of COSCAP Inc. licence agreements, licensees are contractually obliged to report details of works performed and/or reproduced in order for licence fees to be calculated and distributed. Where a blanket licence is issued details of the music usage should be supplied.
- (4) COSCAP's distribution is based on the principle that the licence fees should be paid directly to the musical works reproduced where possible and economically viable to do so.

DISTRIBUTION METHODS

61. (1) COSCAP Inc. distribution methods in relation to master recordings are based on a pay-per-use/work-by-work basis. Licence fees are calculated and collected for each work reproduced.

- (2) Direct Allocation – blanket licence fees are paid by the licensees and are allocated directly to the musical works used by that licensee.
- (3) Sample/Direct allocation – licence fees are paid by a single licensee. There is a sample reporting system in place.

SOURCES OF REVENUE

62. The following are the principal sources of revenue:

- (a) Streaming Transmissions (in all forms including webcasts and background music);
- (b) Digital Downloads;
- (c) Online Custom compilations;
- (d) Ring tones, real tones etc;
- (e) Online Videogram licences

DEDUCTIONS

63. (1) COSCAP Inc. is entitled to deduct and retain a commission of 40% of net revenue as defined in the prevailing COSCAP Inc. Digital Master Rights Recording Licensing Scheme.

All commissions deducted under Rule 63.1 above shall be allocated towards administrative expenses.

DISTRIBUTION - ONLINE GENERAL

64. (1) Licensed on a pay-per-use basis or blanket basis.

- (2) If licensed on a pay-per-use basis each work receives 0.5 credit point per 30 seconds or part thereof. If there is no information as to duration, fees are distributed equally on a song occurrence basis.

- (3) If licensed on the basis of a blanket licence each work receives 0.5 credit point per 30 seconds or part thereof. If there is no information as to duration, fees are distributed equally on a song occurrence basis.

FREQUENCY AND TIMING OF DISTRIBUTIONS

65. (1) Commencing 1 January 2009 COSCAP Inc. shall distribute online master recording rights royalties on collection.
- (2) Distributions shall only be made for invoices which are paid in full at the end of each quarter to the copyright owner(s) of the works.
- (3) Where the distributable amount to a member exceeds BDS \$5,000.00 the amount concerned shall be distributed approximately 7 working days from receipt of the full licence fee.
- (4) Royalties payable to members which do not exceed BDS \$49.00 will be paid upon request by the member. Where the royalties payable to affiliates do not exceed BDS \$199.00, the royalties shall be withheld and distributed in the next distribution when the minimum level of royalties has been accumulated.

PART V PRODUCTION MUSIC LIBRARY LICENSING

66. The following provisions apply to affiliates who own or control the copyright in Production Music or is a member of COSCAP Inc. and has already assigned to COSCAP Inc. the reproduction right and performing right in Musical Works comprised in Production Music and, in either case, owns or controls the copyright and the physical property in a sound recording of such Production Music.
 - (1) Under the terms of COSCAP Inc. licence agreements, licensees are contractually obliged to report details of works

reproduced in order for licence fees to be calculated and distributed. Where a blanket licence is issued details of the music usage should be supplied.

- (2) COSCAP Inc. distribution is based on the principle that the licence fees should be paid directly to the musical works reproduced where possible and economically viable to do so.

DISTRIBUTION METHODS

67. (1) COSCAP Inc. distribution methods in relation to production music are based on a pay-per-use/work-by-workbasis. Licence fees are calculated and collected for each work reproduced.
- (2) Direct Allocation – blanket licence fees are paid by the licensees and are allocated directly to the musical works used by that licensee.
- (3) Sample/Direct allocation – licence fees are paid by a single licensee. There is a sample reporting system in place.

SOURCES OF REVENUE

68. The following are the principal sources of revenue:

- (a) Advertisements;
- (b) Digital Delivery Platforms;
- (c) Television and radio programmes;
- (d) Cinema;
- (e) Music on hold;
- (f) Audio-visual productions (on disc, tape or other devices);
- (g) Audio only productions

DEDUCTIONS

69. (1) COSCAP Inc. is entitled to deduct and retain a commission of 20% of licensing revenue.
- (2) All commissions deducted under Rule 69.1 above shall be allocated towards administrative expenses.

DISTRIBUTION – PRODUCTION MUSIC GENERAL

70. (1) Licensed on a pay-per-use basis or blanket basis.
- (2) If licensed on a pay-per-use basis each work receives 0.5 credit point per 30 seconds or part thereof. If there is no information as to duration, fees are distributed equally on a song occurrence basis.
- (3) If licensed on the basis of a blanket licence each work receives 0.5 credit point per 30 seconds or part thereof. If there is no information as to duration, fees are distributed equally on a song occurrence basis.

FREQUENCY AND TIMING OF DISTRIBUTIONS

70. (1) Commencing 1 January 2009 COSCAP Inc. shall distribute online master recording rights royalties on collection.
- (2) Distributions will only be made for invoices which are paid in full at the end of each quarter to the copyright owner(s) of the works.
- (3) Where the distributable amount to a member exceeds BDS \$5,000.00 the amount concerned shall be distributed approximately 7 working days from receipt of the full licence fee.

- (4) Royalties payable to members which do not exceed BDS \$49.00 will be paid upon request by the member. Where the royalties payable to affiliates do not exceed BDS \$199.00, the royalties will be withheld and distributed in the next distribution when the minimum level of royalties has been accumulated.

PART VI

MUSIC VIDEO LICENSING

71. The following provisions apply to affiliates and members who own or control the copyright and the physical property in music videos and have entered into a licence agreement.
 - (1) Under the terms of COSCAP Inc. licence agreements, licensees are contractually obliged to report details of works reproduced in order for licence fees to be calculated and distributed. Where a blanket licence is issued details of the music usage should be supplied.
 - (2) COSCAP Inc. distribution is based on the principle that the licence fees should be paid directly to the musical works reproduced where possible and economically viable to do so.

DISTRIBUTION METHODS

- (1) COSCAP Inc. distribution methods in relation to music videos are based on a pay-per-use/work-by-work basis. Licence fees are calculated and collected for each work reproduced.
- (2) Direct Allocation – blanket licence fees are paid by the licensees and are allocated directly to the musical works used by that licensee.

- (3) Sample/Direct allocation – licence fees are paid by a single licensee however a sample reporting system is in place.

SOURCES OF REVENUE

73. (1) The following are the principal sources of revenue:
- (a) Broadcast & Duplication;
 - (b) Public Performance;
 - (c) Online;
 - (d) Mobile and New Media
- (2) Broadcast and duplication revenue will be treated as one set of revenue and distributed together.

DEDUCTIONS

74. (1) COSCAP Inc. shall deduct and retain a commission of 20% of licensing revenue.
- (2) All commissions deducted under Rule 74.1 above shall be allocated towards administrative expenses.

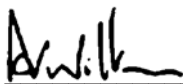
DISTRIBUTION – PRODUCTION MUSIC GENERAL

75. (1) Licensed on a pay-per-use basis or blanket basis.
- (2) If licensed on a pay-per-use basis each work receives 0.5 credit point per 30 seconds or part thereof. If there is no information as to duration, fees are distributed equally on a song occurrence basis.
- (3) If licensed on the basis of a blanket licence each work receives 0.5 credit point per 30 seconds or part thereof. If there is no information as to duration, fees are distributed equally on a song occurrence basis.

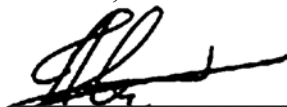
FREQUENCY AND TIMING OF DISTRIBUTIONS

76. (1) Commencing 1 January 2009 COSCAP shall distribute online master recording rights royalties on collection.
- (2) Distributions will only be made for all invoices which are paid in full at the end of each quarter to the copyright owner(s) of the works.
- (3) Where the distributable amount to a member exceeds BDS \$5,000.00 the amount concerned shall be distributed approximately 7 working days from receipt of the full licence fee.
- (4) Royalties payable to members which do not exceed BDS \$49.00 will be paid upon request by the member. Where the royalties payable to affiliates do not exceed BDS \$199.00, the royalties will be withheld and distributed in the next distribution when the minimum level of royalties has been accumulated.

ENACTED this 22nd day of November, 2008



Derek Wilkie
Chairman



Ivan A. Alert
Secretary

