

**REGULATIONS ON PROCEDURES
FOR ROYALTY DISTRIBUTION AND PAYMENT**

APPROVED

by RAO Authors' Council Resolution

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9 of May 26, 2016)

**REGULATIONS
On Procedures For
Royalty Distribution and Payment**

1. General Provisions

1.1. The present Regulations on royalties distribution and payment (hereinafter “Regulations”) establish the procedure for distribution and payment of royalties collected by the All-Russian Non-Governmental Organization “Russian Authors’ Society” (RAO) during the exercise of its statutory functions of collective management in case of:

- public performance, broadcast into the air or via cable, including by way of retransmission of published musical works (with or without text), fragments of dramatico-musical works and small form literary works (piece of poetry, short story, etc. – hereinafter “literary works”);
- exercise of rights of musical work authors used in an audiovisual work (with or without text) to receive remuneration for public performance or broadcast into the air or via cable of such audiovisual work, including by way of retransmission.

1.2. The present Regulations have been worked out in conformity with the Civil Code of the Russian Federation and other acts of legislation, RAO Statute and International Confederation of Societies of Authors and Composers (CISAC) documents.

1.3. The terms as used herein shall have the following meaning:

AVW – audiovisual work;

RAO DB, RAO data base –integrated data on right holders, works and rights thereon registered in RAO, and other information enabling RAO to collect, distribute and pay out royalties to right holders and royalty recipients;

work genre – a category used for work classification; a list of work genres is given in Appendixes 1 and 2 as part of the present Regulations;

registered work – a work registered in RAO by all of its right holders in conformity with the Regulations “On Registration Procedure For Right Holders And Works” approved by RAO General Director (in its latest version);

foreign organization – an organization for collective management of rights operating in the territory of a foreign state having a mutual representation contract with RAO;

international data bases, international DB –integrated data on right holders, works and rights thereon (WID, CIS-Net, IPI) registered in foreign organizations;

non-registered work – a work in regard of which registration requirements as specified in the Regulations “On Registration Procedure For Right Holders And Works” approved by RAO General Director (in its latest version) have not been fulfilled;

user – a natural person or a legal entity using works by means of public performance, broadcasting into the air or via cable;

royalty recipient – a natural person or a legal entity who is not a right holder entitled to receive royalties by virtue of a contract with a right holder or by law;

right holder – a natural person or a legal entity with an exclusive right for a work by law, by virtue of a contract of the right alienation and on other legal grounds, or due to a licensing contract with the owner of the exclusive right for the work allowing to use the work without reserving the licensor’s right to issue licenses to third parties (exclusive license), or with the right for remuneration for the public performance, broadcasting into the air or via cable of a musical work (with or without text) used in an AVW;

work – a published musical work (with or without text), a fragment of dramatico-musical work, literary work and musical work (with or without text) used in an audiovisual work;

RAO distribution system – a computer-aided system used for automated distribution of royalties;

statistical data – information on the use of works created by Russian or foreign authors received by means of statistical analysis and organized inter alia with reference to the user reports, RAO data base and other sources.

partly registered work – a work with two or more right owners, given one of them fulfilled conditions on work registration specified by the present Regulations on registration procedure for right holders and works approved by RAO General Director (in its latest version);

“**extremist work**” – a musical work recognized as such by any court in accordance with current legislation, enrolled by the RF Ministry of Justice on the list of extremist materials and posted on the web-site of the above Ministry.

Other terms and definitions used in the Present Regulations shall be applied in the meaning defined by the acting legislation.

2. Royalty Distribution Procedures

2.1. Distribution of Royalties Collected in the Russian Federation Territory

2.1.1. Basic principles

2.1.1.1. Basing on RAO Statute, Art. 1243, p. 4 of the Russian Federation Civil Code, royalty distribution shall be carried out regularly, at least four times a year.

2.1.1.2. Royalty distribution shall be effected basing on user reports and information in RAO DB (hereinafter “line-by-line identification method”).

The report form and contents shall be established in licensing agreements and agreements on royalty payment signed between users and RAO.

In cases fixed by the present Regulations, if documentary data enabling distribution can't be obtained due to objective reasons or if distribution by line identification on the basis of user reports is not economically feasible, the collected amount can be distributed pursuant to statistical data.

2.1.1.3. Only user reports filed in due form and containing sufficient data for the allocation of royalties shall be subject to distribution.

User report shall be considered improper or insufficient if:

- it has not been produced in the due form stipulated by the contract;
- it has not been sealed and/or signed by the user's authorized representative;
- its mandatory information columns have not been filled out;
- it does not state the names of authors and/or work titles;
- it contains information in one of the Russian Federation national languages without translation into Russian;
- it contains information in the national language of one of CIS countries without translation into Russian or transliteration (Cyrillic alphabet);
- Latin letters are used in the spelling of Russian works titles or authors' names;
- foreign work titles or authors' names are written in Cyrillic alphabet or in Russian;
- its font size is less than 12;
- it has been filled in handwriting (exceptions can be made in regard of New Year parties, circus and theatrical performances and live concerts).

In above cases user reports shall be returned to the user for refinement (and considered withheld).

If user reports are turned back to the user for refinement, royalties accompanied by such reports shall not be allocated until the reports are submitted in due form.

If necessary, the user can be requested to add a proper amount and submit the corresponding report documentation.

The requirements of the present Article shall be applicable to other documentation to be submitted by the user under the contract ensuring the basis for distribution (musical references, etc.).

2.1.1.4. User reports shall be processed, i.e. data shall be input into RAO distribution system, only if the amounts pertaining to the said reports have been received by RAO.

2.1.1.5. The distribution shall cover protected works by Russian and foreign authors except for the works the management thereof has been withdrawn from RAO by the right holder in the manner established by RAO local regulatory documents.

2.1.1.6. Royalties credited for:

- non-registered works;
- non-registered part of partly registered works

shall be set aside for three years starting the moment of distribution.

In this case due efforts shall be taken to find and identify the works and authors as well as to register the works and right holders.

Once the work, authors/right holders are identified and registered, the reserved royalties shall be paid out in accordance with the established procedure.

If no information required for distribution is received after the expiry of a three-year period, the reserved royalties shall be allocated for redistribution on statistical basis.

2.1.1.7. Remuneration for the use of works derivative of the original (text modification, arrangement, text translation, etc.) shall be distributed in accordance with the provisions of the agreement or other document giving allowance for such modification.

The arranger's royalty share shall be considered non-allocated, if the document enabling the modification doesn't indicate the allocation of shares between the original work author and the arrangement author.

Any modifications to original works without right holder's permission are not allowed.

If user reports contain modified works, and if there is no agreement (any other document) authorizing amendments to the original work, royalties shall be fully accrued to the original work right holder.

2.1.1.8. Penal sums (fines, penalties) charged by RAO from users shall be distributed in accordance with the present Regulations.

2.1.1.9. The amounts of inflicted damage, compensations or any other sums RAO received after the out-of-court settlements on the violation as against right holders, shall be distributed within the procedures stipulated by the present Regulations.

2.1.1.10. Indemnification sums, compensations and other amounts RAO received after the court dispute settlements (under the court decision) on the violation as against right holders shall be distributed with reference to the following.

In case RAO has at its disposal a final court judgment, which awarded to the organization sums of indemnification, damages recovery and other amounts for the purposes of the present Regulations, these sums shall be deemed as royalties and distributed in favor of right holders with regard to works and right holders registration data in RAO DB, international DBs, fiches internationals and other documents including RAO contracts and agreements.

2.1.1.11. Considering that RAO doesn't collect royalties for the use of extremist works, royalty distribution for such works shall not be carried out.

2.1.2. Regulations on the distribution of royalties for the use of Russian repertoire works

2.1.2.1. User reports shall be processed basing on RAO DB information on work and right owner registration.

Within the processing of user reports, works in the reports are identified and searched in RAO DB.

2.1.2.2. If data on work titles and authors in user reports match the corresponding registration in RAO DB, but the genre doesn't coincide, royalties shall be credited basing on work registration in RAO DB, unless otherwise provided by the present Regulations.

If under the user report a musical work was used as, or included into a commercial, spot, bumper or signature tune, royalties are calculated in accordance with coefficients set for commercials, spots, bumpers or signature tunes.

2.1.2.3. If RAO DB does not contain a work that fully matches the work a user report, RAO DB shall be searched for the following variants:

- works with authors fully matching the authors in user reports and titles matching on the basis of transliteration;
- works with authors fully matching the authors in user reports and titles matching given the digits are written in words;
- works with authors fully matching the authors in user reports, given titles in RAO DB or in reports appear as a fragment (line) of the work text.

If one of the search options above is found in RAO DB, the decision to input user report data into RAO distribution system shall be taken by an authorized executive officer.

2.1.2.4. If a work in user report has no matches in RAO DB (given the above assumptions), the information on such works shall be input into RAO DB and distribution system on the basis of the user report with a remark about the absence of registration (as a non-registered work).

The amount of royalties credited for such a work shall be reserved in accordance with p. **2.1.1.6.** section **2.1.1.** Basic Principles.

Reserved royalties shall be distributed among right holders (royalty recipients) and paid off after the work is registered in RAO DB. However, the amount of royalties credited for the work shall not be reassessed.

2.1.3. Regulations on the distribution of royalties for the use of foreign repertoire works

2.1.3.1. User reports containing foreign works shall be processed on the basis of work and right holder registration data in RAO DB according to the procedure set forth in section **2.1.2.** above.

2.1.3.2. If a work in user reports has no matches in RAO DB, data on such a work shall be input into RAO DB and distribution system on the basis of international fiches received from sister Societies and the data in international DBs.

2.1.3.3. If a work in user reports has no matches in international DBs or a work is in international DBs, but the shares data is not available and at least one of the authors (right holders) and his/her

sister society affiliation is known, the distribution shall be effected basing on CISAC Regulations (Lack of Documentation).

2.1.3.4. If a work shown in user reports has no matches in RAO DB and international DBs, data on such a work shall be input into RAO DB and distribution system basing on user reports with a mark “lack of registration”.

Royalties credited for such a work shall be reserved in accordance with p. **2.1.1.6.** section **2.1.1.** Basic Principles.

Under CISAC Regulations, information on such works shall be forwarded to sister Societies (“BLANK BOX”) and to sub-publishers operating in the Russian Federation territory to define the ownership of any foreign organization and/or right holder in regard to these works.

2.1.4. Specifics of distribution of royalties collected for communication to the public of musical works (with or without text), fragments of dramatico-musical works and literary works into the air or by cable, including by means of retransmission

2.1.4.1. Royalties paid by users for communication of musical works to the public into the air or by cable in the Russian Federation territory shall be distributed on the basis of user reports (by line identification) in the following cases:

2.1.4.1.1. If royalty sum stipulated in a licensing agreement (or accounted for basing on licensing agreement conditions) with a user, communicating works to the public into the air or by cable via TV transmission, is 167 000 Rubles and more per month of a reporting period.

2.1.4.1.2. If royalty sum stipulated in a licensing agreement (or accounted for basing on licensing agreement conditions) with a user, communicating works to the public into the air or by cable via radio transmission, is 34 000 Rubles and more per month of a reporting period.

2.1.4.1.3. Royalty amounts shall be transferred by users specified by a relevant Resolution of RAO Authors’ Council.

2.1.4.2. The distribution of royalties collected for communication to the public of musical works (with or without text), fragments of dramatico-musical works and literary works into the air or by cable by line identification shall cover:

- the number of performances of each work (fragment of a work);
- work duration in seconds;
- work genre.

2.1.4.3. For all musical works (with or without text), except for those included in an audiovisual work, for which user reports lack the duration data, a 3 minute duration shall be applied.

The total duration of works (with or without text), used as a commercial or as part of it, can’t exceed the following limits:

a) on TV – 19 710 minutes per quarter (or 6 570 minutes a month);

b) on the radio – 26 280 minutes per quarter (or 8 760 minutes a month).

If the limits above are exceeded, royalties shall be accrued with adjusted for a reduction factor equaling the ratio of the limit to the actual total duration of a commercial stated in the user report.

2.1.4.4. Royalty sums provided by users communicating works to the public into the air or by cable in the Russian Federation territory shall be distributed on statistical basis in the following cases:

2.1.4.4.1. If royalty sum stipulated in a licensing agreement (or accounted for basing on licensing agreement conditions) with a user, communicating works to the public into the air or by cable via TV transmission, is under 167 000 Rubles per month of a reporting period (except for the users specified in a relevant Resolution of RAO Authors' Council).

2.1.4.4.2. If royalty sum stipulated in a licensing agreement (or accounted for basing on licensing agreement conditions) with a user, communicating works to the public into the air or by cable via radio transmission, is under 34 000 Rubles and more per month of a reporting period (except for the users specified in a relevant Resolution of RAO Authors' Council).

2.1.5. Specifics of distribution of royalties collected for public performance of musical works (with or without text), fragments of dramatico-musical and literary works

2.1.5.1. Royalties paid by users for public performance of musical works in the Russian Federation territory shall be distributed on the basis of user reports by line identification in the following cases:

2.1.5.1.1. If royalties are remitted by users organizing "live" public performances on the basis of a licensing contract authorizing exclusively "live" public performance;

2.1.5.1.2. If royalties are remitted by users organizing the public performance of drama, dramatico-musical and other works within plays, amateur concert parties, theater benefit performances, New Year, theatrical, circus performances and others.

2.1.5.1.3. Royalties shall be transferred by users specified by a relevant Resolution of RAO Authors' Council.

2.1.5.2. The distribution of royalties collected for the public performance of musical works (with or without text), fragments of dramatico-musical and literary works by line identification shall cover:

- work genre;
- the number of performances of each work (fragment of a work).

2.1.5.3. Royalties for public performance shall be distributed subject to the following categories:

2.1.5.3.1. Theatricalized, New Year parties and variety performances

Distribution for theatricalized, variety and New Year performances based on a single plot shall point out:

- the main program represented by a literary work with a single plot. The main program also includes musical accompaniment if it was written specially for the said performance;

- inserted items represented by previously created musical works (with or without text) or literary works included into the said performance.

Royalties for inserted items and the main program shall be credited as follows:

a) If the main program has musical accompaniment:

the amount distributed for inserted items shall depend on the number of works performed in those items:

- 1 to 3 works – 5% of the total remuneration amount;
- 4 to 5 works – 10% of the total remuneration amount;
- more than 5 works – 1/3 of the total remuneration amount.

the remaining amount shall be credited to the main program.

Distribution among authors (right holders) of the main program shall be made in the following proportion:

- 3/4 – to a lyricist, 1/4 – to a composer, if otherwise is not provided for in the agreement between them.

b) If the main program does not have musical accompaniment (text only), royalties shall be distributed as follows:

- 2/3 – to the main program lyricist;
- 1/3 – pro rata among all inserted items.

2.1.5.3.2. Concerts (“live” performances)

If in a recital along with the main performer some other performing artists participate opening the main program, royalties shall be allocated in the following order:

Remuneration due for the works performed by other artists (depending on the number of works performed) shall be:

- 1 to 5 works – 5% of the total remuneration amount;
- more than 5 works – 10% of the total remuneration amount.

The remaining part of the total remuneration amount shall be credited to the works performed by the main musician.

2.1.5.4. Royalties paid by users for public performance of musical works in the Russian Federation territory not indicated in pp. **2.1.5.1.1. – 2.1.5.1.3.** of the present Regulations shall be distributed on statistical basis.

RAO is entitled to distribute amounts below 1 000 Rubles (see p. **2.1.5.1** of the present Regulations) on statistical basis.

2.1.6. Distribution of royalties collected for the public performance of musical works or broadcasting into the air or by cable (with or without text) used in AVW

2.1.6.1. Distribution of royalties collected for the public performance or broadcast into the air or by cable of musical works (with or without text) used in AVW shall be effected by line identification on the basis of user reports, RAO DB and, when appropriate, statistical data.

2.1.6.2. All AVW (Russian and foreign ones) containing copyright-protected musical works (with or without text) in user reports shall be included into the distribution.

2.1.6.3. Information about musical works within AVW, their duration, authors and right holders are stated in the producer's musical reference (for Russian AVWs) or in the CUE-sheet (for foreign AVWs).

Royalties for the use of musical works in AVW shall be allocated by line identification pro rata to work duration.

The amount allocated to musical works used in AVW shall be distributed among the right holders (royalty recipients) according to registration in RAO DB.

2.1.6.4. Royalties allocated for AVW in regard to which no distribution enabling information is available (lack of a musical reference, CUE-sheet) shall be put aside for three years from the moment of distribution.

If upon the expiry of the three-year period, no information required for the carrying out distribution has been received, the said amount shall be redistributed by reference to statistical data, collected for this reason.

2.1.6.5. Gathering of distribution enabling information (musical references, CUE-sheets) shall be carried out through the international data bases, by way of queries to sister Societies (with regard to foreign AVW) and to the producers of audiovisual works – TV channels, motion picture studios and the State Cinema Committee archives (with regard to Russian AVW).

The distribution enabling information gathering activity in regard to AVW is carried out each time it is shown in the user reports and can be discontinued if it has been proved impossible to obtain the requisite data.

2.1.6.6. Royalties distributed for:

- non-registered musical works within AVW;
- non-registered part of partially registered musical works within AVW,

shall be put aside for three years from the moment of distribution.

If during a three-year period the information necessary for distribution hasn't been received, the amount of royalties reserved shall be redistributed on ad hoc statistical basis.

2.1.6.7. If in the course of a three-year period from the moment of distribution, the distribution enabling information has been received and the musical works have been identified or notified, the amount of royalties reserved earlier shall be allocated among the right holders (royalty recipients) and paid out according to the established procedure.

2.1.7. Specifics of distribution of royalties collected for public performance of AVW (movie theaters)

2.1.7.1. The amount of royalties for public performance of musical works within an audiovisual work shall be shown in the user reports in regard to each AVW.

Distribution of the said amount shall be effected in accordance with p. **2.1.6.3.** above.

2.1.7.2. If the total sum of the user's report is no over 5 000 Rubles, of the amount of royalties per AVW for the overall number of shows is under one hundred rubles, RAO can distribute such amounts on statistical basis.

2.1.8. Specifics of distribution of royalties collected for the communication into the air or by cable of AVW (television)

2.1.8.1. Royalties collected for the communication into the air or by cable of musical works used in AVW shall be assessed on the basis of the total work duration (in seconds) in AVW. Distribution shall be adjusted due to genre coefficients for musical works (with or without text) (Annex 1), and musical genre coefficients for AVWs (Annex 2).

The total duration of musical works within AVW shall be determined by musical references or CUE-sheet data.

2.1.8.2. If at the time of user report submission, information on the musical works within AVW necessary for distribution is not available, the missing information shall be searched for within a month to obtain the lacking data and input it into RAO distribution system.

2.1.8.3. If upon the expiry of the period indicated in p. **2.1.8.2.** above, no validated information on work duration (musical references, CUE-sheets) has been received, duration shall be determined as follows:

Full-length film (feature, television, animated) with total duration over 50 min.	900 sec.
Multi-episode feature film (up to 20 episodes)	900 sec. per episode
Short-length film (feature, television, animated) with total duration from 10 to 50 min.	420 sec.
Documentary film	450 sec.
Multi-episode documentary film	450 sec. per episode
Picture play	420 sec.
Reality show	300 sec.
Documentary loop	300 sec. per episode
Musical film (feature, TV, animated)	1200 sec.
Series (feature, feature-television, television, animated film)	300 sec. per episode
Mini-series (television, animated film)	60 sec. per episode
Animated series	60 sec. per episode
News-reels	180 sec.
Film (documentary, animated) with duration under 10 min.	total film duration
Advertisement/Commercial	15 sec.

The above Regulations of determining work duration used in AVW shall be applied if work duration has not been determined under the previous Regulations before the present Regulations became effective.

2.1.8.4. The royalties allocated to AVWs under the Regulations in p. **2.1.8.3.** above shall be put aside under p. **2.1.6.4.** until the necessary distribution information is received.

After the receipt of the requisite information, no royalty reassessment shall be made.

2.1.8.5. Royalties for musical works (with or without text), used in a commercial, shall be calculated in accordance with the rules set by p. **2.1.4.3.** of the present Regulations.

2.2. Distribution of royalties remitted by sister Societies

2.2.1. Distribution of royalties collected by a foreign sister Society under mutual representation contract with RAO shall be effected on the basis of its distribution statements.

2.2.2. Distribution statements submitted by a foreign sister Society in hard copy and/or electronic format contain the following information:

- AVW title (in regard to distribution for the musical works used in AVW);
- musical work title;
- right holder's name;
- right holder's share (percentage);
- remuneration due to each right holder in the currency of a sister Society country.

2.2.3. Distribution of royalties remitted by a sister Society shall be effected with reference to the distribution statement and RAO DB.

2.2.4. Distribution of royalties remitted by a sister Society shall be in US dollars.

2.2.5. Distribution statements submitted in proper form shall be distributed on, provided the corresponding royalty has been transferred to RAO account.

2.2.6. If data in a foreign society distribution statement does not match with RAO DB, distribution shall be carried out basing on the latter.

If a musical work is assessed excessive royalties in the distribution statement, such amount shall be returned to the sister Society together with the documentation containing data on the work registration in RAO DB (international fiche).

If a work is not credited royalty in full, the amount shown in the statement shall be distributed among all right holders (royalty recipients) according to RAO registration data, and the sister Society shall be sent the international fiche and shall be requested to assess the required additional amount.

2.2.7. In case of works that do not belong to RAO repertoire and/or right holders from other societies in a foreign distribution statement, the respective amounts shall be sent back.

2.2.8. If a distribution statement contains returned royalties that RAO has earlier sent by mistake to a sister Society, the said amounts shall be redistributed on the basis of updated information.

3. Procedures for royalty deductions

3.1. Pursuant to the Sub-paragraph 2., Point 4., Article 1243 of the Russian Federation Civil Code, RAO shall make deductions from collected remuneration to cover the costs of royalty collection, distribution and payment.

3.2. The said amounts are deducted at the moment of royalty transfer the personal account of a right holder (royalty recipient).

3.3. The deduction amount shall be established by RAO regulations basing on its Statute.

3.4. In cases provided for by the effective legislation, RAO shall perform the functions of a tax agent, withhold and transfer to the budget the corresponding tax deductions credited to the right holder (royalty recipient) during distribution.

3.5. In cases provided for by the effective legislation (in particular, by enforcement orders), RAO shall withhold other amounts from royalties due to a right holder (royalty recipient) and transfer those amounts to the specified beneficiary.

4. Procedures and periods for royalty payment

4.1. Under RAO Statute, royalty payment shall be carried out on a timely basis at least four times per annum.

4.2. Payments of royalties collected in the Russian Federation territory for the use of works shall be made on a monthly basis.

Payments of royalties collected in the Russian Federation territory for the use of musical works in AVW shall be made on a monthly basis (with regard to broadcast into the air and by cable) or quarterly (with regard to public performance).

Payments of royalties received from sister Societies shall be made **quarterly** (in Rubles).

Transfer to a sister Society shall be made on a timely basis according to the schedule established by the contract with the latter. Returned royalties shall be sent to the sister Societies together with the scheduled remittances.

4.3. Payment of royalties distributed for works in dispute according to the Regulations on registration procedure for right holders and works shall be suspended until the parties involved in the dispute submit the documents proving that the dispute has been resolved.

4.4. Royalties put aside under pp. **2.1.1.6.**, **2.1.6.4.**, **2.1.8.4.** of the present Regulations shall not be paid before their identification and registration in RAO DB in accordance with the Regulations on registration procedure for right holders and works approved by RAO General Director.

Payment of royalties put aside and then credited to the right holder (royalty recipient) following subsequent identification and/or registration in RAO DB shall be made together with the scheduled royalty payment, if by the time of identification and registration the amounts of reserved royalties had not been redistributed on statistical basis under the present Regulations.

4.5. Royalty due paid in the amount under the limit established by the present point shall be transferred after its accumulation up to this limit, but until the end of the calendar year when the sums were accrued.

The limit shall be fixed as follows:

- in regard to royalties paid in Russian Rubles – 2 000 Rubles;
- in regard to royalties paid in foreign currency – 100 USD.