

RE:SOUND DISTRIBUTION RULES

Summary

Re:Sound is the not-for-profit organisation authorized under Part VII of the Copyright Act to collect royalties on behalf of performers (recording artists, including backup and instrumental musicians) and makers (record labels) for the public performance and communication to the public by telecommunication (broadcast) of their eligible sound recordings. As a member of the Canadian Private Copying Collective (“CPCC”), Re:Sound also collects royalties for private copying. All royalties collected by Re:Sound are distributed less only Re:Sound’s actual costs of collection and distribution. Royalties are divided equally between performers and makers in accordance with the Copyright Act. Re:Sound distributes royalties through its five member collectives (who in turn distribute to the performers or makers they represent), to performers and makers who have signed up with Re:Sound directly (which includes Universal Music Group, Sony Music, Warner Music Group as well as other labels and performers), as well as to international music licensing organisations (who in turn distribute to the performers and makers they represent).

Re:Sound’s Distribution Rules are approved by its Board of Directors. The intent and purpose of the Distribution Rules is to achieve a fair, equitable and efficient distribution to both performers and makers. All distributions are calculated on a track-by-track basis, based on the music logs received from music users. Where logs are not available, the best available proxy is used.

1. Music Use Information

Re:Sound collects data from commercial radio stations, the CBC, pay audio, satellite radio and non-interactive and semi-interactive webcasting services about the sound recordings they play, which are used as the basis for distributions to performers and makers. Re:Sound’s team of distribution experts compiles and analyzes thousands of music use logs each year in order to determine eligibility for royalties, determine royalty allocations, process claims, and distribute royalties. The process of transforming millions of data points into royalties is complex and involves thousands of microtransactions a day.

a. Commercial Radio

Under the current Commercial Radio Tariff, certified on April 23, 2016, all commercial radio stations are now required to provide sequential program logs (i.e. 365 day reporting). Under the previous tariff, sequential logs were only required where available, and if not available, they were only required for 28 days per year. Initially, stations were only required to provide logs for 14 days per year. The new 365 day requirements are a result of Re:Sound’s efforts to obtain the best and most complete music use information possible.

b. The Canadian Broadcasting Service (CBC)

The CBC is required to provide sequential program logs (i.e. 365 day reporting) of all sound recordings broadcast by its English and French radio stations.

c. Pay Audio Services

Pay Audio services are required to provide program logs of all sound recordings played on each pay audio signal for a period of 7 consecutive days for each month i.e. 84 days per year.¹

d. Satellite Radio Services

Satellite radio services are required to provide sequential program logs (i.e. 365 day reporting) of all sound recordings played on each signal.

e. Non-Interactive & Semi-Interactive Webcasters

Non-interactive and semi-interactive webcasters are required to provide sequential program logs (i.e. 365 day reporting) of all sound recordings played on their service as well as the number of times each recording is played and the total number of plays of all recordings.

f. Public Performance Tariffs

For public performance tariffs where it is not feasible to obtain music use logs from individual businesses, Re:Sound currently uses the commercial radio logs as a proxy for distributing royalties.

g. Private Copying

Private copying royalties are distributed based on both the commercial radio logs (50% revenue) and music sales data (50% revenue). A portion of the 50% revenue allocated to commercial radio logs is distributed using CBC logs, based on CBC's proportionate listening audience compared to that of commercial radio.

2. Eligibility

In order to be eligible to receive public performance and communication royalties, a sound recording must meet the following eligibility criteria under the Copyright Act:

1. The sound recording must be published ie. a copy of the recording has been made available to the public;
2. The sound recording was first published less than 70 years ago or first recorded less than 100 years ago, whichever period is shorter; and
3. The maker of the sound recording (i.e. the record label) was, at the date of recording, a citizen, permanent resident of, or headquartered in Canada or any country that has signed either the Rome Convention or the WIPO Performances and Phonograms Treaty (WPPT), to the extent that the Minister of Industry has not limited the right of that country in Canada; or
4. The sound recording was entirely recorded in Canada, a Rome Convention country or a WPPT country, to the extent that the Minister of Industry has not limited the right of that country

¹ Re:Sound has sought 365 day reporting as well as additional music use information in its most recent Pay Audio hearing before the Copyright Board and is awaiting the Board's decision.

in Canada (“Minister’s Statement”).² As a result of the Minister’s Statement, recordings made in certain territories (or by makers located in certain territories) are ineligible for remuneration. For example, the eligibility of US recordings is limited to pay audio, streaming/webcasting and satellite radio royalties in Canada for s.19 rights.

In order to be eligible to receive private copying royalties, the maker of the sound recording must have been, at the date of recording, a citizen, permanent resident of, or headquartered in Canada, and copyright subsists in Canada in the sound recording. An eligible performer must have been, at the date of recording, a citizen or permanent resident of Canada, and copyright subsists in Canada in the performer’s performance.

3. Calculation of Royalties

Re:Sound analyzes the sound recordings reported in the program logs it receives and determines which sound recordings are eligible for distribution based on information within its comprehensive database of millions of recordings as well as claims information it receives from its member organisations, repertoire information from direct assignors (including Sony Music, Warner Music Group and Universal Music Group etc.) and from international organisations with whom Re:Sound has bilateral agreements³. Royalties are distributed on a track-by-track basis. Royalties collected under each tariff are distributed on the basis of the program logs received for that tariff, with the exception of the public performance tariffs, which are currently distributed on the basis of the commercial radio logs.

4. Allocation to Rights Holders

All royalties collected by Re:Sound for the public performance/communication right are divided so that in aggregate, 50% goes to the performers and 50% to the makers. Eligible Canadian and non-Canadian performers and makers are treated equally in determining the allocation of royalties. The royalty split between featured artists and session or backup performers on popular music tracks is 80% of the amount available for distribution going to the feature artist(s) and 20% to the session and backup performer(s)⁴. Different methodologies may apply to distributing royalties for other musical genres (such as classical and jazz recordings).

² Note, the Minister of Industry has limited the right of remuneration in respect of certain Rome Convention and WPPT countries see *Statement Limiting the Right to Equitable Remuneration of Certain Rome Convention or WPPT Countries*, SOR/2014-181 July 14, 2014.

³ Re:Sound currently has bilateral agreements with the following territories: Australia-PPCA, Brazil-Abramus, Denmark-Gramex, Finland-Gramex, Germany-GVL, Greece/Cyprus-Grammo, Ireland-PPI, Italy-SCF, Japan-RIAJ, Netherlands-SENA, Nigeria-COSON, Norway-Gramo, Poland-ZPAV, Spain-AGEDI, Sweden- IFPI Sverige, Ukraine-UMA and UMRL and U.S.-SoundExchange. A list of Re:Sound’s international agreements can also be found on its website at <http://www.resound.ca/resounds-bilateral-agreements/>.

⁴ From time to time allocations may differ from the default split described in this section, where the performers on a recording have collectively agreed to a different split of royalties between them.

5. Timing of Distributions

Royalties are distributed on a quarterly basis.

6. International

Re:Sound collects and distributes royalties for both Canadian and international artists and record companies. Through agreements which both Re:Sound and its member collectives have with international collecting societies as well as inter-corporate agreements between Canadian record labels and their international affiliates, royalties are distributed to international performers and makers for the use of their recordings in Canada. Similarly, Re:Sound and its member collectives receive and distribute royalties for the use of Canadian recordings represented by their members in other countries where similar performance rights exist.

7. How to Receive Royalties

In order to ensure that you receive all royalties to which you are entitled, you must register with one of Re:Sound's member collectives or with Re:Sound directly, and provide your complete and up-to-date repertoire information.

Performers can register with any of Musicians' Rights Organizations Canada, ArtistI, or Recording Artists' Collecting Society:

<http://musiciansrights.ca/en/sign-up/>

<https://artisti.ca/UDA-la-culture-est-une-force-pour-nous-joindre-606/artisti>

<https://www.actra.ca/racs/sign-me-up/>

Makers can register with either Connect Music Licensing or SOPROQ:

<http://www.connectmusic.ca/members/membership-application.aspx>

<https://www.soproq.org/en/pages/makers-and-rights-owners>

Both performers and makers can alternatively sign up with Re:Sound directly through Re:Sound's website at portal.resound.ca.

8. Re:Sound Database

Re:Sound's searchable database on its website includes a listing of all sound recordings which appear in broadcast or user logs provided to Re:Sound <http://www.resound.ca/music-creators/database/>. Not every sound recording included in the database is eligible to receive royalties (see section 2 "Eligibility" (above) for more information on eligibility criteria).