



Distribution Principles and Policies

Irish Visual Artists Rights Organisation Limited

Introduction

IVARO's distribution policies have been updated to fulfil the requirements of the European Union (Collective Rights Management Regulations) (Directive 2016/26/EU) S.I. No 156 of 2016.

Distribution Principles

IVAROs' distribution principles are guided by the following principles:

1. Encourage the lawful dissemination of Works by facilitating the licensing of rights in return for equitable payment ("Licensing Income");
2. Distribute Licensing and Artists Resale Royalties Income (less reasonable Deductions) to Creators and Sister Societies on a fair and non-discriminatory basis;
3. Distribute remuneration from Licensing Income to those whose works are copied, based on the principle of objective availability or possibility to be copied.
4. Maximise the distribution to rights holders, minimize costs, while maintaining sufficient accuracy.
5. Ensure the distribution method is clear, transparent and understandable for rights holders, users and society at large.
6. Distribute any monies due to each Sister Society in accordance with the reciprocal agreement in place; and in no less than once a year.

Distribution Policies

IVARO distributes royalties from three sources:

1. Collective Licensing
2. Transactional Licensing
3. Artist's Resale Right

1. Collective Licensing Distribution Policies

Collective Licensing is used in situations where it would be difficult or impossible for an individual to license their rights, such as photocopying of their work.

These rights are normally managed by a single organisation - a collecting society - administering rights on behalf of a group of rights owners and offering blanket licences to users. The collecting society negotiates a licensing agreement with users.

Through its Irish and international agreements IVARO has the direct authority to represent many thousands of visual artists for all licensing activities, including collective licensing purposes.

This document sets out IVARO's policy for the distribution of royalties received from collective licensing schemes operated by other parties to whom IVARO has given indemnities and/or mandates in respect of artistic works.

Sources of Collective Licensing Revenue

At present, there is one main source of collective licensing revenue administered by IVARO, which involves re-uses of previously licensed materials.

There is a wide range of images or visual material contained within books, magazines, newspapers and journals in addition to the text. Because visual material can be photocopied and/or scanned, it follows that the right to copy visual material should be included in reprographic licences and schemes.

Reprographic licences and schemes are designed to provide users with easy to use, convenient solutions which enable them to copy and/or scan portions of books, magazines, newspapers and journals legally. Such licences are issued in Ireland by the ICLA. IVARO negotiate a share of the licence fee for visual works to distribute to artists through our RETURN scheme. In return IVARO provides the ICLA with a mandate allowing it to include images in their licenses which permit photocopying, preparing slides, acetates and Power Point presentations, scanning, downloading from a secure intranet, printing out and the production of educational course packs.

Distribution

RETURN is the name of the process by which IVARO distributes Collective Licensing revenue. Through it payments are made to visual creators whose works have been reproduced in qualifying publications.

Money available for RETURN is for secondary uses therefore, even if the creator has already been paid for the primary use, a claim for secondary use can be made. Rights holders themselves report their works and publications to IVARO in order to claim a share.

Claimants do not need to be a member of IVARO. However as a benefit of membership, IVARO compiles this information on their behalf. Because IVARO manage our members' rights individually, we know where the works have been reproduced in qualifying publications.

IVARO only makes payments to rights holders or those properly authorised to act for rights holders. The claimant must sign a warranty to the effect that they are the owner of the copyright and that the information which they provide is accurate.

Objective Availability

A share of RETURN royalties can be claimed by any visual creator or copyright holder whose work is contained in publications, published in Ireland, which have an ISBN or ISSN number (and are therefore available to be photocopied). The rationale underlying the distribution method is that all material that is available on the market can be photocopied, and at some point probably will be copied. Remuneration is therefore allocated to material on the market. As it is currently not possible to ascertain what works have actually been photocopied, the principle of Availability for Use is utilised.

Information on the publications which feature claimant's works is collected through self-declaration. Claimants are asked to identify publications which feature their works. The claim form may be completed in hard copy or online.

Points System

IVARO employs a points system to calculate the royalty we pay to each claimant. Each claimant is allocated a certain number of points based on the number of times their work has been reproduced in publications. Books and magazines/periodicals each have their own scale. The scale is weighted in favour of books due to their greater market penetration and longer shelf life. Maximum payments are self-limiting through this system.

The point scales as follows both for current year and previous year publications:

A) Number of Books							
Books	0	1 – 2	3 – 6	7 – 15	16 – 25	26 – 45	46 +
Points	0	2	4	6	8	10	12

B) Number of Images in Books						
Works	0	1 – 18	19 – 45	46 – 200	201 – 500	501 +
Points	0	2	4	6	8	10

C) Number of Magazines/Periodicals							
Books	0	1 – 3	4 – 25	26 – 75	76 – 125	126 – 300	301 +
Points	0	2	4	6	8	10	12

Artists and rights holders are invited to submit a claim for a share every year. The RETURN claim period is for two months, September and October each year. In the months prior and during the claim period advertising and marketing campaigns are used to encourage claimants to apply.

Distribution takes place in the months of December and January.

Administration charges on royalties

The administration fee which IVARO charges for this service has been set at 25%. This charge is made on the total monies received by RETURN and no fee is charged to any individual claimant.

The amount each artist receives may vary from year to year, depending on the total pool of monies and the number claimants in any one year. There is a minimum payment amount which is set at €12. All of the minimum claims are calculated firstly and removed from the total fund available for distribution in that year. Only after this is done are the rest of the payments calculated on the balance.

Non-distributable amounts

Any fee due to a rightsholder who has been identified but following a due diligence process has not been located shall be considered as non-distributable fees.

The Board may direct that a proportion of non-distributable fees be used to improve the collective licensing and distribution system to the benefit of rightsholders.

If a rightsholder comes forward with a verified claim within 6 years they will be paid out of non-distributable fees held in reserve.

2. Transactional Licensing Distribution Policy

This policy sets out the rules followed by IVARO for the distribution of Transactional Licensing royalties.

Our Transactional Licensing service allows users to reproduce or electronically store works of visual art, while ensuring that these works are properly licensed and the rights holder fairly compensated. This generally involves rights clearing on a case by case basis with fees determined according to our standard licensing tariffs.

IVARO is able to licence any or all rights in artistic works as defined under the Copyright & Related Rights Act 2000 on behalf of the artists we represent.

These rights include:

- Making a copy of the work
- Distributing copies of the work
- Communicating the work to the public
- Making the work available to the public

Our grant of rights is made on a one time, non-exclusive basis.

Administration charges made on royalties

IVARO pays members all monies received from exploitation of the rights, less an administration fee for reimbursement of administration and operating expenses as determined by IVARO. IVARO currently retains a commission of 25% and distributes 75% of the licence fee to the artist. This is the minimum charge necessary to cover the costs of running this service. IVARO's administration fees are reviewed and approved by the Board of Directors annually.

Frequency

Payments are made no less than twice per annum. We provide a royalty statement which sets out in detail how the work was licensed, how much we collected and our charges. To provide the most efficient and cost efficient payment service possible, we pay royalties via electronic transfer into a nominated bank account. Payment may also be made by cheque if requested.

Each year we publish an Annual Report which details the payments to artists we have made in the previous 12 months.

Minimum Distribution Amount

Where the payment due does not reach a payment threshold (currently €12), the royalty is held until other royalties are received and the payment threshold is reached.

Tariffs

Licence fees are calculated based on the way in which an artwork is being used and the commercial nature of the project. A charge is made per reproduction. Our members reserve the right to override our standard fees.

We review our licensing prices annually. This allows us to keep in-touch with changes in the industry and technological advances, so we can create relevant and robust licences that benefit both our customers and artists. Current tariffs for transactional licensing are on the website: www.ivaro.ie.

3. Artists Resale Right Distribution Policy

This policy sets out the rules followed by IVARO for the distribution of Artist's Resale Right royalties.

Introduction

The Artists Resale Right entitles artists to receive a royalty when their work is resold via an auction house, gallery or art dealer. The seller of the work is the party obliged to pay the royalty.

IVARO is mandated to collect the artist's resale right on behalf of its members in Ireland. It is also mandated through its reciprocal rights agreements to collect the royalty on behalf of the members of overseas Collective Management Organisations (CMO) who are entitled to this royalty in Ireland.

In Ireland the resale right has been in place for living artists since **June 13th 2006**. It came into effect for the beneficiaries of deceased artists on **1st January 2012** and applies to the resale of works of art that are protected by copyright.

The Artists Resale Right applies:

- When an artwork is resold for €3,000 or more.
- When the artwork is sold on the secondary market (i.e. after the first sale or transfer by the artist).
- When the artwork is still in copyright - copyright lasts the lifetime of the artist plus 70 years after their death.
- When a gallery, dealer, auction house or agent is involved in the sale.
- When the artist is a national of a European Economic Area country.

Calculation of the resale royalty (tariffs):

The royalty rates are prescribed by law and are set out in Irish Regulations S.I. 312 of 2006 and are calculated as a percentage of the sale price using this sliding scale:

Portion of the sale price €	Royalty rate
From 0 to 50,000	4 %
From 50,000.01 to 200,000	3%
From 200,000.01 to 350,000	1%
From 350,000.01 to 500,000	0.5%
Exceeding 500,000	0.25%

IVARO endeavours to make the collection and payment of resale royalties as straightforward as possible.

IVARO makes regular claims to art market professionals for payment of royalties due to our members following the resale of their works of our members. Art market professionals may either pay the royalty directly or alternatively they may provide IVARO with adequate information concerning the seller of the work to enable IVARO to collect the payment from the seller.

Frequency

We distribute resale royalties in the following schedule:

IVARO members: Quarterly basis (four times per year)
Overseas CMO's: Twice per year

We provide a statement detailing how these royalties were generated. The statement includes the following information.

- ❑ The date of the resale
- ❑ Whether the sale was through an auction house or other art market professional
- ❑ The price the work sold for
- ❑ The resale royalty
- ❑ IVARO's administration charge
- ❑ The net royalty

Administration charges made on royalties

IVARO retains the minimum commission required to cover the costs of providing this service. IVARO retains 15% of the gross royalties collected and returns 85% to the entitled artists and rightsholders. Administration fees are reviewed and approved by the Board of Directors on an annual basis.

IVARO calculates and pays royalties to individual rightsholders based on the portion of the royalty they are entitled to receive. If the artist is the sole rightsholder in a copyright work they receive 100% of the net royalty. If there are two beneficiaries who have inherited the resale right they would receive 50% of the net royalty each (or another proportion which they have agreed).

IVARO does not take any commission on resale royalties received from collecting societies overseas and remits 100% of the royalty to the rights holder.

Undistributed Resale Royalties

We monitor auction sales and carry out research to locate artists and estate of artists who are not current members of IVARO in order to inform them of any resale royalties they may be due. Research is undertaken to trace artists, particularly the heirs of deceased artists, on a regular basis using a variety of research methods,

including many subscription-only online resources, as well as obtaining Wills and other relevant documentation.

IVARO only collects resale royalties on behalf of rights holders who have mandated IVARO to manage the collection of resale right on their behalf. Therefore we are able to distribute 100% of resale royalties collected to the entitled individuals. In the event that IVARO collects a resale royalty and is unable to pay it to the rightful owner within three years it will be returned to the person who paid it, less IVARO's commission.

Distribution to Sister Collecting Societies

IVARO charges a 25% administration fee on Copyright Licensing royalties arising from Irish licences for sister society members.

IVARO charges a 15% administration fee on Artist's Resale Right royalties arising from Irish art sales for sister society members.

IVARO's administration fees are reviewed and approved by the IVARO Board of Directors on an annual basis.

Distribution timetable

Funds allocated to overseas collecting societies which have an agreement with IVARO are distributed according to the reciprocal rights agreement in place with each society and no less than once per year.

IVARO pays all sister societies who meet the following criteria:

- We hold their correct and current bank/payment details
- We hold their current address details
- They hold a valid Tax Residency Certificate
- They have completed the tax declaration process for their members (double taxation/VAT)
- The total payment amount reaches the payment threshold for the relevant payment type. Currently: €150

Where the payment due does not reach the payment threshold, the royalty is held until other royalties are received and the payment threshold is reached.

If a sister society payment is returned by the bank due to incorrect details, the payment will be held by IVARO until the beneficiary has been contacted and has provided us with the correct payment details. Their account will be put on hold until the issue is resolved. Once resolved, the payment will be issued in the next scheduled distribution.

List of the 25 societies with which IVARO has representation agreements:

<u>ADAGP</u>	(France)
<u>AGADU</u>	(Uruguay)
<u>AKKA/LAA</u>	(Latvia)
<u>ARS</u>	(United States)
<u>BONO</u>	(Norway)
<u>BUS</u>	(Sweden)
<u>Copy-Dan</u>	(Denmark)
<u>DACS</u>	(United Kingdom)
<u>DALRO</u>	(South Africa)
<u>EAU</u>	(Estonia)
<u>HUNGART</u>	(Hungary)
<u>LITA</u>	(Slovakia)
<u>MYNDSTEF</u>	(Iceland)
<u>OOA/S</u>	(Czech Republic)
<u>Pictoright</u>	(The Netherlands)
<u>Prolitteris</u>	(Switzerland)
<u>SABAM</u>	(Belgium)
<u>SAVA</u>	(Argentina)
<u>SIAE</u>	(Italy)
<u>SODRAC</u>	(Canada)
<u>SPA</u>	(Portugal)
<u>VAGA</u>	(USA)
<u>VEGAP</u>	(Spain)
<u>VISCOPY</u>	(Australia)
<u>VG Bildkunst</u>	(Germany)

Company Information

IVARO is a company limited by guarantee, registered in Ireland. IVARO complies with regulations laid out in the Copyright and Related Rights Act 2000 and is registered as a copyright body with the Controller of Patents, Designs and Trademarks. IVARO has been constituted as a membership organisation in which the board is fully answerable to its artist members. IVARO abides by the professional rules adopted by the International Confederation of Authors and Composers Societies (CISAC) of which IVARO is a member. With 229 members, authors' societies from 121 countries, CISAC is an international NGO representing about 3 million creators and publishers of artistic works in all genres including visual arts. IVARO is also a member of European Visual Artists (EVA) which represents visual artists collecting societies in the EU.

Registered office:

Windmill View House
Oliver Bond Street
Dublin 8

Auditors:

Byrne Moreau & Connell
Harmony Row
Dublin 2

Company Secretary:

Samantha Holman

Company Number:

403922

Code of Conduct:

As a member of CISAC, IVARO is bound by the Professional Rules, relating to its conduct, governance, transparency, financial disclosure, administration, licensing and collections as well as the Binding Resolutions covering documentation and distribution.

IVARO is registered with the Irish Patents Office in the Register of Copyright Licensing Bodies.

Email: info@ivaro.ie
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