

Phonographic Performance Ltd, Mumbai (PPL)

Confidential and privileged

Members Licence fees Payment-- Basis & Methodology for FY 2018-19 and onwards

1. Introduction:

PPL's revenue is earned from non-exclusive licences granted and issued to licencees in radio broadcasting and public performance.

The collected amount is distributed to member music labels, after recouping costs and out-goings. For this purpose, PPL is entitled to defer recoupment of some of the costs to next year, if the benefit of such costs would continue to accrue in next year also. Further, PPL is entitled to allocate on a reasonable basis common overheads and out-goings.

2. Basis of payment for different streams, modes and mediums:

A (1). Radio broadcasting-- All India Radio (AIR)

On the basis of member-wise (i.e. label-wise) summary report provided by AIR. This is usually furnished twice a year. AIR usually does not provide track-wise details.

A (2). Radio broadcasting – Pvt. FM

On the basis of track-wise usage log reports or needle hours usage report, periodically provided by the Licensees / broadcasters.

B. Public Performance

- i. In public performance, most of the licensees do not maintain or submit track-wise usage, as they find it too cumbersome. The number of licences issued every year runs into a few thousands. However, in those cases where the licensee furnishes proper track-wise log reports, the same shall form the basis of distribution of income from such licence. PPL will also partner with retail digital programming services for providing PPL the logs of music being played in retail stores. The amount received from such retail units will be distributed as per the logs given.
- ii. From the revenue collected (net of TDS suffered and of commission to third-party service providers), all administrative, operating costs, expenses and out-gos (both direct and allocated of common over-heads), and legal & litigation expenses; and contractually payable licence fees to members are to be deducted first.

This net amount is a common all-India pool across all States/territories and across all categories of users/licencees.

Individual members' shares out of this net amount are computed, as on the following formula: (a) 15% weightage to the net physical domestic sales turnover of audio products of individual member** [see Note 1, which elaborates this]; (b) 15% weightage to usage / downloads from 'caller ringback tunes; (c) 20% weightage 'FM radio by private

broadcasters' sub-stream, such weightage to be computed on needle-hours reported and not on amounts; (d) 50% weightage to usage-based streams of full-tracks through Airtel-Wynk, Gaana, and Saavn.

Members will write and authorize the above digital platforms, including telecom partners (for CRBT); with PPL team in copy to share the full track stream / CRBT download counts for their owned / controlled music catalogue.

In order to give weightage to actual usage while making distribution of license fee it has been decided to introduce a weightage of up to 5% for logs from sampling data. An endeavor to gather sampling data from statistically viable samples for this purpose will be made for the same. Should the sampling data meet the criteria of credibility then the above weightages of Physical, Radio, CRBT and Full Track Streams will be reduced proportionately.

For direct revenue, i.e. not through PPL, mainly pertaining to radio broadcasting, only usage-based needle hours will be considered; lump-sum or fixed-value or minimum guarantee values will not be considered. Such members, who have not assigned / licensed their radio broadcasting rights to PPL, will write and authorize the radio broadcasters with PPL team in copy to share the needle hours usage report for their owned / controlled music catalogue.

The specimen formats of CA certificates for declaring the physical sales will be communicated every year. In case of physical sales declarations that are apparently exaggerated or out-of-alignment with known market conditions or not apparently authentic, etc., PPL is entitled to further audit the records and call for supporting documents validating the declared physical sales. Royalties for such members will be put on hold till the supporting documents provided are cleared and approved by PPL appointed auditors. Further, if the supporting documents are not valid, the physical sales for such members will be considered as "Nil".

[** Note1 : The afore-said turnover is of audio products in physical formats (i.e. audio cassettes, audio CDs, MP3 CDs and audio DVDs), net of sales returns or provision for sales returns and channel discounts.; excludes export sales; and excludes home video (full movie VCDs, DVDs). In the event that it is not explicitly declared that the sales figure provided is of Audio products only, it will be assumed that 25% is of video products and the same shall not be eligible for being considered for payment of licence fees. Only trade i.e. bazaar retail sales are eligible. Sales figures of devotional albums to be excluded, in view of exemption in Copyright Act for licensing of religious places/functions. Premium sales, OEM sales, Corporate sales, "CD club" sales, direct marketing sales, and such or similar sales are not eligible. Only third party sales are taken in account; inter-company sales are excluded. In the case of new members who joined during the year, only pro rata licence fees is payable. Members are to furnish CA certificate or provide true copy of their accounts, before due date. Where the certified physical turnover amount is Rs. 2 (two) crores or more, the CA certificate should be furnished only from the statutory auditor CA, and not by any third-party CA.

PPL is authorised to call for and examine additional supporting documentations such as Income-Tax returns/computations, GST return details etc., to corroborate the figures given by a Member. PPL is authorised to call for and examine sales registers, and call for additional breakups such as sales of top-selling albums, top dealers/customers, etc. PPL is further authorised to depute its CA to cross-audit the figures given by Member.]

- iii. Fixed License Fee: Fixed license fee payout policy, for members who have not furnished the CA certificate of their physical sales and their counts / revenue from Radio and Digital (CRBT and Streaming) is negligible, stands discontinued.
- iv. A new assignor-member is eligible for share in Public Performance revenue only from the first date of the next quarter of joining, unless otherwise stated in the agreement with him. For example, a new member joining and assigning on 15th Feb. 2018, is eligible to receive royalty consideration only from 1st April 2018.

3. Periodicity of payment:

- i. **Public performance:** All payments will be made after finalization from internal and external auditors, completed preferably before Sept. 30th, subject to timely receipt of CA certificates from members, verification thereof and completion of audit.

However, in the event the estimated license fee payable to a member exceeds INR 60 lakhs p.a., the Company shall endeavor to process 'on account' monthly license fee payouts. Members not meeting the threshold of INR 60 lakhs p.a. shall be paid minimum two interims of license fee in a year. The historical data shall be used for computing the estimated income for members.

- ii. **Radio Broadcast:** On monthly basis, subject to receipt of usage reports and collected revenues from broadcasters on a timely basis.

Notwithstanding the foregoing, licence fees payment may be delayed on account of non-receipt or partial receipt of payments and/or logs or due to contractual disputes with licencees. No interest or penalty or damage is payable for payments delayed beyond aforesaid due dates.

- 4. **Deductions:** From the licence fees received from the licencees (net of TDS suffered), administrative expenses, legal expenses, anti-piracy charges are deducted, on percentage basis. As far as practicable, such deduction may be identified separately for each stream (i.e. public performance and radio broadcasting). In the event expenses were not fully recouped from the payment of the relevant year, such un-recouped expense may be carried over and recovered from the payment of licence fees consideration for the subsequent year. In the event of temporary inability to distribute a part of the revenue or part of the collected amounts due to Court order, or litigation or government intervention or orders by authorised government agencies/institution, the same may be withheld and kept aside, till the litigation or intervention or order is resolved; the Board is empowered to adopt and apply any reasonable basis, at its sole discretion, in apportioning the burden of the un-distributable amount across the members.
- 5. Licence fees from radio broadcasters will be accounted, credited and paid only after receipt of full payments and complete and correct usage log reports from the licencees and due verification/scrutiny of the same. Usage log reports from such licencees are subject to scrutiny, cross-verification, validation, independent monitoring and/or audit by PPL. Licence fees payment to members is liable to be temporarily kept in abeyance in cases where only partial logs or partial

payments are received or if “on-account” payments are received from the Licencee without adequate data to apply the payment correctly i.e. to the correct invoice/debit note.

6. Computation methodologies in special cases:

- i. In case of fixed value or lump-sum value licences or settlements, the licence fees per track is to be computed on quarterly or monthly rests (or, alternately, the entire contract term, at the option of PPL), by dividing the lump-sum or fixed value or settlement amount for the quarter (or the contract term, as the case may be) by the total actual reported usage for that quarter (or the contract term, as the case may be) of all PPL members.
- ii. In the event of a lump-sum or fixed-value licence fee across multiple locations or services (eg multiple stations of a radio broadcaster), same can be allocated to individual location or service on reasonable basis, utilizing available data and market information.
- iii. In cases where the Licencee fails to provide the periodic usage log report or a report is found to be erroneous or incomplete or inconsistent or unreliable and is not rectified expeditiously by the Licencee or there are practical difficulties in precisely identifying the song to a member, PPL is at liberty to apply a suitable surrogate method, for that amount, on a case-to-case basis. Such basis of such schemes may include, but not restricted to, the number of songs owned /registered by the member, or licence fees earnings of member in that stream or in aggregate, or logs given by a similar licensee, etc.
- iv. In case of monies received not identifying a specific track or a specific label, or excess receipts, such amounts may be utilized /applied, for members benefit, towards recoupment or absorption of PPL costs in any stream, including public performance stream, while computing net distributable amount.

7. It is the sole responsibility of assignors/members to register their new songs, with full and correct particulars, duly supported by album inlays or covers, on a timely basis with PPL. Any omission or delay in this regard is at the consequence of the member.

8. Counter-claims and disputes on title: In the event of counter-claims or ownership / controllership disputes on a song or album or catalogue, whether involving judicial proceedings or not, the licence fees on the same is liable to be kept suspended or withheld, till the satisfactory resolution of the dispute upon production and examination of necessary documentary evidence of ownership of copyright. The decisions of PPL in such cases will be at its sole and exclusive discretion and binding on the members and claimants concerned. The member shall produce such documentary proofs, including agreements with film producers, artists, etc., as may be required by PPL or its lawyers from time to time. PPL may choose to take legal advice/opinion on the counter-claim; in which case, the counter-claimant shall be required to deposit in advance the full legal cost with PPL, failing which the counter-claim is liable not to be processed. PPL also may issue suitable “public notice” in newspapers, in the event of counter-claims. No interest is payable on suspended license fees. Members affirm that they shall not raise any claim or dispute on PPL, in respect of alleged, direct or indirect loss or loss of gains / profit attributable to the disputed titles.

9. Temporary suspension or withholding of payment:

- i. PPL may temporarily suspend payments from a member's account if he, at any time, withdraws or terminates or restricts or derogates exclusive assignment/transfer of his repertoire or in parallel exploits the same through third-parties, in a manner inconsistent with the agreement signed by him with PPL. No interest is payable on suspended licence fees.
- ii. Licence fees payments may be temporarily withheld, at discretion of PPL, till the Member executes any pending documentation or evidence related to membership or assigned works. No interest is payable on suspended licence fees.
- iii. In the event of any funds of the Company being un-available on account of any legal action or Court order, including for example provisional attachment of funds, or bank account freeze or attachment of funds by an authority or Court, the Company is entitled and empowered to delay and/or with-hold the distribution of licence fee to members to such extent, on a pro-rata basis to each member, out of his eligible licence fee as calculated. The basis, time-frame, formula, methodology and decisions adopted by the Board in this regard shall be final and binding on all members. Amounts so with-held or delayed can be released only upon release of the funds by the authority or Court concerned.

10. Verifications:

- i. While reasonable efforts, within available resources and within the time constraints, are made to validate or scrutinize the usage logs reports from licencees, PPL does not assume responsibility for errors at the source i.e. in the usage log reports submitted by the licencees, including errors, mis-spellings, etc. in identification and description of the song, album, label, code number, etc. Attempt will be made to resolve un-identified and mis-matched reported usages by applying best-fit criteria, but with no guarantee. It is the responsibility of member to declare and register the full metadata of his repertoire, on a timely basis with PPL.
- ii. Licence fees received against mis-matched songs, that could not be satisfactorily resolved, may be directly applied to recoup administrative and legal expenses or, alternately, paid on a reasonable surrogate basis.

11. Adjustments: PPL may adjust or deduct from any future payments to a member any past over-payments that have been made to that member. Over-payments might have occurred where a member supplied incorrect information or has incorrectly registered his songs or due to sale of audio catalogue, or due to clerical oversight/error, or dispute/counter-claim, etc. PPL may offset or reduce the licence fees payable to a member to the extent of dues or claims from the same member to PPL, in his capacity as a licencee or user or in any other manner whatsoever.

12. Mode of payment: Licence fees payments are made by crossed cheques or by RTGS, where RTGS details have been furnished by member to PPL. In the event any taxes or levies are applicable on licence fees distributed to member, same shall be borne by (or charged to) the member. Cheques

shall be in favour of the Member's name only; payment assignment or endorsement requests may not be entertained.

13. In the event of any variation, if any, between the basis and methodology as per this document and the methodology specifically agreed in the agreement with an individual member, the latter shall prevail.
14. **TDS procedures:** Licence fees payment will not be made to a member till he furnishes his income-tax PAN number and copy of PAN certificate. Certificates for tax deducted at Source (TDS) will be issued to the member quarterly. Any discrepancy, to be notified within 15 days of the receipt of the said certificate. If any member has obtained concessional/lower TDS certificate from the income tax department, the same will be applied on the next licence fees payment due after the receipt of the said certificate. The certificate will be applied for the period and amount for which it is issued, and only until the closure of books/audit of accounts of PPL. Thereafter, for any payment of licence fees for the prior period, normal TDS rate will prevail.
15. **Tax procedures:** GST or other tax payment will be made to a member on his furnishing valid tax invoice as prescribed by the tax authorities, within the statutorily prescribed time-limits and as per the statutory prescribed format. Invoices not statutorily compliant cannot be processed for payment of tax.
16. In the event of postal or courier return of any licence fees cheques issued by PPL to a member and dispatched to the last declared address, the same shall be claimable by the member within 3 (three) years. Licence fees lying unclaimed in credit of in-accessible ex-members may be transferred to a separate deposit account in bank.