

# Distribution Rules



União Brasileira de Compositores

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# COPYRIGHT DISTRIBUTION RULES

## Chapter I Introductory Provisions

**Article 1. Criteria.** The distribution of author's rights and neighboring rights collected by ECAD shall be made according to the criteria set out in these Rules.

**Sole paragraph** The distribution of the amounts collected shall be made whenever technically and economically feasible, after deducting the administrative fees for ECAD and the Societies, based on effectively identified protected musical performances, in accordance with their registration and distribution type specifications.

## Chapter II Registration

**Article 2 Preliminary Information-** ECAD shall keep records of copyright owners, musical works, versions, potpourri, phonograms and audiovisual works protected under the law, to facilitate the identification and proper distribution of the fees collected.

**§1** ECAD shall maintain a computerized system by means of which Societies shall make registrations either online or through the electronic importation of data, with an internal code being assigned to each registration.

**§2** Registration of right owners, musical works, versions, phonograms, foreign audiovisual works and all national films/animated cartoons will be made exclusively by the ECAD member Societies in the standard manner adopted by its General Assembly.

**§3** In the absence of these registrations, ECAD may create provisional registrations when public performances are captured. Provisional registrations shall remain pending until their identification is made permanent by the Societies.

**§4** For the purposes of these Rules,

### a) Owners mean:

1- **owner:** natural person or legal entity participating in the creation of a musical work and/or recording of a phonogram.

**2- Affiliated owner:** natural person or legal entity affiliated to or represented by an ECAD member Society.

**3- Affiliated owner without representation:** natural person or legal entity affiliated to a Society that is either extinct, inactive in ECAD or without representation.

**4- Owner with pending identification:** natural person or legal entity participating in the creation of a musical work and/or recording of a phonogram, not affiliated to any royalties collecting society.

**5- Author's rights owner:** natural person or legal entity holding the property rights to a musical work.

**Author's rights owners are organized under the following categories:**

- a) Author/ Composer;
- b) Publisher.

**6- Neighboring rights owners:** individual or legal entity which holds the property rights to the phonogram.

**Neighboring rights' owners are organized under the following categories:**

- a) Performer;
- b) Phonographic producer;
- c) Non-featured artist.

## **b) Protected Works**

**1- Musical work and/or dramatico-musical work:** creation of the mind with lyrics and music, or just music as its end result. The makeup of the registration of the musical work is described in **Article 5 of these Rules**.

**2- Version:** musical work derived from an original musical work. The makeup of the registration of the version is described in **Article 6 of these Rules**.

**3- Potpourri:** several musical works played in sequence forming a single musical performance. The makeup of the registration of the potpourri is described in **Article 7 of these Rules**.

**4- Phonogram:** fixation of the sounds of a musical performance. The makeup of the registration of the phonogram is described in **Article 8 of these Rules.**

**5- Audiovisual works:** fixation of image and sounds aimed at creating, through its reproduction, the impression of movement. The musical soundtrack included in the cue sheets of audiovisual works shall be used to enable the distribution of author's rights and neighboring rights to the respective owners. The makeup of the registration of the audiovisual work is described in **Article 9 of these Rules.**

**6- Registration with "pending identification":** provisional registration of owners, musical works, phonograms, potpourris, versions, and audiovisual works.

### c) Documentation

**1- Cue sheet:** Document listing the technical information of an audiovisual work (film, series, animated cartoon, soap opera and miniseries) and its musical soundtrack.

**2- ISRC (International Standard Recording Code):** Code used as basic identifier of each phonographic recording. It is an alphanumeric code containing four elements which represent the country, the owner of the recording, the year of the recording, and a sequential number.

**3- GRA:** Old register of recordings used to identify the owners of related rights.

**4- Label/Covers:** Material or graphic interface (on the vinyl record, and CD/DVD covers), containing information used to create a provisional registration of a phonogram, with the purpose of identifying and assigning credits to the owner (performer).

## Chapter III: Registration Set up

**Article 3: Information Role** - The ECAD records shall consist of data collected and organized along the following standards:

- a) Registration of the owner;
- b) Registration of the musical work and dramatico-musical work;
- c) Registration of the version;

- d) Registration of the potpourri;
- e) Registration of the phonogram;
- f) Registration of the audiovisual work.

**§1** When requested the Societies shall furnish ECAD with copies of the documents relating to the registrations mentioned in **items "a" to "f" of this article**.

**§2** In order to protect the rights of foreign right owners, the corresponding local Society shall be identified by means of a representation signed by the foreign Society filed with Ecad.

## Article 4: Right Owners Registration

The owners' registration shall comply with the following:

### I. Required data:

Owners	Individuals	Legal Entities
National	Name, CPF identification, date of birth, membership categories, municipality and state of the home address.	Corporate name, CNPJ taxpayer code, membership categories, municipality and state of the business address.
Foreign (author right)	Name, CAE/IPI code, date of birth and membership categories	Corporate name, CAE/IPI code and membership categories
Foreign (neighboring right)	Name, date of birth, nationality and membership categories	Corporate name, nationality and membership categories

### II. Changes and Consultations

- a) Societies may only change the registration data related to their own members in the information system;
- b) Societies may consult registration data for all owners, except for personal data, which can only be viewed and updated by the owner's Society;
- c) Societies may access all the payment reports of their owners available in the ECAD information system, including those for the periods in which they were affiliated to other Societies;
- d) In the event of death, the owner's Society shall update the registration data in the ECAD records by entering the date of death.

### III. Owner transfer

- a) If the owner requests a transfer, the Society to which the owner intends to transfer to shall formally notify his current Society, sending them a copy of the letter of resignation. ECAD shall respond to the request in compliance with the criteria set forth by internal procedure;
- b) The transfer of deceased owners shall be made upon presentation of recent documents supporting the execution of the will. ECAD shall respond to the request according to the criteria set forth by internal procedure. In case of disagreement, credits shall remain blocked until consensus is reached;
- c) Amounts credited on behalf of the transferring owner shall be transferred to the new Society. The previous Society's share shall be calculated in proportion to the date of the owner's transfer, according to the collection period.
- d) Any duly proven debts owed by the owner shall be deducted from his rights and forwarded to the previous Society at its request. While the debt persists, the creditor Society shall receive the owner's share percentage of his rights, as described below:
  - The following shall be considered proof of owner's debt: bank deposit receipt to the owner or transferee or receipt signed by the owner, his attorney or transferee.
  - The owner's current account statement with the Society is not deemed valid proof.

## Article 5: Registration of Musical Works and Dramatico-Musical Works

The registration of ownership of musical works and dramatico-musical works shall comply with the following rules:

### I- Required Data

- a) Title of the musical work;
- b) Subtitle of the musical work, if any;
- c) Names of the constituent owners, indicating their categories and subcategories;
- d) Share percentage held by each owner, totalling 100%;
- e) If there is a publisher or a subpublisher, the registration shall include date and duration of the publishing or sub-publishing contracts; representation or transfer of rights; and the relationship between the owners;
- f) Performance references, if any.

## II - Registration and Changes

- §1 The ECAD information system will reject registrations in which the total of the holders' share is not equal to 100% (one hundred percent).
- §2 Societies can register a musical work provided they have at least one member owner, except for works in the public domain.
- §3 The ECAD information system will assign the status of "Responsible for the information" to the Society that registered the musical work.
- §4 The Society responsible for the information of a musical work may change the registration data provided they have at least one member owner.
- §5 At the request of a Society and with the agreement of the other Societies involved, ECAD shall change the registration data in the following cases:
- a) When the responsible Society does not comply with the requirement described in **paragraph 4 of this article**;
  - b) When the Society is not "Responsible for the information".
- §6 An ISWC (International Standard Work Code) shall be assigned to all registrations of musical works that comply with the rules established by Cisac – International Confederation of Societies of Authors and Composers, as set forth by internal procedure.
- §7 When registering musical works that have a publisher and/or subpublisher, Societies shall use the "works link", if available, to group shared owners in order to allow the identification of each owner's publisher or subpublisher.
- §8 After the routine periodical updates of the information system, registered musical works with the same title, or subtitles classified as "alternative" and sharing at least one author in their registration shall be assigned the status of "duplicate".

## Article 6: Registration of Versions

**Article 6** Registration of a version of a musical work or dramatico-musical work shall comply with the following:

### I. Required Data:

- a) Title of the version;
- b) Title of the related original musical work;
- a) Names of the owners of the original musical work (author and

- publisher/subpublisher, if any);
- b) Name of the arranger and/or adapter.

## **II. Registration**

- a) The version shall be identified as a derived musical work;
- b) The version must be related to an original musical work that is not pending of identification;
- c) The registered version shall remain with its validation pending if the authors of the original musical work listed do not belong to the Society responsible for the registration;
- d) If the original musical work has the status of “duplicate” the version will be automatically blocked;
- e) If the author of a version has a publisher, said publisher shall not be listed in the registration of the version.

## **Article 7: Registration of Potpourri**

**Article 7** Registration of Potpourri shall comply with the following rules:

### **I. Required Data**

- a) Title of the Potpourri;
- b) Musical works that compose it;
- c) Performance references, if any.

### **II. Registration**

**§1** The registration of potpourri does not depend on the registration status of musical works contained in it.

**§2** An ISWC (International Standard Work Code) may be assigned to the potpourri registrations that comply with the rules established by Cisac – International Confederation of Societies of Authors and Composers.

## **Article 8 Registration of Phonograms**

**Article 8** Phonogram registration shall comply with the following:

### **I. Required Data**

- a) Reference to the musical work or potpourri;
- b) ISRC and/or GRA;
- c) Country of origin;

- d) Country of publication;
- e) Date of recording and emission;
- f) Date of release or publication;
- g) Proof of simultaneity (phonograms with simultaneous publication);
- h) Phonogram classification;
- i) Name of the group or band (collective), if any;
- j) Name and/or pseudonym of the performer(s);
- k) Name and/or pseudonym of the arrangers, vocalists, directors and non-featured artists, and their respective instruments, if any;
- l) Phonographic producer;
- m) Licensed phonographic producer, if any.

## II. Registration

**§1** The registration of phonograms must include at least one original or licensed phonographic producer affiliated to a Society.

**§2** Phonograms will be classified as local or foreign.

**§3** Foreign phonograms may be subdivided in two groups:

- a) Originally produced in a country signatory to the Rome Convention;
- b) Originally produced in a country not signatory to the Rome Convention.

Proof of simultaneity will be required for phonograms with simultaneous publication.

**§4** If the original foreign Phonographic Producer does not issue the ISRC and grants issuing rights to the licensed Phonographic Producer, the Brazilian ISRC may be used and the grantee required to produce proof as set forth in **item b) of paragraph 3 of this article**.

**§5** The phonographic producer issuing the ISRC shall be responsible for the accuracy of the data listed in the registration of the phonogram.

**§6** When registration is made online or through electronic data import by a Society to which the phonographic producer is not affiliated to, the phonogram registration shall be assigned the status of “pending validation” until it is validated by the phonographic producer’s Society.

**§7** Phonograms predating the creation of GRA or which are codified under this system must be registered by the Societies and validated by ECAD by means of a copy of the label or any other graphic material accompanying the recorded media.

**§8** In the event that the phonographic producer is extinct or unknown, or no ISRC or GRA has been assigned, the Society shall register the

phonogram under the name of those performers whose participation has been confirmed through a copy of the label, or any other material or graphic media. Besides the aforementioned documents, the Society shall submit to ECAD the **Performer Declaration of Phonogram Validation by Label** signed by at least one of its performers. The data listed in this registration shall be used in the distribution. The amounts due to the phonographic producers shall remain provisioned until the registration is complemented or associated to the phonogram registration.

**§9** Information on ISRC or GRA will not be required to appear in the phonogram registrations by label, however the registration validation and the distribution of credits shall be based on the following criteria:

- a) Registration by label shall not become effective until the supporting documentation is submitted to ECAD;
- b) The distribution of credits related to the registration by label shall include performers participating in the phonogram which have been identified by their Society;
- c) The phonographic producer's rights shall remain provisioned until the registration is complemented or associated to the records of the corresponding phonogram;
- d) The accrual of non-featured artists' rights shall be contingent to the inclusion of this category in the registration by label.

**§10** After the routine periodical update of the information system, the status of "duplicate" will be assigned to registered phonograms with: the same title, performer and date of recording; at least one identical phonographic producer; ISRC or GRA code entered in only one of the registrations, or both registrations without codes.

**§11** If a registration shows a collective name (group, band, duo, trio, etc.) as performer, the responsible Society shall change it, listing the individual data of all the owners of rights participating in the local phonogram.

**§12** When several right owners have been registered collectively, the Societies shall enter their individual data.

**§13** When a phonogram is registered, validated or altered in the information system by the phonographic producer's Society, said Society shall be assigned the status of "Responsible for registration".

### **III – Database share**

**§1** The holders of neighboring rights shall have the following share in the

phonogram registration:

- a) 41,70% for the Performer category;
- b) 41,70% for the Phonographic Producer category;
- c) 16,60% for the Non-featured artist category.

**§2** The information system shall allocate the percentages as described in **paragraph §1 of this clause** automatically, except when the Society allocates manually the shares of the Performer and Phonographic Producer.

**§3** When the group members appoint a representative he alone shall receive the remuneration generated by the phonogram. **§4** When there are no owners of rights among arrangers, conductors, regents, vocalists or non-featured artists listed in the phonogram registration, rights shall be allocated 50% to the Performer category and 50% to the Phonographic Producer category.

**§5** When more than one orchestrator or arranger, or more than one conductor or regent have been listed in the phonogram registration, ECAD shall consider only one share which shall be divided among the participants of the aforementioned categories.

**§6** A non-featured artist playing several percussion instruments shall be identified with one single share. The same applies to a rights owner playing several instruments by means of a keyboard.

## Article 9: Registration of Audiovisual Works

**Article 9** The registration of audiovisual works shall be made by ECAD and the Societies and shall comply with the following:

### I. Required Data

- a) Original title of the audiovisual work;
- b) Local title for foreign audiovisual works, if any;
- c) Director, producer, distributor, category, medium for which it was originally produced;
- d) Year of production, country of origin and length of the audiovisual work;
- e) List of the musical works including: title, classification by type of use and length of each musical performance;
- f) Total duration of the music in the audiovisual work;
- g) Main performers (actors) of the audiovisual work, if any;
- h) Episode number (soap operas);

- i) Number and/or title of the original and translated episode (series, mini-series and animated cartoon).

## **II. Registration and Changes**

- §1** ECAD shall make the released registration of local soap operas and mini-series based on programming schedules furnished by the responsible television stations and through listening audits.
- §2** Societies shall register all foreign audiovisuals, local films and animated cartoons based on the data listed in their cue sheets. In the case of local films, the audiovisual producer's original cue sheet shall be furnished, and in specific cases a standard cue sheet shall be issued to be filled out and signed by the author, together with a Term of Responsibility to his Society.
- §3** The registration of audiovisual works listed in **paragraph 2 - item II of this article** shall remain as "Pending of validation" and shall be validated by all the Societies, in compliance with the terms and conditions established in the internal procedure.
- §4** Societies shall provide the relevant cue sheet when requesting a change to an audiovisual registration.
- §5** Changes to audiovisual registrations shall only be made with the agreement of all the Societies, in compliance with the terms and conditions established in the internal procedures. Upon expiration of the term, in the absence of consensus the audiovisual work shall be blocked until the conflict is resolved.
- §6** Foreign cue sheets furnished as documentary evidence must be the originals from the foreign Societies published by CISNET-AVI, considering the principles of territoriality, or the originals sent by publishers and authors.

## **Chapter IV: Provisions Common to All Registered Data**

**Article 10** If any doubt exists concerning the contents of the registered data, all payments of author rights and/or neighboring rights shall be blocked by ECAD. Additionally, ECAD shall request the Societies to provide documentary evidence.

**Article 11** All and any data information altering one or more of the registered data may require a new provision of data from the Society concerned.

**Article 12** Requests for data unavailable in the information system, in the form of reports or online queries shall only be responded by ECAD if the requesting Society has at least one member participating in the requested data and with the consensus of all the Societies involved.

**Article 13** Conflicting information shall occur in the event of specific discrepancies in the registration of owners of rights, works, versions, phonograms, potpourri and audiovisual works. Rules defining such conflicts and their resolution are set out in internal procedures.

**Article 14** ECAD shall conduct the electronic transfer of catalogs of works and phonograms in compliance with the internal procedures.

**Article 15** Registrations complying with the requirements set out in articles **4 to 9 of these Rules** will be included in the information system as "released" for revenue distribution, provided their status is not "duplicated", "blocked" or "pending validation".

## **Chapter V: Distribution of Authors' and Neighboring Rights**

**Article 16** The distribution of authors' rights and neighboring rights collected by ECAD shall be made directly or indirectly according to the established proportion of **2/3 for the authors and 1/3 for the neighboring rights owners**.

**§1** 16.60% of the 1/3 proportion for the related parties shall be allocated to the Non-featured artist amount.

**§2** Amounts collected from the use of "live music" shall consider exclusively the author's share, and shall not be split proportionately as described in the opening paragraph of this article.

**§3** Payment of the distributed amounts shall only be effected if the registration status of the musical works, versions, potpourri, phonograms, audiovisual works and owners of rights concerned is "released". Otherwise, credits shall remain protected in accordance with **Article 51 of these Rules**.

## **Chapter VI Direct Distribution**

**Article 17** Direct distribution shall consider show (live concerts) and motion picture (cinema) categories, and consists on the allocation of the net

revenues collected for the musical works performed.

**Sole paragraph** For each show, the amount to be distributed shall be divided by the number of musical performances described in the musical script. Concerning motion pictures, the amount for each film shall be divided by the total duration of the film music, in accordance with general characteristics listed in the audiovisual work registration.

### **Distribution for Shows**

**Article 18** For the “Show” category, distribution will be made monthly and will take into account the musical performances used in:

- a) Musical shows;
- b) Circus shows;
- c) Shows of various types (theater, ballet, varieties and similar);
- d) Carnival shows;
- e) Regional celebrations.

**§1** To enable direct distribution the registration of musical performances must be included in the musical script and/or recording.

**§2** The ECAD Collection Office shall forward the musical script and/or recording to the Distribution Office, which shall be responsible for identifying the repertoire performed.

**§3** Shows shall be recorded by ECAD whenever possible and feasible, in accordance with internal procedure.

**§4** If the show has been recorded by ECAD, this recording shall replace the musical script.

**§5** In events with more than one performer and/or multiple stages, the authors' share of the amount collected shall be prorated among the works performed, regardless of their length, and shall take into account the weight percentages defined by the General Assembly and listed in the table below:

Events with more than one performer or multiple stages	Single show	Multiple Stages		
		Main Stage	Secondary Stage	Other Stages
Authors' Share	100%	80%	15%	5%
Opening Show	20%	10%	10%	10%

Main Show	80%	90%	90%	90%
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§6 Performances listed in the musical scripts and/or recordings shall be included within a time limit of sixty days beginning on the date of receipt of the documentation forwarded by the Collections Office. If there are inconsistencies, the documents shall be returned.

§7 The share of neighboring rights for shows with mechanical music shall be added monthly to the amounts of items of regionalized radio stations and broadcast television, in the proportion of 95% and 5% respectively, and shall be included in the indirect quarterly distribution, except for collections of shows with live DJs, whose share of neighboring rights shall be added to the amounts of items of Entertainment Houses.

### **Distribution of Rights from Motion Picture Works**

**Article 19** Distribution of rights from exploitation of "Motion Picture Works" shall be made every six months and shall include the musical performances of film screenings based on a detailed listing of accounts/documents paid and released for distribution, as follows:

Distribution	Release period
March	<b>SEPTEMBER</b> of the previous year to <b>FEBRUARY</b> of the current year
September	<b>MARCH</b> of the current year to <b>AUGUST</b> of next year

§1 The Collections Office shall individualize the amount collected for each audiovisual work based on the box office data provided by the movie theater owners.

§2 Where an audiovisual work is not listed in the information system, the Collections Office shall request the Distribution Office to file a registration classified as "verification pending".

§3 The ECAD Distribution Office shall send the Societies a monthly list of audiovisual works classified as "pending verification" in order to file its registration as set out in **Article 9 of these Rules**.

§4 Points assigned to author's and neighboring rights shall be calculated

dividing the amount by quantity/length of the musical performances, taking into account the weight percentage by type of utilization as per table in **Article 42 of these Rules**.

**§5** After the initial processing described in **paragraph 4 of this article**, points assigned to neighboring rights shall be validated as half or less the points assigned to author's rights. If this limit is exceeded, the ceiling shall be considered, so that points assigned to neighboring rights shall be half the points assigned to author's rights and the exceeding amount shall be transferred following the criteria below:

- a) 3/4 of the amount shall be added proportionately to the neighboring amounts of the categories Regionalized Radio Stations + General Rights in the current quarterly distribution, or in the next one;
- b) 1/4 of the amount shall remain provisioned, to be added to the neighboring rights amounts related to the Extraordinary Radio distribution.

## Chapter VII Indirect Distribution

**Article 20** Indirect distribution shall be made based on the statistical sampling criterion of the use of protected local and foreign musical works and phonograms.

**Sole paragraph** ECAD shall establish sampling criteria to determine the estimated use of musical works and phonograms nationwide.

**Article 21** Statistical sampling means an amount of musical performances representative of all musical performances/phonograms performed, and sufficient to establish proportional sharing of indirect distribution.

**§1** The sampling system shall consider only identifiable musical works and phonograms.

**§2** When there is more than one phonogram of the same work, same classification and same performer and identification of the performed phonogram is not possible, the system shall take into account the data related to the most recent phonogram.

**§3** The following are excluded from the sampling collection:

- a) Musical performances with purposes of commercial or institutional advertising and promotion of a product, company, event, communication medium, program, political party or profit-driven/non-profit institution, whether or not originally created for those purposes, such as jingles,

- vignettes, spots, station logo or similar;
- b) Musical performances performed in programs aired compulsorily by law, such as news reports, official messages, educational and political programs;
- c) Musical works listed in the programming grids sent by broadcast television and cable television stations which are not included in the recording analysis (listening);
- d) Sound effects.

**Article 22** Indirect distribution shall include the following frequencies and categories:

- a) Quarterly: radio + general rights; broadcast television + general rights; live music; function halls; nightclubs, and non-featured artist;
- b) Semi-annual: cable television and digital media;
- c) Annual: Carnival; June Festivities; MTG (Movimento Tradicionalista Gaúcho), extra radio AM/FM and extra non-featured artist.

## Chapter VIII Quarterly Indirect Distribution

**Article 23** Quarterly indirect distribution shall be as follows:

Order	Musical Performance Quarter	Distribution	Non-featured artist Distribution
1 <sup>st</sup>	January, February and March	July	August
2 <sup>nd</sup>	April, May and June	October	November
3 <sup>rd</sup>	July, August and September	January of following year	February of following year
4 <sup>th</sup>	October, November and December	April of following year	May of following year

**§1** The amounts for each quarter shall be transferred to the Societies without exception up to one hundred and twenty days after its closing, with interest. Royalties for non-featured artists shall be transferred within one hundred and fifty days of the quarterly closing.

**§2** In the months where there is no quarterly distribution, ECAD shall transfer to the Societies advance payments on the indirect distribution foreseen in this article. The amount of the advance payments shall be calculated over 1/3 of the total amounts transferred in the previous quarterly distribution, and shall be deducted from the following quarterly distribution.

**§3** Payments to non-featured artists shall comply with the rules established in **Article 29 of these Rules.**

**§4** Fees collected from general users (background music) that have not been allocated to a specific category shall be assigned to the AM/FM radio and broadcast television as follows:

- a) 95% of the total collected from general users of each region of Brazil shall be added to the amounts of regionalized radio stations;
- b) 5% shall be added prorata to the amounts distributed to each broadcast television station based on the total amount collected from the sector.

### **Radio + General Rights Distribution**

**Article 24** Category Radio + General Rights shall be distributed by geographic region (Center West, Northeast, North, Southeast and South). The amount shall be composed by the total collected from radio stations plus 95% of the total collected from the users of general rights of mechanical music (background music).

**§1** Musical performances shall be identified through recorded samplings made by ECAD, information contained in the programming sheets and electronic files provided by the stations in compliance with internal procedures.

**§2** Only radio stations in good standing shall be part of the sampling survey in a rotation system. The sampling makeup shall comply with the following criteria:

- a) Musical performances from radio stations included in the recording process shall take precedence over the information in the programming schedules furnished by the stations. For radio stations located in towns not covered by the recording process, musical performances listed in the programming schedules shall be included;
- b) The schedule for the extraction of the recordings of the radio stations' audio shall be prepared monthly, taking into account the stations' good standing in the previous month;
- c) In order to use the programming schedules of radio stations that are not recorded, confirmation of good standing in the month the musical performance was executed is required.
- d) The fees collected from each state in the relevant quarter shall be taken into account to determine the number of musical performances to be included in the sampling;
- e) The sampling shall take into account the identified musical performances of the radio broadcasters which have been executed

over a twenty-four hour daily period. This period may be altered by the General Assembly as a transitional and exceptional measure.

§3 In compliance with internal procedure, radio stations' programming schedules presenting distortions/alterations shall not be included in the sampling.

### **Broadcast Television + General Rights Distribution**

**Article 25** The amount to be distributed to broadcast television and general rights categories shall be composed by the amount collected from the stations, plus 5% of the total collected from general rights users, prorated in proportion to the amount of each station compared with the total amount collected from broadcast television.

§1 Distribution of broadcast television and general rights shall be based on the programming schedules provided by the stations and the recordings made by ECAD, taking into account the frequency, duration and specific classification of each musical performance.

§2 Amounts collected from broadcast television stations broadcasting in national networks shall be distributed on an individual basis, according to the music programming provided by the stations and their affiliates, and to the evaluation of the listening audit carried out by ECAD, taking into account the total duration of the music.

§3 Where programming schedules provided by stations do not list the duration of the musical performances, the following criteria shall be employed:

- a) 50% of the amount shall be allocated to musical performances in soap operas, mini-series, series, animated cartoons and films, classified as audiovisual television;
- b) 50% of the amount shall be allocated to musical performances in other programs, such as studio programs, talk shows, news, comedy shows, variety and other, classified as schedule television.

§4 Amounts collected from the remaining small stations shall be distributed under the category "Other TV stations". The amount shall be consolidated and prorated as set out on **paragraph 3 of this article** and the musical performances included in one single list.

§5 Where the specific programming characteristics of a given station distorts/alters the implementation of the distribution criteria, the amount collected from that station may be distributed individually, taking into

account the programming schedules furnished to ECAD, pursuant to the General Assembly's evaluation.

**§6** Distribution of rights related to musical performances in audiovisual works (short and feature films, animated cartoons, series, mini-series and soap operas) shall always take into account their length and classification by type of use.

**§7** In order to validate the programs displayed on broadcast television stations, ECAD may consult the program listings presented by the stations in the media.

**§8** Only musical performances included in the programs informed by the stations in their program grids shall be considered.

**§9** Recordings made by ECAD may be used both to validate the airing of the program listed in the program grids and to do the listening audit on the musical performances. If any discrepancies arise during this process, the results of the listening audit shall prevail.

**§10** When stations do not list the classification by type of use and/or duration of musical performance and ECAD does not do the listening audit, the following criteria shall apply:

- a) Classification by type of use shall be deemed BK (Background);
- b) Duration of the musical performance shall be deemed 10 seconds.

**§11** "Authors" and "neighboring rights" points shall be calculated dividing the amount by the quantity/duration of the musical performances, taking into account the weight of classification by type of use set out in the table in **Article 42 of these Rules**.

**§12** After the initial processing described in **paragraph 10 of this article**, the neighboring rights' point shall be validated taking into account that it cannot exceed one half of the authors rights' point. Should neighboring rights' point exceed this ceiling, it shall be set at the ceiling value of one half of the authors' rights point and the amount in excess shall be allocated following the criteria set out below:

- a) 3/4 of the amount shall be added proportionately to the neighboring rights amounts of regionalized radio stations and general rights' categories, within the current quarterly distribution or in the next;
- b) 1/4 of the amount shall remain provisioned, be added later to the neighboring rights amount of the extraordinary radio distribution.

§13 The sampling of neighboring rights shall be composed of all the protected national or foreign phonograms used in the television programs.

§14 The musical programming sent to ECAD by the stations after the deadline shall be set aside for the next distribution of the category. Deadline for submission of late listings and/or information shall be up to three years.

### **Distribution of Live Music**

**Article 26** Revenue from general users of live music shall be distributed according to the amount collected monthly from establishments such as bars, restaurants, hotels, clubs etc., and shall be allocated only to author's rights.

§1 For the sampling, live musical performances in the establishments shall be recorded based on recording schedules prepared in accordance with internal procedures.

§2 The makeup of the live music recording schedules shall take into account the users in good standing in the month immediately preceding that of the preparation of the schedule, according to specifications established in internal procedures.

### **Function Halls Rights Distribution**

**Article 27** Amounts from function hall users shall be distributed according to the monthly collections from establishments that host parties and celebrations and shall be allocated to authors and neighboring rights.

§1 For the sampling, musical performances shall be recorded based on the schedule of music recording for establishments that host parties and celebrations.

§2 The makeup of these schedules of recordings of function halls shall take into account the users in good standing in the month immediately preceding that of the preparation of the schedule.

### **Night Clubs Rights Distribution**

**Article 28** Amounts from night club users shall be distributed according to the monthly collection from establishments that use mechanical music, with or without dancing, such as health clubs, associations, night clubs, restaurants, social clubs, hotels, and shall be allocated to author's and neighboring rights.

§1 For the sampling, musical performances shall be recorded based on music recordings of night clubs under the following categories: discotheques, bars, pubs, dancing clubs.

§2 The composition of such music recordings of night clubs shall include/benefit users in good standing on the month immediately preceding that of the recordings list preparation.

### **Non-featured artist Rights Distribution**

**Article 29** Concerning the “Non-featured artist” category (instrument players, vocalists, arrangers, and conductors) distribution shall be made quarterly, but paid out on the following month.

§1 Such rights distribution shall include the national phonograms and phonograms pending of identification performed more frequently in each quarter, with 2.600 being from the radio list (from the five geographical regions) and 600 from broadcast television lists (300 from schedule TV and 300 from TV audiovisual).

§2 Amounts related to all musical performances captured from phonograms with pending identification shall remain provisioned for future payment, as set out in **Article 52 of these Rules**.

§3 For the purpose of distribution of phonograms fixed in or after October of 1998, vocalists that are also listed as performers in the same phonogram register shall not be considered non-featured artists.

§4 For the purpose of distribution of phonograms fixed in or after February of 1999, holders listed as performers in the same phonogram register shall not be considered non-featured artists.

## **Chapter IX Semi-annual Indirect Distribution**

**Article 30** Semi-annual indirect distributions shall adhere to the following schedule:

Musical Performances Period	Distribution	
	Digital Media	Cable TV
January through June	December	February of the following year

July through December	June of the following year	August of the following year
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### **Cable Television (Pay TV)**

**Article 31** The amounts for distribution for the Cable Television categories shall be composed by the amounts collected by the respective networks and shall be prorated among the following groups: Music, Alternative, Audiovisual, Journalism/Sports and Variety, according to the nature of the main programming.

**§1** 10% of the total amount for distribution shall be allocated to the Music group (music-only TV stations). The resulting amount shall be allocated to the Extraordinary Radio distribution, in accordance with **Article 36 of these Rules**.

**§2** The remaining 90% of the funds, considered as 100% for the purpose of this new allocation, shall be divided among the other groups as follows:

Share	Group	Main Type of Programming
45%	Audiovisual Group	Films, animated cartoons, soap operas, series and sitcoms
35%	Variety Group	Musicals, shows, live audience programs, and miscellaneous programs
10%	Journalism/Sports Group	Journalism, sports, documentaries and interviews
10%	Alternative Group	Open TV and Cable TV stations with alternative programming

**§3** Based on each group's share, an additional division shall be made considering the programming characteristics (audiovisual and/or schedule), as follows:

Group	Defined Share	New Percentages	
		Audiovisual	Schedule
Audiovisual	45%	95%	5%
Variety	35%	30%	70%
Journalism/Sports	10%	30%	70%
Alternative	10%	50%	50%

- §4 The amount to be distributed to each station shall be calculated by dividing the total fees for the corresponding group by the number of participating stations.
- §5 For the sampling of Schedule TV programming, stations broadcasting in Brazil shall be recorded on a rotation basis.
- §6 The sampling of Audiovisual TV programming from stations broadcasting in Brazil shall use the program grids divulged by the Cable TV networks through specific media.
- §7 The following features of the musical performances identified shall be taken into account: frequency, length and classification by type of use as defined in the table contained in **Article 42 of these Rules**.
- §8 The composition of the “audiovisual” and “schedule” lists in the Alternative group shall be based on the same lists of musical performances distributed by Broadcast TV. Information related to the musical performances from other stations airing similar alternative programs may be included.
- §9 Distribution of authors’ rights:
- a) **Stations broadcasting in Brazil** – Distribution shall be based on the musical performances included in the Cable TV lists;
  - b) **Stations broadcasting from abroad** - 80% of the funds allocated to these stations shall be transferred to the local Society representing the Society of the country where the transmission was originated, and 20% shall be allocated proportionately to the Brazilian sub-publishers participating in the samplings of Cable TV categories for the period;
  - c) When two or more foreign Societies are represented, the funds allocated to the station shall be divided as agreed by the representative Societies concerned;
  - d) The funds allocated to stations broadcasting from abroad, or with production in foreign countries, that are not represented by local Societies; stations without identification by the country of transmission, and stations broadcasting in Brazil that have not provided programming to ECAD shall be added to the amount to be distributed to the stations of the corresponding Cable TV groups. In the following cases, funds allocated shall be added to the amount to be distributed to the stations of the corresponding Cable TV groups: stations broadcasting from foreign countries or with production in foreign countries which are not represented

by local Societies; stations without identification by the country of transmission; and stations broadcasting in Brazil that have not provided programming to ECAD.

**§10** Distribution of neighboring rights:

- a) Stations broadcasting in Brazil** – Distribution shall be based on the musical performances included in the Cable TV lists;
- b) Stations broadcasting from abroad** – Distribution shall comply with the following criteria:

41.70% related to the performers' share shall be distributed to the local Society representing the Society of the country from which the station transmits;

11.70% related to the phonographic producers' share shall be distributed to the local Society representing the Society of the country from which the station transmits;

30% shall be distributed proportionately to the local phonographic producers participating in the Cable TV category sampling for the period;

16,60 % shall be added to the funds to be distributed to the Non-featured artist category.

- c) In the case of countries in which two or more Societies represent owners in the same category, funds shall be allocated in the manner agreed by the Societies concerned;
- d) If there is no representation contract with the Society of the country of transmission or production station for the Performer category, the amount to be distributed shall be added to the amount to be allotted to the local stations of the corresponding cable TV groups;
- e) If there is no representation contract with the Society of the country of transmission or production station for the Phonographic Producer category, the amount to be distributed shall be added to the 30% mentioned in **item "b" of this paragraph** to benefit local phonographic producers participating in the cable TV category sampling for the period;
- f) Funds allocated to stations without an identification from the country of transmission or production and to stations broadcasting in Brazil which have not provided programming to ECAD shall be added to the amount to be distributed to local stations of the corresponding cable TV groups.

**§11** Where the identification from the country of the broadcasting station is unavailable, information from the country of production shall be used for

the purpose of distribution.

## Chapter X Annual Indirect Distribution

**Article 32** Annual indirect distributions shall adhere to the following schedule:

Categories	Period of Musical Performance	Distribution
Carnival	Carnival days and pre- and post-Carnival Balls	May
June Festivities	June Festivity events (June through August)	September
MTG	July of the previous year to June of current year	November
Radio Extra	July of previous year to June of current year	December
Non-featured artist Extra	July of previous year to June of current year	December

### Carnival Distribution

**Article 33** The distribution of Carnival authors' rights and neighboring rights shall be based on the sampling collected at the Carnival events (balls, bandstands, parades, etc.) through the recording of musical performances, and shall comply with criteria established by normative regulation.

**§1** The recording schedules of musical performances shall be based on the previous year's collections by location.

**§2** 85% of funds collected from New Year's Eve balls shall be added to the distribution of Carnival royalties and 15% shall be allocated to the Radio + General Rights and Broadcast TV + General Rights categories, with 95% allocated to the former category and 5% to the latter.

**§3** Performances of "mechanical" music captured through the recording of Carnival events shall be included in the samplings for the distribution of neighboring rights.

### June Festivities Distribution

**Article 34** The distribution of authors' rights and neighboring rights of June Festivities shall be based on samplings composed of the recordings of musical performances of the June Festivities (parties, kermesses, etc.)

complemented, if necessary, by the use of music scripts and shall comply with the criteria established in normative regulation.

**§1** The schedule of recordings for sampling shall be based on the amounts collected from each user, by region.

**§2** “Mechanical” music performances captured through recordings made in the June Festivities events shall be included in the samplings for the distribution of neighboring rights.

### **MTG (Gaucho Traditionalist Movement) Distribution**

**Article 35** Fees collected from the Centros Tradicionalistas Gaúchos (CTGs) shall be allocated to the MTG (Movimento Tradicionalista Gaúcho) category, in accordance with the fees collected monthly from CTGs and shall be distributed among the authors’ rights owners.

**Sole Paragraph** The sampling shall consist of the recordings of musical performances at CTGs as specified in normative regulation.

### **Extraordinary Radio Distribution**

**Article 36** "Extraordinary Radio" distribution shall comprise author’s and neighboring rights and shall be based on the fees from agreements signed with radio stations for the period between November of the previous year and October of the current year, and on fees from the Cable TV – Music Group category related to the distributions of the respective year.

**§1** The amount pertaining to the provisioning of  $\frac{1}{4}$  of Broadcast TV neighboring rights for the relevant year shall be added to the neighboring rights’ amount for this category as set forth in **Article 25 - §12 item b of these Rules**.

**§2** The sampling shall be the same used for the four radio distributions for the corresponding year; however, only musical performances of works/phonograms with “released” registration status at the time of processing shall be included. Amounts shall be provisioned for owners whose registrations have been blocked or have pending issues.

### **Extra – Non-featured artist Distribution**

**Article 37** The funds for the “Extraordinary Distribution - Non-featured artist” correspond to 16,60% of neighboring rights from the agreements signed with radio stations for the period between November of the previous year and October of the current year, and eventual amounts from

complementary distributions.

**Sole paragraph** The sampling shall be the same used for the four non-featured artist distributions of the corresponding year, taking into account only released phonograms that contain the identification of musicians participating at the time of processing. Amounts shall be provisioned for rights owners whose registrations have been blocked or have pending issues.

## Chapter XI Digital Media Distribution

**Article 38** Funds from internet music users (Digital Media) shall be distributed to the following categories: Internet Show, Internet simulcasting, Internet Youtube and Internet Other. The procedures for the composition of the digital media lists and samplings are set forth in normative regulation.

### I Internet Show

The distribution of funds pertaining to shows with simultaneous broadcasting or retransmission via internet shall be based on the musical scripts sent by the Collection Department.

**Sole paragraph** The distribution of Internet Show category amounts relating to events broadcast simultaneously via internet shall be made monthly; the distribution of amounts relating to retransmitted shows shall be semi-annual.

### II Internet Simulcasting

The samplings of this category shall include radio and television musical performances broadcast simultaneously via internet.

### III Internet Youtube

The samplings shall include top rated and most viewed videos in Brazil. After reviewing, ECAD shall only consider for inclusion in the list videos containing musical performances, and shall establish a cut-off line based on number of hits, with the last phonogram being allocated the sum of R\$1,00 (one Brazilian real) in royalties. Phonograms yielding less than R\$1,00 shall be ignored.

### IV Internet Other

The samplings shall include the list of phonograms used for site background music, webcasting, podcasting and ringtones.

## Chapter XII Provisions Applying to all Distributions

**Article 39** For monitoring purposes, ECAD shall prepare a monthly distribution schedule, setting deadlines for the submission of documents, processing and payments.

**Article 40** Musical performances captured and identified by ECAD shall be included in the corresponding lists for processing and payment in the specific categories.

**Article 41** Monies accrued for future distribution shall be adjusted by the same interest rates obtained by ECAD.

**Article 42** For processing purposes, musical performances in the Cinema, Broadcast TV and CableTV shall be classified by type of use as per the following schedule:

Classification by Type of Use		Weight	Applicable Rights
Background	BK	1/12	Author and Neighboring
Other works	DM	2/12	Author and Neighboring
Performance	PE	6/12	Author
Opening theme	TA	12/12	Author and Neighboring
Closing theme	TE	12/12	Author and Neighboring
Segment theme	TB	4/12	Author and Neighboring
Character theme	TP	8/12	Author and Neighboring

**Sole Paragraph** Concepts and procedures regarding the use of classifications by type of use of musical performances are defined in normative regulation.

**Article 43** At the time of the distribution of all categories ECAD shall make a provision for the musical performances pending of identification included in the corresponding lists.

**Sole Paragraph** At the time of distribution of Broadcast TV and Cable TV categories no amount shall be provisioned for audiovisual works captured with “pending of identification” status. Once the registrations have been completed, the corresponding musical performances shall be included in the next distribution list for each category.

**Article 44** In order to acknowledge the musical performances of Other TV

Stations received after the deadline, 30% of the funds shall be set aside as a reserve.

**Article 45** When required by contracts and/or agreements with music users or their representatives, new distribution criteria may be created and shall become part of these Rules once approved by the General Assembly.

**Article 46** Funds from court orders or special agreements may be distributed through the corresponding categories by means of complementary or extraordinary distributions, if so decided by the General Assembly.

**Article 47** Rules and procedures regarding the freezing of funds, whether court ordered or not, charges from other Societies, posting errors or any other adjustments, whether debits or credits, concerning distributions made, their form of request, required documentation and form of allocation are defined by specific rules, already approved or to be eventually approved by the General Assembly.

**Article 48** In the event of omission of information regarding the participation of non-featured artists or performers by the phonographic producer and its subsequent inclusion on the registration, ECAD shall, upon request, make the corresponding credit adjustment to the new right holders, deducting its value from the phonographic producer.

**Article 49** ECAD is prohibited from divulging beforehand the schedules for extracting radio station audios and the schedules for recording Cable TV, Live Music, Function Halls, Night Clubs, CTGs, Carnival events and June Festivities, or any other schedules that may make up the audit sample.

**Sole Paragraph** After the closing of the distribution, information related to the corresponding schedules shall be made available to the Societies.

**Article 50** Amounts received from abroad by local Societies related to authors' rights and neighboring rights on cable retransmission may be transferred to ECAD. The criteria for the distribution of these amounts shall be established by the General Assembly.

## Chapter XIII Protected Credits

**Article 51** Credits related to unidentified musical performances captured shall remain protected until identification is possible. The same applies to unidentified owners.

- §1** Payment of credits for unidentified musical performances with no assigned value shall be made based on a fixed points schedule and shall comply with the following:
- a) 10% of the total funds to be distributed shall be allocated to musical performances with identification pending originating from Radio, Live Music and MTG categories, as a reserve. If the 10% is insufficient for all payments the balance shall be deducted from the next distribution;
  - b) In order to include musical performances originating from all the other categories, credits shall be released for payment and deducted from the next distribution.
- §2** Only musical performances containing at least a minimum of data for the identification of owners shall be included in the lists of protected credits, as follows:
- a) Author's rights: title of the work, name of the performer or a reference to the author;
  - b) Neighboring rights – title of the work and performer of the phonogram.
- I – Neighboring rights on instrumental phonograms captured through recordings made by ECAD with no reference to performer(s) shall be reserved in the list of protected credits by author identification.
- §3** Insufficient registration data for the author rights owners shall not cause the withholding of credits due to neighboring rights owners and vice versa.
- §4** ECAD shall make available on its information system the list of musical works, phonograms and rights owners with protected credits, updated at every batch processing for each category in accordance with the distribution schedule.
- §5** When either musical performances or owners remain unidentified for five months after the distribution process, 80% of the protected credits shall be added to the next distribution of the same categories, and 20% shall remain accrued as a technical reserve for future payments. If the technical reserve is insufficient for the payments the balance shall be deducted from the amounts available for the subsequent distributions. Protected credits for the Show, Cinema and Cable TV categories are excluded from this rule.
- §6** Protected credits shall prescribe after three years as of the 1st of January of the year following the payment of the royalties. The unpaid credits shall be reallocated to their original categories or the most similar category. Credits protected until December 2011 shall prescribe after five years in

accordance with the previous edition of these Rules.

**Article 52** In the distribution of the Non-featured artist category the fees for the musical performances of phonograms with identification pending shall be provisioned for payment after identification.

**§1** In case of registration of a phonogram without non-featured artist, or a foreign phonogram, the amount provisioned for this category shall be reallocated to the original category.

## **Chapter XIV Proof of Payment**

**Article 53** All credits paid by ECAD shall be listed in individual and collective reports furnished exclusively to member Societies, unless requested by the competent authorities. The reports shall list the amount paid, owner identity, work/phonogram and all other relevant and available data concerning the payments.

## **Chapter XV Closing Provisions**

**Article 54** These Rules for the Distribution of Copyright updates and modifies the Rules that became effective on February 10, 2010, and their subsequent modifications, and are to be registered at the proper Registry.

**Article 55** These Rules for the Distribution of Copyright supersede all Rules and decisions previously adopted by the General Assembly of ECAD regarding the distribution of royalties.

**Article 56** Cases not provided for in these Rules shall be examined by the General Assembly.

**Article 57** These Rules for the Distribution of Copyright were approved by the accredited representatives of the Societies present at the 405th meeting of the General Assembly, on the 13th of December of 2010, who initialled the minutes of the meeting in witness

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