

## DISTRIBUTION REGULATIONS

The President of Nuovo IMAIE,  
seen art. 7 of Law No. 100, June 29, 2010;

seen articles 71 septies, 71 octies, 73, 73 bis, 80, 82, 83, 84, 180 bis of Law No. 633, April 22, 1941 (from now on LDA);

seen the Legislative decree of March 15 2017 n. 35;

seen the Statute of Nuovo IMAIE;

considering, in particular, that by effect of art. 82 of LDA *“for the application of the foregoing provisions the definition of performers shall include: a) persons who, in the performance of any dramatic, literary or musical work or composition, play significant artistic part, even if in a supporting role; b) the conductors of an orchestra or choir; c) the orchestras or choirs, provided that the orchestral or choral part of the performance has artistic value in itself and is not a mere accompaniment”*;

considering that it appears appropriate and consistent with the Law, when distributing, to adopt criteria that take into account the role played by the artist within the work, distinguishing the so-called primary artist, meaning that he assumes such artistic importance as to make it indispensable in the use of the work, from the secondary artist, meaning that he plays a role that characterizes the work itself and is at the same time of considerable artistic importance and not of simple accompaniment, in accordance with the provisions of art. 82 law 633/41;

considering, therefore, that performing artists that took part in a cinematographic or assimilated work or the recording on phonograms of a musical or literary work that do not belong to the abovementioned categories of artists are not entitled to the remuneration of rights referred to in articles 71 septies, 71 octies, 73, 73 bis, 80, 84, 180bis LDA;

That being stated, adopts the following Distribution Regulations

### **Section A**

#### **Audiovisual area Rights distribution**

##### **Art.1**

#### **Identification and publishing of lists of remuneration Right holding performers' in used works**

Nuovo IMAIE identifies performing artists holding rights to remuneration in compliance with the regulations in force named in the premise, according to the following criteria:

- a) is considered a primary performer an artist who plays the part of a main role in the plot;
- b) is considered a secondary performer an artist who plays the part of an individual whose contribution in the development of the plot is relevant as regards to the plot

itself and whose role is, in any case, specifically characterized in the context of the story.

Seen the coordinating function of dubbers' artistic performances enacted by the Dubbing Director, it is recognized to the latter, using a part of the total quota assigned to dubbers who gave mandate to NUOVOIMAIE, the role of primary performer; in case of more than one Director for the same work, the Directors will split the remuneration assigned to the role in equal parts. In case the Dubbing Director is also a primary or secondary dubber in a cinematographic or similar work, the extra quota relative to the role performed will be recognized. The assignment to the Dubbing Director of a part of the remuneration due to dubbers, without modification to articles 80, 82 of L. 633/41, does not imply the recognition as right holding artist. Therefore, in case the Dubbing Director did not perform as an actor or dubber primary or secondary, he will be allowed to give mandate to the Institute.

The results of the identification will be made known through the integration of the lists of used works available on the website of the Institute and data relative to the identified primary and secondary performers.

Thus, the data as published will constitute the "Video Repertoire" of Nuovo IMAIE.

## **Art.2 Video Repertoire**

The Video Repertoire of the works produced and published. In the Video Repertoire, published on the website of the Institute, the works are catalogued by title listing for each work the primary and secondary performing artists (distinct) and the dubbing directors, as provided by users to our offices or identified by the latter, so as to enable the interested performing artists and dubbing directors to point out any neglected participation as a right holder, or a qualification (primary or secondary) not corresponding to the role actually held and thus requesting a correction.

## **Art. 3 Revision and objection to the remuneration right holding performers' classification in the used works listed in the "Video Repertoire of the Revised Works".**

The performer that on the basis of the above mentioned criteria thinks to have been unfairly excluded from the list of the right holders or to have been not correctly classified with respect to his role, may claim, according to the procedures established by the Institute, the revision of the identification of the right holders for this work. The classification revision must be carried out by the Nuovo IMAIE offices. The revision of the works, except in the case of documented technical and preliminary requirements, must be carried out within 45 days from receipt of the request. In the event that, for the purposes of the revision, it is necessary to acquire from the artists or third parties information relating to the work and / or the role played, the days used until such acquisition will not be counted in the calculation of the 45 days. The revision must be communicated to the claiming artist and the updated data must be published on the Institute's website. The works subject to revision will be included in the "Video Repertoire of the Revised Works" of Nuovo IMAIE

In the event that the offices do not identify the necessary elements to accept the artist's request, the artist may in any case request a further revision subject to instance of objection.

The performers who have played a role in a work that is part of the "Video Repertoire of the Revised Works", who according to the above mentioned criteria believe they have

been unfairly excluded from the list of right holders or that were given an incorrect classification of the their role, can make an objection for such exclusion or classification, providing materials to support their request, according to the procedures provided by the Institute. The dispute will be submitted to the guarantee committee appointed by the Board of Directors, after consulting the Video Advisory Committee. The guarantee committee will avail itself of the offices cooperation for the purpose of preparing the materials needed for the examination. The objection, except in the case of documented technical and preliminary requirements, must be carried out and resolved within 45 days of receipt of the request. In the event that, for the purposes of the revision, it is necessary to acquire from the artist or from third parties information relating to the work and / or the role played the days used until such acquisition will not be counted in the calculation of the 45 days The result of the revision must be communicated to the claiming artist and the updated data must be published on the Institute's website.

Nuovo IMAIE publishes, on its website, the procedures and forms related to the revision of the work as a result of an examination or contestation request.

The artist can lodge a complaint with the Board of Arbitrators against the decision of the guarantee committee.

#### **Art. 4**

#### **Economic effects of the revision and objection**

The performers, that means the rightholders, of the audiovisual area can make a request for revision or objection, referred to the above Art. 3, for the entire period of protection of the work (50 years from the first publication) .

However, the effects related to the positive results for the payment of the amounts will have effect:

for all the rights that Nuovo IMAIE has yet to collect: from the date of submission of the request for revision and / or objection;

for the rights already collected by Nuovo IMAIE: within the terms established by the following art. 18.

#### **Art. 5**

#### **Calculating remuneration due for the cinematographic or similar works used.**

The remunerations collected by Nuovo IMAIE from users, reduced at source of a share in order to cover the management costs of Nuovo IMAIE, quantified yearly when formulating the budget based on the trend management costs, will be distributed to each cinematographic or similar work:

a) for television broadcasting (art. 84, n. 2 LDA), according to the following parameters:

1. broadcasting channel,
2. time of broadcasting,
3. duration

b) for rental, according to the number of rentals made of supports reproducing the works and of the price of the same (art. 80, n. 2 letter f) LDA);

c) for further uses, in line with the type of use, according to the income obtained by the marketing of the work (art. 84 n. 3 LDA).

Remunerations paid by user that are not obliged to determine the remuneration due on an analytical basis but as a lump sum will be either distributed or assigned to:

- a) Distributed pro ratio on the remunerations distributed for the same period of competence for art 84 LDA, if remunerations in this category are equal to or over 20% of those paid out for the same period on an analytical basis
- b) Assigned to balance the deduction for reserve fund as provided for in article 6.

#### **Art. 6 Risks Guarantee Fund**

Nuovoimaie will reserve an amount equal to 25% (twentyfivepercent) of the managed amounts for the video sector, calculated on the average invoiced amount of the last three years, net of management fees. The Reserve will be used for the payment of outstanding remunerations in favor of the performers included later among the rightholders after the needed procedure has been applied for further in-depth analysis or of the eventual objection for the exclusion or a change in the classification as primary or secondary performer in a cinematographic or similar work. When approving the annual budget, the Assembly of Delegates, on proposal by the Board of Directors and heard the Video Consulting Committee, will determine the percentage to be applied to the remunerations received in the previous years and to be distributed in order to replenish the Reserve Fund up to the level provided for in the first paragraph.

#### **Art. 7 Distribution among right holders of remuneration of rights deriving from the use of cinematographic or assimilated works.**

The remuneration assigned to a given work on the basis of the data provided by users, net of the reserve in favor of the Risk Guarantee Fund, will be distributed among the individual right holders guaranteeing to the individual primary artist a share double of the one due to the individual secondary artist.

In the case of a protected work in which the rightholding performer was dubbed, a 25% share is reserved in favor of the dubber; in cases where the dubbing was done by more than one dubber, the share will be divided in equal parts between all dubbers.

The remunerations accrued for the use of cinematographic works belonging to non-EU countries or in which the principle of so-called material reciprocity is not effective and those accrued for cinematographic and similar works of animation remain for the exclusive benefit of the dubbers. These remunerations:

- in contracts with users with a lump sum payment, will be quantified exactly,
- in contracts with users with a "consumption" payment system (i.e., by the minute with broadcasters or proportional to the sale with those who commercialize supports containing works) will be equal to the percentage fixed on the contract with the user.

#### **Art. 8 Video Private copying**

Except for the obligation to destine sums ex art. 71 octies LDA for activities and aims referred to in art. 7, paragraph 2 of law n. 93, February 5, 1992, the sums collected by Nuovo IMAIE according to the above art. 71 octies LDA, reduced at source of a share destined to cover management costs of the institute quantified when formulating the

budget based on the trend of management costs, will be distributed among rightholders ex. articles 80, 84 and 180 bis LDA of the reference year, in proportion to what each one had accrued in compliance with the above norms, according to the reports held by the Institute and in agreement with what disciplined by the above articles 1 and 7.

## **Section B**

### **Rights distribution of the Music area**

#### **Art. 9**

#### **Identification and publishing of lists of remuneration Right holding performers' in used phonograms**

Nuovo IMAIE identifies performing artists holding rights to remuneration in compliance with the regulations in force named in the premise, according to the following criteria:

a) is considered a primary performer an artist, or an artistic group, whose name is indicated on the cover of the support containing the phonogram, or which, in any case, is indicated as such by the phonogram producer, even if mentioned together with other main artists (featuring), apart from the proper control, on the basis of the phonogram or music score;

b) is considered a secondary performer an artist whose participation in the work is of relevant artistic importance so as to be expressly mentioned in the credits given in the phonographic support package, or which, in any case, is indicated as such by the producer, apart from the proper control, on the basis of the phonogram or music score;

c) an orchestra or a choir endowed of legal personality is considered secondary performer of phonograms in which the part performed by the orchestra is not of a mere accompaniment but is a main part in the composition (symphonic and orchestral music, operas, sound tracks, orchestral arrangements of pop music) for which the Orchestra or Choir Conductor is considered the primary performer; are not considered right holders the individual members of an Orchestra or Choir whose performance is directed by an Orchestra or Choir Conductor; for phonograms where the orchestra is of mere accompaniment together with other instrumental parts, the Orchestra or Choir Conductor is considered a secondary performer, while the orchestra group or choir is not considered right holder;

d) are considered primary performers soloists of orchestras or choirs who perform the relative parts, even under the direction of an Orchestra Conductor, in phonograms where the title recalls the importance of the composition (compositions for a solo instrument and orchestra); are considered as well secondary performers the first parts of the orchestra and musicians of 'basso continuo' to harpsichord; moreover for particular types of staff and/or composition, where individual members of an orchestra or choir performed under a conductor, had parts of specific importance, it will be given the secondary role by effect of a specific declaration by the producer or, if lacking, by the orchestra or choir Conductor. Members of small and medium groups who perform scores without parts double track and without conduction, are all considered primary; in the case in which a member is specifically indicated as a Concert Master (or similar information), such a member is considered primary, while the other members are considered secondary; this criterion is also applied to the music groups where in the group name the role of leadership of a soloist is also made clear. In the case of a chamber orchestra without conductor, the concert master (first violin) is considered primary artist, while the other members are considered secondary;

e) are considered primary performers of phonograms that reproduce operas singers who perform main roles, while are considered secondary those singers who perform minor roles and the Choir, according to the criteria described in letter b).

The results of these identification activities will be published through the integration of the lists of works used available on the website of the Institute with the data relative to the primary and secondary identified performers.

The published data will then form the "Audio Repertoire" of Nuovo IMAIE.

#### **Art.10 Audio Repertoire**

The Audio Repertoire of published phonograms is established.

In the repertoire, published on the institute's website, the phonograms will be catalogued distinctly by producer, title and author and with the information, for each one of them, of the primary and secondary performing artists (distinctly indicated), as provided by producers to our offices or identified by the offices, so as to allow interested performing artists to point out any missing information on their participation as rightholders, or a role (primary or secondary) not corresponding to the actual role they had, and thus requesting a correction

#### **Art. 11 Revision and objection to the remuneration right holding performers' classification in the used works listed in the "Audio Repertoire of the Revised Works".**

The performer that on the basis of the above mentioned criteria thinks to have been unfairly excluded from the list of the right holders or to have been not correctly classified with respect to his role, may claim, according to the procedures established by the Institute, the revision of the identification of the right holders for this work. The classification revision must be carried out by the Nuovo IMAIE offices. The revision of the works, except in the case of documented technical and preliminary requirements, must be carried out within 45 days from receipt of the request. In the event that, for the purposes of the revision, it is necessary to acquire from the artists or third parties information relating to the work and / or the role played, the days used until such acquisition will not be counted in the calculation of the 45 days. The revision must be communicated to the claiming artist and the updated data must be published on the Institute's website. The works subject to revision will be included in the "Audio Repertoire of the Revised Works" of Nuovo IMAIE

In the event that the offices do not identify the necessary elements to accept the artist's request, the artist may in any case request a further revision subject to instance of objection.

The performers who have played a role in a work that is part of the "Audio Repertoire of the Revised Works", who according to the above mentioned criteria believe they have been unfairly excluded from the list of right holders or that were given an incorrect classification of their role, can make an objection for such exclusion or classification, providing materials to support their request, according to the procedures provided by the Institute. The dispute will be submitted to the guarantee committee appointed by the Board of Directors, after consulting the Video Advisory Committee. The guarantee committee will avail itself of the offices cooperation for the purpose of preparing the materials needed for the examination. The objection, except in the case of documented technical and preliminary requirements, must be carried out and resolved within 45 days of receipt of the request. In the event that, for the purposes of the revision, it is necessary to acquire from the artist or from third parties information relating to the work and / or the role played the days used until such acquisition will

not be counted in the calculation of the 45 days The result of the revision must be communicated to the claiming artist and the updated data must be published on the Institute's website.

Nuovo IMAIE publishes, on its website, the procedures and forms related to the revision of the work as a result of an examination or contestation request.

The artist can lodge a complaint with the Board of Arbitrators against the decision of the guarantee committee.

#### **Art. 12**

#### **Economic effects of the revision and objection**

The performers, that means the rightholders, of the audio area can make a request for revision or objection, referred to the above Art. 11, for the entire period of protection of the work (70 years from the first publication) .

However, the effects related to the positive results for the payment of the amounts will have effect:

for all the rights that Nuovo IMAIE has yet to collect: from the date of submission of the request for revision and / or objection;

for the rights already collected by Nuovo IMAIE: within the terms established by the following art. 18.

#### **Art. 13**

#### **Calculating remuneration due for ex articles 73 and 73-bis LDA**

The remuneration collected by the Institute for the use of phonograms will be reduced at source by a share in order to cover management costs of the institute quantified yearly when formulating the budget based on the trend management costs.

The distribution of the amounts paid by the producers of phonograms (or their agents) for the calendar year will be carried out on the basis of the documentation given, agreed upon with the users or the phonogram producers (or their mandatee) and formalized in the agreements between them and Nuovo IMAIE; wherever possible said documentation must reflect the actual use of phonograms by the users, according to what reported by them to the phonogram producers; said distribution will produce the amount accrued for each individual phonogram relative to the reported period by a certain user.

The remuneration will be assigned to each phonogram:

a) wherever there are analytical utilization statements available for the radio and television broadcasting, according to the number and length of the runs taking into account the amount paid by each user;

b) for further utilizations or wherever there are no analytical utilization statements available for the radio and television broadcasting, on the basis of similar data including, as a non exhaustive example surveys carried out by third parties, samples, market data provided by SIAE or by qualified companies detecting the programs relating to the user or category of user, applying in this case the same criteria provided for in letters a),b),c) and d) of Article 16.

#### **Art. 14**

#### **Risks Guarantee Fund**

Nuovoimaie will reserve an amount equal to 25% (twentyfivepercent) of the managed amounts for the audio sector, calculated on the average invoiced amount of the last three years, net of management fees. The Reserve will be used for the payment of outstanding remunerations in favor of the performers included later among the rightholders after the needed procedure has been applied for further in-depth analysis or of the eventual objection for the exclusion or a change in the classification as primary or secondary performer in phonogram. When approving the annual budget, the Assembly of Delegates, on proposal by the Board of Directors and heard the Video Consulting Committee, will determine the percentage to be applied to the remunerations received in the previous years and to be distributed in order to replenish the Reserve Fund up to the level provided for in the first paragraph.

#### **Art. 15**

#### **Distribution among right holders of remuneration of rights deriving from the use of phonograms.**

The single amount accrued for the exploitation of a certain phonogram for a certain period as paid by a certain producer or agent, net of reserve in favour of the Risks Guarantee Fund, is finally distributed among the right holders guaranteeing to single primary performers a share double the one assigned to single secondary performers, considering to that end right holder members of groups as single primary performers.

In cases in which the remuneration calculated for secondary performers is over 50% of the remuneration accrued for the phonogram, said sum is divided in 50% to be distributed among all primary performers (considering to that end the right holder group members as single primary performers) and 50% to be distributed among all secondary performers.

#### **Art. 16**

#### **Audio Private copy**

The amounts collected by Nuovo IMAIE according to the recalled art. 71 septies LDA, reduced at source of a share destined to cover management costs of the institute quantified yearly when formulating the budget based on the trend of management costs, will be distributed among rightholders on the basis of the DRF data provided by S.I.A.E., in compliance with what regulated by articles 8 and 13, in proportion to the sales data of phonographic supports put on sale (for general industry contracts) or of printed phonographic supports (for contracts work by work) in the reference year, (therefore excluding complimentary copies) or on similar data deemed suitable to correctly represent the hypotheses of number of copies made for phonogram, identified by the Board of Directors after hearing the Audio Advisory Committee on the basis of the following criteria:

- a) On the basis of DRF data, the average number of audio tracks (or music recordings) on each support published in the year of competence
- b) For each support a coefficient is calculated:
  1. For those supports with a number of tracks equal to or lower than the average calculated in point a) above, the support coefficient is equal to the number of tracks of the support times the number of copies published of each support (SIAE license seal);
  2. For those supports with a number of tracks higher than the average calculated in point a) above, the support coefficient is equal to the average

- number of tracks times the number of copies published of each support (SIAE license seal);
- c) Therefore the “Audio point” is calculated as the ratio between the total amounts in distribution for the year of competence and the sum of the coefficients of all the supports published in the same year of competence as above determined.
  - d) Lastly, amounts assigned to each track (or music recording) are calculated multiplying the “Audio point” for the coefficient of each support divided by the number of tracks of the same support.

## **Section C**

### **Validity of the Regulations, distribution activities**

#### **Art. 17**

#### **Validity of this Regulation**

Except for the distributions already made by Nuovo IMAIE pursuant to the Distribution Rules (from now on “First Distribution Rules”) approved by the President on 11 February 2011, subject to the positive opinion of the Advisory Committee pursuant to art. 35 of the Statute in force at that time as well as by the Supervising Authorities referred to in Article 7 of Law no. 100/10 made on 2 November 2011, this Regulation applies to all the distributions made after its approval, with the sole exception of those referring to the remunerations accrued per competence before the period of implementation of the effects of the so-called liberalization of neighbouring rights and, therefore:

- a) for the audio sector: the remunerations referred to in articles 73 and 73 bis of the LDA, accrued for the period prior to March 1, 2013 and those pursuant to art. LDA 71 septies accrued prior to January 1, 2012;
- b) for the video sector: the fees referred to in Articles 80 and 84 LDA accrued per competence prior to November 1, 2013 and those pursuant to art. Lg 71 octies accrued per competence prior to January 1, 2012.

With regard to the remunerations accrued before the period referred to in letters a) and b), the aforementioned First Distribution Regulations shall apply. The remunerations referred to in art. 180 bis LDA will follow the same principle as above.

#### **Art. 18**

#### **Distribution activity**

Unless otherwise provided by the Board of Directors with prior approval of the Assembly of Delegates, NuovoiMAIE distributes the remunerations to rightholders four times a year, distinctly, two for audio and two for audiovisual. In any case, the distribution of the remunerations to rightholders takes place in accordance with the terms set out in art. 17 of legislative decree 35 of 2017 (within nine months from the end of the calendar year in which remunerations have been collected) and having given notice to the rightholders,

NuovoiMAIE observes the provisions of Articles 17, 18 and 19 of the aforementioned legislative decree 35 of 2017 for the identification of rightholders, for the qualification of non-distributable amounts, for the identification of the prescription period to claim remunerations, and the allocation of remunerations to cultural and educational social activities.

For the effect of the above:

- a) by December 31st of each calendar year, the Institute communicates to its members the Distribution Schedule for the following year and publishes the same on its website;
- b) in each quarter, or half-year per area, the amounts previously collected are distributed, the necessary reporting of which has been provided at least three months before the distribution;
- c) the activity envisaged in the distribution calendar therefore provides the individual communication of the remuneration accrued by each rightholder in the aforementioned terms;
- d) in relation to the further identification activities of rightsholders Nuovo IMAIE provides, if there are no justified and objective impediments, all the information on the works and their uses for which the rightsholders can not be identified, no later than nine months from the end of the calendar year in which the remunerations have been collected. In particular, it communicates, also through the publication on the website and / or on the portal, to the rights holders or to the subjects representing the rightsholders, including the collective societies or the independent management bodies with which representation agreements have been executed, the information related to the distribution of rights including the title of the work, the name of the rightsholders, the name of the producer / distributor and any other relevant or available information that contributes to the correct identification of the rightholders;
- e) after fulfilling said obligations, the identification activity related to the distribution rights is to be considered exhausted 3 years after the end of the calendar year in which the the rights have been collected, and any amounts due to rightholders that have not been found will be declared not distributable;
- f) the holders of the identified rights will still be able to collect the amounts individually accrued within the four-year limitation terms starting nine months following the end of the calendar year in which the same rights have been collected or in the following different term in which Nuovo IMAIE - for objective reasons relating in particular to the obligations of communication by users, the identification of rights or rightsholders or the attribution of works and other materials protected, - distributes the related remunerations to the rightholders in compliance with the combined provisions of Articles 19 and 17 of the legislative decree n. 35 of 2017

This regulation is valid from July 21<sup>st</sup> 2022