



PICSEL DISTRIBUTION POLICY

INTRODUCTION

PICSEL is a not-for-profit company limited by guarantee and operates as a Collective Management Organisation (CMO) sometimes referred to as a Collecting Society.

GENERAL DISTRIBUTION POLICY PRINCIPLES

The PICSEL Board, working with the Distribution Committee, is responsible for the formulation and implementation of the distribution policy and is required to ensure that the policy is fair, transparent and cost effective. It will regularly review the policy in response to:

- Any changes in the terms of the licences
- Any change in the availability of data that has the potential to impact upon a distribution
- Member dissatisfaction with current policy

The purpose of this policy document is to outline how PICSEL will distribute licensing revenue available for distribution.

PICSEL's distribution principles are outlined as:

- Management fees are decided by the members of a CMO in a General Assembly to be held at least once a year as part of its AGM;
- The management fees and deductions are agreed by the General Assembly of members and provided to the mandated rights holder prior to payment of rights revenue;
- The General Assembly annually determines and agrees PICSEL's general policy on distribution.

To qualify, rights holders must provide a mandate¹ and ensure that an uninterrupted chain of rights exists. A rights holder is as described in the UK Collective Management of Copyright (EU Directive) Regulations 2016 – i.e.

Any person or entity, other than a CMO², that:

- Holds a copyright or related right, or
- Under an agreement for the exploitation of rights or by law is entitled to a share in the rights revenue.

PICSEL Ltd
Picture Industry Collecting Society for Effective Licensing
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¹Mandate: http://www.picssel.org.uk/wp-content/uploads/2019/07/PICSEL-Mandate-Electronic-Form-_2019.pdf

²Article 3 (c): <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0026&from=EN>

Non-PICSEL members who mandate their rights to the scheme will be treated on the same non-discriminatory basis as mandated PICSEL members.

PICSEL reserves the right to verify and authenticate any claim and refuse a claim if the qualification criteria are not deemed to have been met.

For each distribution PICSEL will:

- Calculate the total distribution revenue collected for the licensing period covered by the distribution;
- Calculate the revenue to be distributed in accordance with instructions from the PICSEL Board.

PICSEL will make payments to all rights holders directly unless instructed otherwise.

RIGHTS REVENUE COLLECTED FROM CLA & PLS

The general principle governing distribution of rights revenue from the CLA and PLS follows that allocation of revenue to rights holders should be made on the basis of a combination of matched and unmatched³ data. Whilst robust matched data is in its infancy, the Board can opt to stagger the introduction of the matched data into the distribution protocol. It is expected that the matched data will become sufficiently robust over time to be used to inform the distribution. The target is for 40% of the revenue distribution to be based on matched usage data in the sixth year. This however may be dependent on the robustness of the data collected by the licensing bodies.

DISTRIBUTION UNDER MATCHED & UNMATCHED DATA MODELS

Collection of Data:

Each license year, the Copyright Licensing Agency (CLA) will select a representative sample of schools, businesses and institutions to take part in a survey to collect usage data comprising of the material copied over the course of a defined period. Each body is required, if requested, to provide usage data under the terms of their license.

Prior to the reporting term, the CLA will brief the selected bodies on how to complete the survey and provide relevant materials for the purpose of collecting usage data.

PICSEL reserves the right to request evidence of licensing by a claimant and to verify and authenticate any information provided; to refuse membership to the scheme if the qualification criteria are not deemed to have been met; and, to charge an administration fee of 5% of their distributable revenue.

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³ *Matched Data relates to data (such as ISBNs, ISSNs and URLs) collected by both PICSEL and CLA and matched accordingly; Unmatched Data relates to UK NTS (non-title specific) published works (such as books, magazines, journals and websites).*

Analysis of Matched Data:

CLA will then assess usage data in the survey provided by the selected bodies, collating them together into one data usage report in order to identify the work and, where applicable, the publication it appears in and the page number.

After each usage report has been analysed PICSEL will:

- Compile a single data usage set per license year comprising of all the data usage reports submitted;
- Calculate for each unique work appearing in the data usage set the total number of points;
- Calculate the total distributable revenue collected for the licensing period covered by the distribution;
- Calculate the revenue to be distributed referencing the Matched and Unmatched data allocation in accordance with instructions from the PICSEL Board;
- Revenue shall follow rights and revenue allocated to a title will go to that title;
- Divide the total unmatched revenue by the number of points to obtain a “point value”;
- Allocate revenue to each claim using the formula: number of points x point value.

PICSEL will:

- Divide the allocated revenue between the interested rights holders according to their claim;
- In the absence of a claim contact all identified interested rights holders and request instructions. In the case of disputes, hold the money in suspense until such time as the dispute is resolved.

RIGHTS REVENUE COLLECTED FROM OTHER SOURCES

From time to time PICSEL will collect rights revenue from other source, such as ERA and other Rights Revenue Organisations (RROs). The same principles of calculating rights revenue, to be distributed referencing matched and unmatched data allocation where applicable and in accordance with instruction from the Board, and agreed annually in the General Assembly, will be applied using the same principles as rights revenue collected from the CLA and PLS. Any significant differences will be reported in the Annual Transparency Report (ATR) published each year.

ALLOCATION OF LICENSE REVENUE

This will be calculated on an annual basis with the distribution of revenue made to rights holders before 31 December. As the scheme is in its infancy, it will take time for rights holders to adapt their data collection for claims. For this reason, PICSEL has opted to stagger the introduction of the scheme and will use the following allocation models:

- The PICSEL Board will monitor the usage data collected and have the discretion to portion the distribution on either the Unmatched Data Model or the Matched Data Model or a combination of both;
- It is expected that the data usage set will become sufficiently robust over time, possibly after three annual reporting cycles.

DISTRIBUTION STATEMENTS & PAYMENT

For each distribution PICSEL will:

- Apply the amount calculated to the rights holder's account;
- Prepare a distribution statement showing the total amount to be distributed to each individual;
- Make payment by electronic transfer before 31 December, providing the minimum payable threshold has accrued to a rights holder's account.

PAYMENT TRANSPARENCY

- Information on management fees and deductions can be found in the Annual Transparency Report (ATR) published each year. The first PICSEL ATR will cover activity in 2016.
- PICSEL endeavours to regularly, diligently and accurately distribute and pay amounts due to rights holders, as soon as possible, but no later than 9 months after the end of its financial year [Reg 12. (1&2)];
- Category of rights managed, type of use and the period covered will be supplied to each rights holder claimant [Reg 17. (2)];
- Records will be kept on membership, types of licenses, use of works to ensure distributions are provided as accurately as possible (under current data protection regulations). As PICSEL works with other CMOs who issue licenses covering artistic works, information on the types of licenses depends on the information provided by these CMOs;
- If there are objective reasons* for a delay in payments to PICSEL's mandated rights holders, this will be reported in the ATR.

*[*Objective reasons such as problems matching information of works with rights holder claimants; and disputes over rights ownership, or similar issues requiring further verification]*

LOCATION OF RIGHTS HOLDERS & UNDISTRIBUTABLE RIGHTS REVENUE

In the case of:

1. Unidentified works
2. Unidentified rights holder
3. Rights holders who have not provided a mandate
4. Rights holders who have not provided payment details

PICSEL shall work with other CMOs to identify and pay rights holders whilst holding any revenue in a suspense account.

- PICSEL takes all necessary measures to identify, locate and inform rights holders to who revenue is due [Reg 12. (1)]. PICSEL will also endeavour to distribute all rights revenue income it receives, less administration fees, to its mandated rights holders.
- Amounts due to rights holders, which cannot be distributed will be kept in separate accounts [Reg 12. (6)]. Disclosure of any such amounts that are deemed undistributable or non-distributable will be reported in the ATR.

- Rights revenue becomes non-distributable if after three years after the end of the financial year in which the rights revenue was collected, if the rights holder isn't identified or cannot be found, the General Assembly will decide how the non-distributable amounts will be used for the benefit of the mandated rights holders.
- PICSEL has a strict policy of non-discrimination to ensure all its mandated rights holders are treated fairly and equally in relation to distribution of collected rights revenue.

In the case of disputes or the failure of the interested parties to respond, hold the money in a suspense account until such time as a resolution is reached.

The minimum amount payable will be determined from time to time by the Board.

Suspense accounts should not be allowed to build up. The period for which royalties are suspended should be short (it is suggested that 12 months should be the maximum however the period will be set by the Board from time to time). Because of the "opt-out" nature of the scheme the point value of any unidentified uses should be recorded and in the event of any subsequent claims that point value should be used to make distribution to the claimant from the current distribution.

ADMINISTRATIVE COSTS AND DISTRIBUTABLE REVENUE CALCULATION

The PICSEL Board closely monitors PICSEL's administrative costs. Every effort is made to ensure efficiency in order to maximise distributable income. The General Assembly will agree the annual percentage administration fee.

As a not-for-profit organisation run by and for the members PICSEL will always work to keep costs to a minimum and has proposed a 15% administrative charge for 2017.

PICSEL is responsible for the governance and distribution. Direct costs incurred by PICSEL include fees payable to partners for the services they provide to PICSEL.

Distributable revenue available to rights holders is calculated by deducting PICSEL's administrative costs together with any direct costs from the gross license fees collected. Costs will be reported in PICSEL's annual accounts available to its members.

QUALITY ASSURANCE & AUDITS

PICSEL applies an external audit to its accounts on an annual basis in accordance with UK regulations. An independent auditing firm in receipt of the collection of data from rights holders checks the information supplied has been accurately accounted for. They also examine the calculation of distributable amounts.

From time to time we may request members who are obliged to share payments with other rights holders to provide details of shared payments. These will be conducted under strict confidentiality and data protection regulations.

[Subject to change, correct as of 18th July 2017]