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**THE RULEBOOK ON
DISTRIBUTION OF ROYALTIES**

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**THE ORGANIZATION FOR PROTECTION
OF FILM PRODUCERS' RIGHTS**

“A-PRAVA MONTENEGRO“

According to Article 14. of the Statute of the NGO Organization for Protection of Film Producers' Rights in Montenegro "A-prava Montenegro" (hereinafter referred to as the Organization), the Assembly of the Organization at its session held on 25th of March, 2016 in Podgorica, adopted the Rulebook on Distribution of Royalties.

THE RULEBOOK ON DISTRIBUTION OF ROYALTIES

GENERAL PROVISIONS

Article 1.

The Rulebook on Distribution of Royalties (hereinafter: the Rulebook) shall determine the system and the basic principles of distribution of royalties of the Organization for Protection of Film Producers' Rights "A-prava Montenegro" (hereinafter: the Organization), collected from beneficiaries in Montenegro, for the use of the audiovisual works from the repertoire of the Organization that protects rights of the right holders.

Article 2.

The Organization is a non-profit non-governmental organization for collective administration of film producers' rights (producers of videograms) on audiovisual works, which on its own behalf and on the account of its members shall realize mentioned rights.

The Organization may provide the collective administration of rights, solely in achieving interests of its members in accordance with the public interest defined by the Law on Copyright and Related Rights ("Official Gazette of Montenegro" 37/11, hereinafter: the Law).

Article 3.

With the permit from The Intellectual Property Office, the Organization shall acquire the power to collectively realize property rights of its members as follows:

1. The cable retransmission of the object of protection except for broadcasting organizations in their own production, regardless of whether it is in relation to their own rights or the rights acquired from the other holder;
2. Renting;
3. The right to royalty for reproduction in private and other internal purposes

The Holders of Rights

Article 4.

The members of the Organization shall be film producers and other holders of rights of the audiovisual work.

The Organization shall protect domestic and foreign holders of rights.

Article 5.

Pursuant to the Law, the Organization shall have the authority to exercise the rights of all holders of rights regarding the object of the protection in carrying out of its activities.

The holder of rights who decides to realize his/her rights individually, he/she shall be obliged to inform the Organization in writing, about such decision.

Article 6.

To the holders of rights represented by the Organization according to the Agency Agreement, the protection of rights may be provided in the territory of the other country ,by licensing the protection to the organization which practices collective administration of rights in that territory.

The conclusion of bilateral agreements with other related collective organizations shall be the responsibility of the Organization, under the Law, and agreements will

be concluded as the final results of negotiations being conducted between the two of organizations.

The Film Production

Article 7.

The Contract on Film Production, according to the Law, shall regulate mutual rights and obligations between the film producer, co-author of an audiovisual work and authors of contributions, as well as among the authors themselves.

When The Contract on Film Production is concluded it shall consider that co-authors of an audiovisual work have assigned their property and other rights of the audiovisual work to the film producer exclusively and limitlessly, regarding its sections, its translations, its audiovisual adaptations, and photographs made in connection with this audiovisual work, if the contract does not provide differently. (the Law, Article 106).

The Assignment of Rights to the Organization

Article 8.

Pursuant to the Agency Agreement, the holders of rights or the members, shall assign their rights to the Organization, which on its own behalf and on the account of its members shall realize the rights of film producers under Article 3. of this Rulebook.

Article 9.

For the duration of the Agency Agreement, the holder of rights may not individually realize his/her rights under Article 3. of this Rulebook.

THE REGISTRATION OF WORKS

Article 10.

The members of the Organization are required to register their audiovisual works on which they claim their rights from the domain of film production, in the prescribed format that has been planned in advance.

Registration forms referred to in paragraph 1 of this Article, shall be entered into databases, which the Organization is obliged to possess, in order to record a protected repertoire for the purpose of further distribution of royalties to the holders of rights.

Article 11.

Domestic holders of rights are required to submit completed registration forms to the Organization (registration forms for AV works are located on the web site of the Organization), in order to complete and to ensure functionality of databases containing information of the holder of rights of audiovisual works in order to ensure timely distribution.

A member that does not submit registration forms of AV-works in orderly and timely manner, cannot expect a fair distribution of royalties, due to the impossibility of registering and monitoring of the particular AV work in the database system.

Article 12.

In the case of protecting of AV work without registration form (completed registration form), the Organization shall realize the protection according to the available data.

Article 13.

For foreign AV works, the data provided by the collective organization for its members shall be taken as accurate.

Article 14.

In the event of any change of data concerning registered audiovisual works, the data submitted by the end of the current year, namely until 31st of December shall be taken into account.

CATEGORIZATION

Article 15.

The categorization of works and the holders of rights shall be provided according to the adopted standards in the system of collective protection of copyright and related rights, mainly taking into account the comparative practices of related organizations from the region.

Article 16.

Valuation of the AV work shall be provided according to the following criteria:

- The category of the AV work
- The duration of the AV work
- The number of broadcasting of the AV work in cable retransmission

Article 17.

The AV works shall be divided into two categories:

Category	Description of category	Points
A	AV work with the duration of more than 10 minutes. These include cinematographic films, TV films, TV series, documentaries and similar.	5
B	AV works with the duration of less than 10 minutes. These include: advertising, video clips and other short forms of AV works.	1

Article 18.

The AV works that are not subjected to the system of distribution

Regardless of the categories above, the distribution system shall not include the following AV works: informative programs (news, etc.), transmission of sports events, TV transmission of puppet shows, operas, musicals, plays, etc., talk-show, reality show, culinary and casting shows and competitions, infotainment, etc..

The distribution shall not include AV works from its own production, as stipulated by the Law.

Article 19.

The duration of the AV work shall be monitored in seconds according to the data on broadcasting of AV works from the program schedule of the channel entering the process of distribution. Every second shall be calculated as 1 point for the purpose of distribution.

Article 20.

The distribution process shall include 5 the most viewed channels in Montenegro in the year of distribution. The channel rating shall be regularly checked by an independent body, which shall investigate the relevant information about TV programs in Montenegro.

Article 21.

The value of the accounting point shall be calculated on the basis of collected royalties reduced for the costs of the Organization operations divided by the total number of points for all broadcastings of the AV works included in the distribution.

The total number of points for all broadcasted AV works shall be calculated on the basis of data processing of works by adding all points for all broadcasted AV works: the number of points for the duration of each AV work in seconds X(times) the number of points for the category of each AV work X the number of broadcastings of AV works (it is always a very large number).

The total money stock for distribution shall be divided by this large sum of points in order to obtain the value of 1 point for distribution. Then that value shall be applied back to each AV work, in order to obtain the calculation of how much money belongs to each AV work / holder of rights.

Example:

$$(360.000 \text{ €} - 100.000 \text{ €}) / 260,000 \text{ €} = 100,000,000 / 100,000,000 = 0.0026 \text{ €}$$

Article 22.

Based on the points, categorization, duration and scope of use of the object of protection on annual basis, for the previous year, the distribution of funds shall be provided according to the technical and software solution of the Organization.

Article 23.

The Reserve Fund

Every year we put in a reserve fund 5% of sharing stock in case for correction of the calculation of the distribution. This is particularly important in the case of complaints on AV works that were not included in the distribution (limited examples).

The Expert Commission of the Organization shall be formed according to the decision of the Management Board and shall provide decisions on all complaints.

Article 24.

The Example

The example of calculation for AV work of A category with the duration of one hour, broadcasted 3 times on one of the channels processed in the previous year:

Film "Example" | Duration: 3600s = 3600 points | Category A: 5 points | Number of broadcastings: 3 | value of the accounting point: 0.0026 €

$$3600 \times 5 \times 3 \times \text{€ } 0.0026 = \text{€ } 140.4$$

The resulting amount of royalty shall be paid to the holder of rights (the producer).

All unpaid royalties after the period of 5 years shall be taken into a special fund for cultural creativity (3 if the CRM directive is implemented).

PRIVATE REPRODUCTION

Article 25.

Pursuant to the Law, the right to the royalties for the sound or visual recording charged from the first sale or importation of new technical devices and blank image holders, shall be distributed to the right holders protected by the Organization as follows:

-25% to the film producers

- 50% to the co-authors of the audiovisual work and authors of special contributions to audiovisual works,

-25% to the performers

Article 26.

The royalty based on private reproduction shall be provided in accordance with the applicable regulations and procedures regarding the sale and import of the particular devices and blank image holders.

The distribution of royalties obtained on this ground, shall be conducted in accordance with the principle of equity.

Article 27.

The Special Case of Distribution

The funds designated for social and cultural needs, with the aim to foster cultural diversity, in the amount of 10% of the total revenue of the Organization shall be distributed annually according to the decisions of the Management Board.

The allocation of funds referred to in paragraph 1 of this Article shall be conducted at the same time as the annual distribution of royalties to the holders of rights based on the rebroadcasting of their AV works through the cable system, including the royalties referred to in the Article 25. of this Rulebook.

Article 28.

The Dispute Settlement

If there shall be any dispute between holders of rights, on any legal matter regarding the object of protection, the distribution of royalties shall be postponed until the dispute shall be settled by a final decision of the competent authority.

Article 29.

If the holder of rights shall not be satisfied with the distribution of royalties, an independent body of experts shall be formed in order to resolve the disputed distribution. The details of the procedure will be established according to the decision of the Management Board, at the request of the unsatisfied holder of rights.

Article 30.

The Rulebook shall enter into force on the day of its adoption.

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