



IRISH MUSIC RIGHTS ORGANISATION CLG

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STANDARD TARIFF C

Introduced pursuant to the award(s) and decision of an arbitrator, Mr John Gordon, SC dated 8th October 2013 and 30th April 2014.

The arbitrator was appointed by the Controller of Patents Designs and Trademarks pursuant to section 357(1)(b) of the Copyright and Related Rights Act 2000 for the purposes of determining a dispute between the Dublin Cinema Group and the Irish Music Rights Organisation CLG (IMRO) under Section 152 of the Copyright and Related Rights Act 2000; and also between the Society of Film Exhibitors and IMRO under Section 152 of the Copyright and Related Rights Act 2000, relating to the operation of Tariff C.

Effective from 1st Jan 2014 to 31st December 2019

IMRO does not undertake to offer a licence or permit at the rates of charge shown in this tariff in respect of any performances unless application has been made in advance of the performance.

1 SCOPE AND APPLICABILITY OF TARIFF

- 1.1 This tariff applies to performances of copyright music within the Repertoire Controlled by IMRO given in the course of, or in connection with, the exhibition of cinematograph films at cinemas or other premises at which the commercial exhibition of cinematograph films regularly takes place. For this tariff to apply the cinema operator must be charging on admission.
- 1.2 Licenses under this tariff shall permit the following public performances of copyright music within the Repertoire Controlled by IMRO:
 - a) As part of the cinematograph films being exhibited;
 - b) As part of any audiovisual advertisements, including film trailers shown within the auditorium before, during or after the exhibition of a cinematograph film;
 - c) As part of any film trailers being exhibited in the cinema foyer; and
 - d) Subject to paragraph 2.5 any public performance of copyright music within the Repertoire Controlled by IMRO in the foyer, corridors or toilets of the cinema premises.
- 1.3 For the avoidance of doubt this tariff does not apply to performances of copyright music within the Repertoire Controlled by IMRO in restaurant/bar areas within cinemas.

2 ANNUAL ROYALTY

The following rates apply to all royalties falling due under this tariff between:

1st January 2019 and 31st December 2019

- 2.1 The annual royalty payable by a Licensee under this tariff shall be calculated for each Licence Year as a percentage of the Licensee's Actual Box Office Receipts.
- 2.2 The royalty rate shall be 1.0% of Actual Box Office Receipts.
- 2.3 On the issuing of a new licence for a cinema, the provisional royalty shall be calculated on the following basis:
 - 2.3.1 In respect of the First Licence Period, the Licensee shall furnish an estimate of the Actual Box Office Receipts for the First Licence Period which will be multiplied by the royalty rate. At the end of the First Licence Period the payment shall be adjusted on the basis of the Actual Box Office Receipts as certified under paragraph 3 of this tariff.
 - 2.3.2 In respect of the first full Licence Year, the Licensee shall furnish an estimate of the Actual Box Office Receipts for the full Licence Year which shall be calculated by a proportionate adjustment of the Actual Box Office Receipts of the First Licence Period. At the end of this first full Licence Year, the royalty shall be adjusted on the basis of the Actual Box Office Receipts for the first full Licence Year as certified under paragraph 3 of this tariff.
- 2.4 If a Licensee's Actual Box Office Receipts fall within one of the below categories the relevant discount pertaining to that category will apply:
 - 2.4.1 If a Licensee's Actual Box Office Receipts less VAT **are less than or equal to €264,708**, then the royalty calculated under paragraphs 2.1 and 2.2 and the on account payment calculated under paragraph 3.2 of this tariff will be reduced by **20%**.
 - 2.4.2 If a Licensee's Actual Box Office Receipts less VAT **are greater than €264,708 but less than or equal to €529,413**, then the royalty calculated under paragraphs 2.1 and 2.2 and the on account payment calculated under paragraph 3.2 of this tariff will be reduced by **15%**.
 - 2.4.3 If a Licensee's Actual Box Office Receipts less VAT **are greater than €529,413 but less than or equal to €794,122**, then the royalty calculated under paragraphs 2.1 and 2.2 and the on account payment calculated under paragraph 3.2 of this tariff will be reduced by **10%**.
- 2.5 If a Licensee does not require a licence, in respect of the public performances outlined in paragraph 1.2 d), then the royalty charge calculated under this paragraph 2 for a cinema premises shall be reduced by:
 - 2.5.1 €75 in the case of a cinema premises in which the combined area for its foyer, corridors and toilets does not exceed 100m²; or
 - 2.5.2 €150 in the case of a cinema premises in which the combined area of its foyer, corridors and toilets exceeds 100m².

3 ANNUAL RETURNS AND PAYMENT

- 3.1 The Licensee shall, not later than 31st January in each year, furnish to IMRO a statement showing the Actual Box Office Receipts for the preceding Accounting Period including a full breakdown of all Allowable Deductions made from total income generated by the Licensee from the sale of admission tickets. This detailed statement shall be certified as true and accurate by a Director or the Company Secretary of the Licensee and in addition, shall be certified to be a true and accurate return of the Actual Box Office Receipts for the preceding Licence Year by a person who is qualified to be appointed as auditor of a company under Section 187 of the Companies Act, 1990 or by a person who is approved by IMRO.

- 3.2 The royalties under this tariff are payable at the commencement of each Licence Year. As the actual royalty payable by the Licensee in respect of each year cannot be ascertained until the Actual Box Office Receipts for that Accounting Period have been certified pursuant to paragraph 3.1 of this tariff, the Licensee shall, when the certified statement is submitted to IMRO, make a payment on account of the royalty due equal to the Actual Box Office Receipts for the preceding Accounting Period multiplied by the royalty rate, plus any additional sum due under paragraphs 2.1 and 2.2 of this tariff for the preceding Accounting Period.
- 3.3 If a certified statement which meets the requirements of paragraph 3.1 above is submitted and the on account payment pursuant to paragraph 3.2 above is paid before 31st January in each Licence Year, the Licensee shall be entitled to claim a prompt payment discount of 7% to be deducted from both the payment on account pursuant to paragraph 3.2 and on any additional payment or refund due under paragraphs 2.1 and 2.2 of this tariff for the preceding Accounting Period. For the avoidance of doubt, this prompt payment discount is effective only in respect of royalties due for Licence Years commencing from 1st January 2010.

4 AUDIT

- 4.1 IMRO, shall, at its request and, subject to paragraph 4.2, at its own expense, on reasonable written notice to the Licensee, be entitled to inspect, during normal working hours, the relevant Books and Records of the Licensee solely for the purpose of verification of the Actual Box Office Receipts. Such inspection shall be carried out by IMRO or a person appointed by IMRO to perform the inspection.
- 4.2 If on conducting an audit, it is revealed that an under-declaration by the Licensee of greater than 7% has occurred, all costs of the audit will be borne by the Licensee, together with the additional royalties, calculated by IMRO to be due based on the audited figures.

5 EXCLUSIONS

- 5.1 This tariff does not apply to performances of the Repertoire Controlled by IMRO, other than those expressly referred to in paragraph 1.1 and 1.2 hereof, and any licence granted by IMRO under this tariff is subject to the condition that the Licensee shall notify IMRO of all other entertainments or events where music is performed at the premises licensed, other than under this tariff and the Licensee shall pay all additional royalties due for such performances in accordance with the appropriate tariff.
- 5.2 For the avoidance of doubt, this tariff does not apply to a Simulcast Event.

6 GENERAL CONDITIONS

- 6.1 This tariff is subject to IMRO's General Conditions Applicable to Tariffs and Licences, a copy of which is available on request.

7 INFLATION ADJUSTMENT

The box office thresholds in paragraph 2.4 are linked to the Consumer Price Index of Retail Prices of 149.7 points for mid-October 2018 (on the November 1996 base) as published in the Irish Statistical Bulletin, and will be adjusted on 1st January 2020 and each subsequent anniversary of that date in proportion to annual changes in that Consumer Price Index.

8 VALUE ADDED TAX

- 8.1 Every Licensee under this tariff shall pay to IMRO, in addition to the royalty due under this tariff, a sum in respect of VAT calculated at the relevant rate on the royalty payable.

9 DEFINITIONS

- 9.1 **“Accounting Period”** means the twelve month period ending 31st December in any one year.
- 9.2 **“Actual Box Office Receipts”** means the total income generated by the Licensee from sales of cinema admission tickets during the Accounting Period, less all Allowable Deductions.
- 9.3 **“Allowable Deductions”** includes:
- 9.3.1 VAT and any other payment levied as a matter of law on Actual Box Office Receipts;
 - 9.3.2 Third party debit and credit card charges;
 - 9.3.3 Internet booking fees charged in addition to the admission price for tickets purchased using an exhibitor’s online booking service;
 - 9.3.4 Any additional fees charged over the normal admission price to view a film in 3D;
 - 9.3.5 Any additional charge for the provision of 3D viewing glasses;
 - 9.3.6 Income generated by the Licensee from the sales of admission tickets for the exhibition of opera from the Metropolitan Opera House in New York and the Bolshoi Theatre in Moscow;
 - 9.3.7 Any other charges collected from time to time as part of a cinema operator’s box office receipts but which are in fact unconnected to the enjoyment of music as part of a film by a customer.
- 9.4 **“Books and Records”** shall include, but is not limited to, the following:
- 9.4.1 the audited accounts;
 - 9.4.2 in the case of unlimited companies, partnerships or sole traders the relevant accounting records;
 - 9.4.3 all box office returns made to Film Distributors.
- 9.5 **“First Licence Period”** means the date of issue of a licence under this tariff up to the 31st December in that year.
- 9.6 **“IMRO”** means the Irish Music Rights Organisation CLG
- 9.7 **“Licence Year”** means the period commencing 1st January in any relevant year and ending on 31st December.
- 9.8 **“the Licensee”** means the company or person(s) to whom IMRO grant a licence for the public performance of music within the Repertoire Controlled by IMRO.

- 9.9 **“Simulcast Event”** means the screening in a cinema (as distinct from the separate act of transmission) of a live event taking place at a remote location and relayed to the cinema for simultaneous exhibition.
- 9.10 **“Repertoire Controlled by IMRO”** means all and any musical works, and words associated with such works, in which rights to perform publicly and to authorise others to do the same are vested in IMRO.

This tariff supersedes all previous editions