



CINEMA EXHIBITORS LICENSING SCHEME – OUR CONSULTATION PROCESS WITH YOU

Recorded Music NZ has re-opened the consultation process in regards to the Cinema Exhibitors Licensing Scheme, and we would like to hear what you think.

This paper sets out:

- A summary of the existing scheme introduced 1 April 2017.
- A Q &A in regards to the most commonly asked questions we have received since the scheme was introduced.

We will run through the following process to re-open consultation and to gather your feedback on the scheme, to inform our review of the existing scheme.

Up to **31 August 2019** – we invite your feedback, and welcome an opportunity to talk directly with you around any issues you raise.

By **1 November 2019** – we will get back in contact with all cinema exhibitors to update you on any proposed changes to the scheme.

From **1 January 2020** – the reviewed scheme will come into effect.

THE EXISTING CINEMA EXHIBITORS SCHEME

Recorded Music NZ offers a Cinema Exhibitors Licence, which provides the permissions needed to:

- Communicate sound recordings used within films, movie previews and advertisements.
- Play background music before and after film screenings – in theatres, foyers and any other public cinema spaces.

The licence fee is calculated using a percentage of Gross Box Office Receipts, with the annual licence fee through to the end of 2019 being 0.06% of Gross Box Office Receipts.

1 Jan 2018 – 31 Dec 2019	1 Jan 2020 – 31 Dec 2020	1 Jan 2021 – 31 Dec 2021
Annual rate of 0.06% of Gross Box Office Receipts	Annual rate of 0.08% of Gross Box Office Receipts	Annual rate of 0.10% of Gross Box Office Receipts

1. GST Exclusive
2. Subject to a minimum fee of \$100.00 + GST per 6 month period.

Why does the licence fee increase over the next 2 years?

During the 2016/2017 consultation with major exhibitors and a representative from the Independent Cinema Exhibitors Association, it was agreed that the percentage of gross box office receipts was the most practical and appropriate way to calculate the licence fee. We agreed this model resulted in a fair and reasonable licence fee and it reflected the established method used by APRA AMOCS. It was also agreed that the headline rate should be set at 0.1% of Gross Box Office Receipts.

However, it was also agreed that this rate should be “phased in” to allow more time for Cinema Exhibitors to factor in this licensing requirement.

The full terms and conditions of the licence are available on our website.

Why do I need a licence from Recorded Music NZ?

The Copyright Act 1994 creates two separate and distinct copyrights in all recorded music. One copyright is for the song itself (the musical work and any lyrics) and this is represented by APRA AMCOS. The second copyright is for the sound recording and this is owned by record labels and recording artists. Recorded Music NZ represents these sound recording owners. We license for the communication and public performance of our rights holders’ recordings – in a similar way that APRA licenses musical works on behalf of song writers and music publishers.

Why doesn't the music in films come “rights cleared”?

When recordings are synchronised into films, the rights to play, show or communicate the film to the public are in most cases not cleared or covered by the initial synchronisation agreement. Similarly to Streaming Video on Demand movie and television services, the entity playing or showing the film in public requires the licence for that activity.

Does a blanket licence mean I could be paying for sound recordings not controlled by Recorded Music NZ?

No. Recorded Music NZ is mandated by the individuals and entities it represents to collect in respect of only those sound recordings owned and controlled by them. This covers the vast proportion of commercial recordings used in films from around the world and comprises many millions, and an ever growing number, of tracks. If we do not represent an artist or label then we do not purport to license on their behalf. There will be times when the music composed for a film is not represented by Recorded Music NZ rights holders, and this is one of the factors that was taken into account in setting the licence fee.

How was the licence fee set?

Under the Copyright Act which provides the basis of the licensing we undertake, we declare licensing schemes we consider equitable and appropriate (legal) as proscribed by the law. This means equitable to both the artists and labels we represent and also the users of their music. If a licensee disagrees, we endeavour to take the feedback into account. We spent many months consulting prior to the declaration of the 2017 scheme and took the feedback we received into account. The existing APRA rate is 0.4% of Gross Box Office Receipts. The acceptance of 0.10% as the final sound recording rate, with a 4 year phase in to this final rate, was we believe fair and equitable to all parties.

How are licence fees distributed?

Recorded Music is governed by a Board of Directors who have adopted the Distribution Policy set out in full on our website at <https://www.recordedmusic.co.nz/portfolio/distribution/>. The policy is comprehensive and details how monies collected from licensing activities are distributed to our many artists and labels. Where possible this is always on a “per play” (i.e. per recording track) basis. Where it is not feasible economically or administratively then we allocate based on the best available proxy and, in the case of cinemas, this is based on current data from commercial television.

As to international recordings, we pay to the local label representing that recording who repatriates onward. For local NZ recordings we are able, due to the agreement with the labels, to pay up to 50% as a minimum directly to the artist resident in New Zealand under Recorded Music’s Direct-to-Recording Artist Scheme – <https://www.recordedmusic.co.nz/portfolio/membership-for-artists/>. If the artist is also the copyright owner, we distribute 100% of the sums collected, once again net of administrative fees.