

## Services provided by AMCOS to members

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# Services

### **This information sheet sets out:**

- The criteria you need to meet to become a member of AMCOS
- The rights AMCOS will administer on your behalf if you become a writer member of AMCOS
- The exemptions you can exercise as a writer member of AMCOS
- The AMCOS distribution schedules and commission rates.

### **To become an AMCOS member you must:**

1. Meet the eligibility criteria (outlined in Section 1 of this document).
2. Complete the AMCOS Membership Application Form.
3. Return your completed Application Form to APRA|AMCOS at the following address:

Att: Sean Price  
APRA|AMCOS Member Services  
Locked Bag 5000  
STRAWBERRY HILLS, NSW, 2012  
AUSTRALIA

If you have any questions or concerns, please call Sean Price on +61 2 9935 7904 or 1800 642 634 (freecall Australia only), or email [sprice@apra.com.au](mailto:sprice@apra.com.au).

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## Section 1:

### Eligibility for Membership

As a writer, you are eligible for membership if you meet three criteria.

1. You are a copyright owner of musical works
2. At least one of your works has been released on a recording for sale to the public or has been reproduced on a production music recording.
3. You are a permanent resident, citizen or intend to reside permanently within AMCOS Territories\*.

\* AMCOS Territories consist of Australia, New Zealand, Christmas Island, Cocos (Keeling) Island, Cook Islands, Fiji Islands, Niue (Savage) Island, Norfolk Island, Papua New Guinea, Tokelau (Union) Island, Western Samoa, Ashmore Island, Australian Antarctic Territory, Cartier Island, Heard Island, Macquarie Island, McDonald Island, Nauru, Ross Dependency, Solomon Islands, Tonga, Vanuatu, Tuvalu, Kiribati.

## Section 2:

### Principal Areas Administered by AMCOS

AMCOS can administer – subject to your decision to opt out or license back - the reproduction right in your music in four principal areas.

1. Physical Sales (e.g. CDs).
2. Online Sales (e.g. downloads and ringtones).
3. Reproductions for the purpose of broadcast.
4. Reproductions for the purpose of other online use.

#### 1. Physical Sales

The right of reproduction for musical works, insofar as it relates to records (such as CDs or other physical audio format) made for sale to the public is subject to the statutory licence set out in sections 54 to 64 of the Australian Copyright Act. The statutory licence rate under these

provisions is fixed at 6.25% of recommended retail price (RRP) or as otherwise agreed between the parties (or determined by the Tribunal). By industry agreement the current rate is 6% of RRP or 8.7% of published price to dealer (PPD). By far the overwhelming majority of 'mechanical royalties' paid on record sales in Australia are made on a PPD basis.

AMCOS members may appoint AMCOS collect mechanical royalties on their behalf from the major international labels (EMI, Sony-BMG, Universal and Warner Music), and/or from non major labels (i.e. all record labels or distributors).

Although not covered by the statutory licence provisions, AMCOS can also license – subject to the existence of an appropriate synch licence for the original making of the production - the use of members' works in audio-visual productions such as DVDs.

In addition to recordings made for sale to the public, many businesses make recordings for specialist purposes such as providing background music in retail premises, inflight entertainment programmes or for fitness classes.

#### 2. Online Sales

The right of reproduction is also exercised when a recorded song is sold online (for example, as a digital download or as a music ringtone) through a service such as iTunes, Bigpond Music or Jamster). Downloads and ringtones also exercise the right of communication – licence fees for which are distributed by APRA.

#### 3. Reproductions for the purpose of Broadcast

AMCOS licenses free-to-air television networks and pay television channels to administer and top-up the 'ephemeral rights' given to them

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under the Copyright Act. These licences permit broadcasters to put music in programmes they make their licence but exclude the use of music commissioned by the station or theme music.

These network licences will generally exclude programmes not made by the broadcaster. Therefore in some circumstances AMCOS – subject to the Board’s approval – will also issue licences to independent television producers for programmes that rely heavily on music (such as Australian/NZ Idol or Stars In Their Eyes).

AMCOS also license radio station for the reproduction of music into their programming.

## 4. Reproductions for the purpose of other online use

Online business offer other online music services (e.g. Yahoo Music, MCM Entertainment and NineMSN, podcasters and on-demand music video services) for which AMCOS will offer licences in conjunction with APRA.

### Section 3: Exceptions Members Can Exercise

The areas listed above that may be administered by AMCOS are built around what is necessary and convenient for both copyright owners and music users. However, there are situations where individual copyright owners and music users may prefer to deal directly with each other and so there is no need for the collection and distribution facility provided by AMCOS.

In these cases, AMCOS offers members the option to play a more active role in their administration of their royalty collections by exercising the following types of exceptions from the AMCOS mandate:

1. Opt Out
2. Licence Back
3. Overseas Collections
4. Standing exemptions.

### 1. Opt Out

Members may "**opt out**" or exclude from the mandate they give AMCOS any of the major areas of AMCOS’ licensing activities listed above (except for blanket licences issued to television stations for their in-house productions). The choice to opt out applies to all of a member’s works for that particular area (or line of business).

On Page 2 of the AMCOS Membership Application, or Page 18 of the online application, a member may indicate whether AMCOS is to collect on their behalf for each licence type. Members that decide to opt out of a licence category should be confident they will be able to license their works in this category themselves. For information on the various licence categories and the types of licences members will typically need to issue in each category, please contact an APRA|AMCOS Member Services Representative. Members may change their opt out choices with three months notice at any time after joining.

### 2. Licence Back

Members may also request from AMCOS a licence back for rights they have already granted to AMCOS. A licence back is not used to withhold rights but where the member wishes to engage directly with specific licensees (usually a label or record company) of their choosing. Licence backs (also known as direct pay relationships) are set up between AMCOS members and AMCOS licensees to indicate that AMCOS should not collect royalties for that member from the licensee in question. Licence backs are usually used when

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a composer is being paid directly by the label, or has waived royalties on a particular release. Licence backs can apply to a specific group of works, or a member's entire catalogue.

### 3. Overseas Collection

While AMCOS membership covers AMCOS territories only, AMCOS can collect mechanical royalties that are generated overseas as well, in circumstances where that member is not sub-published in that territory. AMCOS is affiliated with mechanical collection societies that operate in over 80 countries around the world, which can collect mechanical royalties on our members' behalf.

Additionally, members have the option of identifying particular countries for collection. This allows flexibility for members to organise their own alternate overseas royalty collections on a country by country basis. Members should be aware however, that in some overseas territories, there may be licence schemes from which members cannot benefit if they are not represented by AMCOS or a publisher in that territory. Note also, if a member appoints AMCOS to collect overseas through its affiliated societies, then a publishing agreement for one or more overseas territories is entered into by the member, the publishing agreement will override the society collection.

### 4. Standing Exceptions

Unless specifically authorised by a member to do so for specific instances, AMCOS will not administer royalty collections on:

- The licensing of musical works into **advertisements** (except where a musical work forms part of a production music library);
- The licensing of musical works into "premium" sound recordings or other

reproductions which are sold other than for money (eg, through the redemption of coupons) or by someone not normally in the business of selling records, or as part of an advertising or promotional campaign;

- The licensing of **synchronisation rights** for incorporation of music into the soundtrack of a **cinema film**.
- Print rights other than the limited print rights a member may give AMCOS in respect of school licences.

### Section 4:

#### **Additional Rights Administered by AMCOS**

In addition to the four principal areas covered by the AMCOS mandate, the Society also:

- conducts audits of record companies' mechanical royalty accounts and claims, receives and distributes to the correct copyright owners any money found to be held in those companies' unidentified or control accounts;
- may receive and distribute to the correct copyright owners any mechanical royalties payable by record companies where:
  - ownership is in dispute and
  - AMCOS represents all disputing parties;
- licenses the photocopying of musical works in educational institutions;
- licenses all uses of music works and sound recordings which form production music libraries (a separate Production Music guide is available from the Production Music Department of APRA|AMCOS);
- administers any non-print reproduction right falling outside the standard agreement that a member wishes to appoint AMCOS as agent to administer the specific right.

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## Section 5: Commission Rates and Accounting

AMCOS accounts to members on a quarterly basis, and distributions are made within 60 days from the end of each calendar quarter.

AMCOS' mandate and accounting is subject to the terms of any publishing contract by which a member is bound. Accordingly, AMCOS will normally account to the publisher for 100% of royalties accruing, in respect of any work which is the subject of a publishing contract.

The maximum commission rates charged by AMCOS are set out in the table below.

|   | maximum commission           |
|---|------------------------------|
| Members with less than 500 but at least one work reproduced as a sound recording to the public                            | 17.5% standard               |
| Members with more than 500 works reproduced as a sound recording to the public  | 12%                          |
| Television program licensing<br>Ringtones & webcast services<br>Royalties from photocopying<br>Off-air copying by schools | 12% standard for all members |

At present AMCOS does not charge an administration fee. An annual administration fee may be fixed by the Board if it becomes necessary at a later date. However, members would be advised of this, if it happens, well in advance.