



IRISH MUSIC RIGHTS ORGANISATION

Copyright House, Pembroke Row, Lower Baggot Street, Dublin 2.
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Licensing Scheme for cable retransmission within the Territory of a Broadcast or Cable Programme originating outside the Territory.

(Effective from 15 July 2019 to 30 June 2021)

(Euro amounts in Appendix A being amended annually in accordance with Paragraph 8)

1. Scope of Scheme

Subject to the exclusions set out in paragraph 2 below, this Scheme applies to the inclusion of Licensed Works in a Programme Service initially transmitted from another Member State of the European Economic Area and/or the United Kingdom and primarily intended for Broadcast outside the Territory, which is received and immediately retransmitted, without alteration as to the programme content of the Programme Service, by way of a Cable programme service (including retransmission via IPTV) within the Territory by a Cable Operator.

2. Exclusions

This Scheme does not apply to Cable retransmissions in the Territory of Broadcasts or Cable Programmes transmitted or sent by or under the branding of BBC and ITV, each of which are the subject of a separate scheme entered into between the Cable Operators and the consortium of rights owners (including IMRO) regarding such retransmissions.

In addition, this Scheme does not apply to:

- the delivery of Programme Services over the internet to those members of the public who are not subscribers to a Cable programme service;
- nor to the delivery of Programme Services to mobile devices of cable subscribers if the Cable Operator makes a separate and specifically identifiable charge for such delivery.

3. Definitions

For the purposes of this Scheme:

“Act” means the Copyright & Related Rights Act 2000 and any amendment, addition or successor thereto;

“Broadcast” shall have the meaning given to it in the Act.

“Cable Operator” means a person authorised to operate a Cable programme service (including the provision of such a service via IPTV) in the Territory.

“Cable Programme”, “Cable programme service” and “Cable retransmission” and “Cable retransmission right” shall have the meaning given to them in the Act.

“First Licence Period” means the period between the date of commencement of a Licence Agreement entered by a Licensee and the following 30th June.



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“**IMRO**” means Irish Music Rights Organisation CLG.

“**IPTV**” means internet protocol television, a form of television service whereby audio visual content is retransmitted by a Cable Operator’s system, using internet networking or wireless or mobile protocols via a closed service, to authorised subscribers to the Cable programme service within the Territory. For the avoidance of doubt, this definition includes where an authorised subscriber to such a service is permitted to access such content via mobile reception devices but only where no additional subscription fee is charged by the Cable Operator for such mobile reception device access. For the further avoidance of doubt, IPTV does not include so-called “open” internet delivery of audio visual content, whereby such content is distributed by means of the publicly available internet to non-subscribers to a Cable programme service

“**Licence Agreement**” means an agreement between IMRO and a Licensee setting out the terms and conditions of the licence granted under this Scheme.

“**Licence Year**” means the period commencing 1st July in any relevant year and ending on the following 30th June.

“**Licensed Works**” means all copyright Musical Works in respect of which IMRO manages the Cable retransmission right pursuant to Section 174 of the Act;

“**Licensee**” means any person or undertaking to whom IMRO grants a licence under this Scheme.

“**Musical Work**” means any work consisting of music and any lyrics or words written to be used with the music (if applicable). It includes any part of such a work.

“**Programme Service**” means an individual television channel which is initially broadcast or transmitted from another Member State of the European Economic Area or the United Kingdom and which is received and immediately retransmitted without alteration as to the programme content of the Programme Service by way of a Cable programme service within the Territory by a Cable Operator.

“**Territory**” means the Republic of Ireland.

4. Licence

Any Person or undertaking who retransmits a Programme Service on a Cable programme service in the Territory which includes any Licensed Work, must obtain a licence under this Scheme and is required to sign a Licence Agreement. This Scheme must be read in conjunction with the Licence Agreement and in the event of any conflict or inconsistency between this Scheme and the Licence Agreement, the Licence Agreement shall take precedence. For the avoidance of doubt, pursuant to the terms of the Licence Agreement, while it is the relevant Cable Operator(s) who is/are making use in the Territory of the Licensed Works which are included in a Programme Service, it may be the responsibility of the person or undertaking who initially transmits such a Programme Service to obtain a licence under this Scheme.

5. Licensing Scheme Term

Effective from 1 July 2016 to 30 June 2021.



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6. Royalty Rate Calculation

- 6.1** The annual royalty payable by a Licensee under this Licensing Scheme shall be calculated for each Programme Service for which the Licensee requires a licence under this Scheme and for each Licence Year in accordance with the fees outlined in Appendix A of this Scheme.
- 6.2** If a Licensee's number of Programme Services, excluding time-shift and simulcast HD channels, falls within one of the below ranges of Programme Services, the relevant discount pertaining to that range will apply to the royalty due as follows:
- 6.2.1** If a Licensee's number of Programme Services is between 1 and 10 then the royalty calculated under Paragraph 6.1 for each Programme Service shall not be altered.
 - 6.2.2** If a Licensee's number of Programme Services is between 11 and 20 then the royalty calculated under Paragraph 6.1 for each Programme Service shall be reduced by 2.5%.
 - 6.2.3** If a Licensee's number of Programme Services is between 21 and 30 then the royalty calculated under Paragraph 6.1 for each Programme Service shall be reduced by 5.0%.
 - 6.2.4** If a Licensee's number of Programme Services exceeds 30 then the royalty calculated under Paragraph 6.1 for each Programme Service shall be reduced by 7.5%.
- 6.3** Royalty invoice or invoices, payable within 30 days of invoice date, will be issued on either a monthly, quarterly or yearly basis as agreed between IMRO and the Licensee.

7. Provisional Royalty and Annual Review

- 7.1** On the issuing of a licence to a new Licensee, the provisional royalty for the First Licence Period shall be calculated in accordance with Paragraph 6.1 and 6.2 on the basis of an estimate by the new Licensee of the number of subscribers to a Cable programme service in the Territory that will have the ability to receive the retransmitted Programme Service(s) in that First Licence Period.
- 7.2** A Licensee shall, in accordance with the provisions within the Licence Agreement and within 60 days of the end of a Licence Year, review with IMRO for each Programme Service:
- The cable subscriber range into which the Cable programme service fell within the Licence Year just ended or within the First Licence Period
 - Details of any additional Programme Services retransmitted by way of a Cable programme service in the Territory in the Licence Year just ended or within the First Licence Period
 - Details of any Programme Services that ceased retransmission by way of a Cable programme service in the Territory in the Licence Year just ended or the First Licence Period, and
 - Details of any changes to Programme Service genre.



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- 7.3 Using this information the royalties payable for the previous Licence Year for each Programme Service shall be finalised and any unpaid License Fees invoiced or any overpaid License Fees credited.
- 7.4 The review information obtained and referred to in Paragraph 7.2 shall be used to determine the basis of the on account License Fees payable for the current Licence Year. Such License Fees will be calculated and finalised in accordance with Paragraphs 6.1 and 6.2.

8. Adjustment to Rates in Appendix A

The euro amounts in Appendix A shall be subject to the following increases (“**Royalty Increases**”):

- On 1 July 2020 a final Royalty Increase of 2.5% shall apply.

9. Payment of Value Added Tax

Every Licensee shall, in addition to the licence fees under this Scheme, also pay VAT on all licence fees to the extent such VAT is set out in an invoice received from IMRO in accordance with the Licence Agreement. If the Licensee is not liable to be charged VAT, the Licensee shall provide to IMRO, for its sole consideration or otherwise, due evidence to support this claim.

10 Programme Service Genre Definitions & Determination

10.1 Programme Service Genre Definitions

“**Sports & News**” means Programme Services whose overwhelming majority of programming is generally recognised as being sport and/or news related.

“**Niche/Specialist**”, means Programme Services with a clearly defined central theme running through the majority of their programming, this theme being generally recognised as having a limited audience when compared to general entertainment, movie or children’s channels, such central themes to include without limitation, adult, the arts, food, factual documentary, game shows/gaming, health, history, home, lifestyle, music, natural history, religion, science, shopping, travel, weather and foreign language Programme Services aimed at specific ethnic groups,. In the event of any uncertainty as to whether a Programme Service meets the foregoing criteria for a Niche/Specialist Programme Service, and particularly where a Programme Service has more than one clearly defined central theme running through its programming, the positioning of the Programme Service within cable operators (or their satellite competitors in the Territory) electronic programme/channel number guides shall be the main factor to be considered by both parties in determining if a Programme Service falls within this definition. For the avoidance of doubt, comedy, children’s and movie Programme Services shall not be considered Niche/Specialist.

“**Children’s**” means Programme Services commonly referred to as such and/or the majority of whose schedules shall consist of children’s programming which have an audience profile of which over 50% are under 18 and which for the avoidance of doubt exclude music Programme Services.



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For the avoidance of doubt all other Programme Services shall be considered General Entertainment/Movies as appropriate.

- 10.2** In the event of any disagreement, IMRO shall make its determination as to the genre classification of a Programme Service. Such determination shall be without prejudice to any rights of the Licensee under the Act.



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Appendix A - Licensing Scheme for Cable Retransmission within the Republic of Ireland of a Broadcast or Cable Programme originating outside the Republic of Ireland.

Effective from 15-Jul-19 to 30-Jun-20

Programme Services not measured by Nielsen & Nielsen measured channels with an average 2015 market share of <= 0.25%* - Licence Fee per Programme Service

Programme Service Genre	News/Sport Channels	Niche/Specialist Channels	Childrens Channels	General Entertainment & Movie Channels
Cable Subscriber Numbers with access to Programme Service in Republic of Ireland	€	€	€	€
<= 100,000 subscribers	473	946	1,862	2,661
> 100,000 subscribers <= 200,000 subscribers	946	1,892	3,725	5,321
> 200,000 subscribers <= 300,000 subscribers	1,419	2,838	7,449	10,642
> 300,000 subscribers <= 400,000 subscribers	1,892	3,784	11,174	15,963
> 400,000 subscribers <= 500,000 subscribers	2,365	4,730	14,899	21,284
> 500,000 subscribers <= 600,000 subscribers	2,838	5,676	18,624	26,605

Programme Services measured by Nielsen for 2015 with a market share >0.25%* - Licence Fee per Programme Service

Average Nielsen Market Share 2015	> 0.25% <= 0.50%	> 0.50% <= 0.75%	> 0.75% <= 1.00%	> 1.00% <= 1.25%	> 1.25% <= 1.50%	> 1.50% <= 1.75%	> 1.75% <= 2.00%	> 2.00% <= 2.25%	> 2.25% <= 2.50%	> 2.50% <= 2.75%	> 2.75% <= 3.00%	> 3.00% <= 3.25%
Cable Subscriber Numbers with access to Programme Service in Republic of Ireland	€	€	€	€	€	€	€	€	€	€	€	€
<= 100,000 subscribers	8,868	13,007	17,146	23,649	30,153	36,656	43,160	52,028	60,897	69,765	78,634	89,861
> 100,000 subscribers <= 200,000 subscribers	12,416	20,102	27,788	37,839	47,890	57,941	67,991	80,407	92,823	105,239	117,655	132,438
> 200,000 subscribers <= 300,000 subscribers	15,963	27,197	38,430	52,028	65,627	79,225	92,823	108,786	124,750	140,713	156,676	175,004
> 300,000 subscribers <= 400,000 subscribers	19,511	34,291	49,072	66,218	83,363	100,509	117,655	137,165	156,676	176,187	195,697	217,571
> 400,000 subscribers <= 500,000 subscribers	23,058	41,386	59,714	80,407	101,100	121,793	142,486	165,544	188,602	211,660	234,718	260,141
> 500,000 subscribers <= 600,000 subscribers	26,605	48,481	70,356	94,597	118,837	143,078	167,318	193,923	220,529	247,134	273,739	302,711

* Subject to the following:

NOTE 1 Nielsen 2015: Source - Nielsen Monthly Share of Viewing Multi Channel Share - Consolidated All Day Individual Share January 2015 to December 2015 - individual channel market shares per Nielsen TV Audience Measurement, Monthly Share Report - average for 2015.

NOTE 2 Time Shift Programme Services: fees are calculated as stand alone programme services and subject to individual broadcaster discussion.

NOTE 3 HD Programme Services that are not simulcast are charged as standalone Programme Services.

NOTE 4 Licence Fee Increases : All of the above Licence Fees will be increased on 1 July 2019 and 1 July 2020 in accordance with Paragraph 8 of this Scheme.

NOTE 5 Nielsen Measured News & Sports Programme Services : licence fees are based on matrix of fees above reduced by 60%.

16/ 16 May 2019