

An abstract graphic composed of several overlapping, semi-transparent orange rectangular blocks of varying sizes and orientations, creating a layered, architectural effect.

**A GUIDE TO THE
SECONDARY EXPLOITATION
LICENSING FRAMEWORK**

Secondary Exploitation Licensing Framework

What does the framework do?

It offers a blanket licence to producers and distributors of UK-originating television programmes to allow them the right to supply/sell programmes containing our members' music for all forms of television exploitation, in-flight entertainment and retail VHS/DVD release.

It provides a flexible and inclusive licensing solution, which removes the requirement to secure ongoing clearances of musical works. It also removes the need for the negotiation of new licence fees and terms each time a production is to be further exploited.

Its key benefits can be summarised as:

- Covers all MCPS members' repertoire (with the exception of commissioned music which needs to be licensed at source) including all the major commercial publishers and production music (library) companies;
- No prior approval of the music is required (except in limited circumstances for sales to USA/Canada);
- Allows sales Worldwide;
- Licence fees are calculated as a percentage of sales revenue to reflect the music content;
- Standard terms and conditions approved by PACT.

Please see the attached flowchart summarising how the framework works.

Who can apply for a licence?

The company must:

- be registered in the UK;
- be able to fully account all sales and within the timeframe required;
- be able to supply complete and accurate music cue sheets for each programme.

What are the criteria for Qualifying Programmes?

The programme must:

- have been commissioned for primary broadcast by a UK originating channel;
- have had the music cleared for the primary UK broadcast (either under the broadcaster's blanket licence or on an individual basis); or
- in relation to a music programme, be approved by the artists' current management and/or record company.

How much does a licence cost?

Licensees are required to commit to a non-returnable advance against royalties, which is negotiable. The advance will reflect the territories to be licensed, the number of programmes to be sold and their music content. The advance is recoupable against royalties generated by programme sales.

Royalties are calculated as a percentage claim against the value (the gross sales price) of each sale. The percentage claim reflects the actual amount of music in a programme relative to the duration of the programme.

The MCPS percentage claim is worked out in the following way:

$$\frac{\text{Duration of MCPS Music}}{\text{Total Duration of Programme}}$$

$$\times 100 \times 8.5\% = \text{MCPS \% Claim in Programme}$$

$$\text{Example: } \frac{20\text{m}18\text{s}}{60\text{m}} \times 100 \times 8.5\% = 2.86\%$$

Except:

- sales to USA/Canada, where the base rate will be 17% rather than 8.5%; and
- programmes made or commissioned by an artist's record company and/or management company for distribution to UK analogue terrestrial channels will be charged at a flat rate of 17% of the gross sales price.

Notes:

In relation to retail VHS/DVD non-music product releases, the percentage claim will remain as calculated here (unless the music base is being changed) but royalties will flow subject to the terms and conditions of the relevant published licensing scheme.

This percentage claim licensing approach and the base rate used is the standard used with programme sales deals with major broadcasters and in other media.

How do I apply for a licence?

Simply complete the application form in the first instance. This form will soon be available on our website at: www.mcps-prs-alliance.co.uk/broadcasting. There is also a copy attached to this document (see Schedule C).

What information do I need to provide to MCPS once I have a licence in place?

You will need to send us a full music cue sheet for each programme to be supplied, along with sales data on a quarterly basis to enable us to distribute the appropriate royalties to our members. We will supply you with a standard MCPS reporting specification pack when you become a licensee. The exact reporting requirements may be subject to change, although sample formats can be found at the back of this brochure (Schedules A and B).

Frequently Asked Questions

Why do I need a licence to distribute television programmes?

The copying or recording of copyright music is a restricted act under the Copyright Design & Patents Act 1988. MCPS members have appointed MCPS to be their agents in licensing the repertoire they control. The licences granted for the primary exploitation of UK originating programmes do not (with exception) include the right to subsequently exploit the programme. The rights granted under the Framework provide a licence to do so.

Can I record different music into the programmes under this licence?

The Framework provides the opportunity to replace the existing music with production music without incurring additional licence fees. You will need to supply a revised cue sheet for the programme if you do this, but the royalty percentage claim would be calculated as already set out.

What is not covered by the Framework?

UK Analogue Terrestrial Channels

Distribution of UK-originating programming to UK analogue terrestrial channels is not permitted under the Framework, unless the production was made by or commissioned by the artist's record company and/or management company. Music contained in any such programme would need to be licensed on an individual basis.

Non-MCPS Music

MCPS only represents its members, and the members of affiliated societies with which we have a reciprocal agreement. In the unlikely event that a composer or publisher is not a member of MCPS or an associated foreign society you will need to contact that composer or publisher directly for a licence to distribute their work(s).

Standard Exclusions

Our agreements have standard exclusions, for example, in relation to unauthorised arrangements, parodies and Dramatico-musical works unless prior approved by the relevant copyright owner.

What other licences do I need?

This MCPS licence does not grant any rights to the recipient of your programmes and additional licences will be required by the recipient in order to broadcast the programmes or communicate them to the public. Where the broadcast or communication will take place in the UK, the broadcaster should obtain the necessary licences from PRS (Performing Right Society, www.prs.co.uk, telephone 020 7580 5544); where the programmes will be used outside the UK, the broadcaster should seek licences from their local performing right societies.

In order to distribute programmes containing commercial sound recordings, a licence will also need to be obtained from PPL (Phonographic Performance Ltd, www.ppluk.com, telephone 020 7534 1000) or directly from the record company.

Please note: no licence, whether expressed or implied, shall be taken to have been granted by MCPS or its members merely by receiving this document.

Schedule B

Format for Reporting Information

PROGRAMME	ACQUIRING PARTY	TERRITORY	EXPLOITATION	GROSS PAYMENT	W/H TAX	GROSS SALE PRICE

Where:

- 'Programme' is the title of the Qualifying Programme;
- 'Acquiring Party' is the broadcaster, agent, company the sale is made to;
- 'Territory' is the territory (or territories) of broadcast the sale covers;
- 'Exploitation' is the type of exploitation for which the Qualifying Programme is supplied (see Clause 2.1);
- 'Gross Payment' is the full consideration of the sale (see Clause 6), before withholding tax (if any) is deducted but after deduction of VAT;
- 'W/H Tax' is withholding tax on the Gross Payment (if any) but only to the extent this is not recoverable by the Licensee;
- 'Gross Sale Price' is the Gross Payment less 'W/H Tax'.

Blanket Licence Application Form for Secondary Exploitation Framework Schedule C



Please note: No Licence, whether expressed or implied, shall be taken to have been granted by MCPS and/or PRS or its members merely by completion of this questionnaire.

A	Applicant Details
Company Name:	
Company Registration Number:	
Registered Address:	
Telephone Number:	
Principle Owners/Shareholders:	

B	Contact Details
Contact Name:	
Job Position:	
Contact Address (if different):	
Contact Telephone Number:	
Contact Fax Number:	
E-mail Address:	
Website Address (URL):	

C	Key Information
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- 1) Please indicate your primary business:
- | | |
|---------------------------------------------------------|-------------------------------------------------|
| <input type="checkbox"/> TV broadcaster | <input type="checkbox"/> Television Distributor |
| <input type="checkbox"/> Independent Production Company | <input type="checkbox"/> Record Company (Label) |
| <input type="checkbox"/> Other (please specify): | |
-
- 2) Are you seeking a Worldwide licence or one excluding USA and Canada? WW Ex USA/Canada
- 3) How many television programmes would you expect to fall under this licence?
- 4) Please estimate the average percentage of music contained within your programming?

You will need to supply full music cue sheets and sales data quarterly in our specified format.

By signing this application form you are confirming the following: The information contained in this document is accurate to the best of your knowledge.	
SIGNED _____	
Please print name	<input type="text"/>
Job Position	<input type="text"/>
Date	<input type="text"/>

Please sign and return this form to:
Broadcasting, MCPS-PRS Alliance Ltd, 29/33 Berners Street, London W1T 3AB
Alternatively, fax to Broadcasting on: 020 7306 4347

For further information contact:

Broadcasting
MCPS-PRS Alliance Ltd
29-33 Berners Street
London W1T 3AB

Tel. 020 7306 4571
Fax 020 7306 4347

E-mail: tvblankets@mcps.co.uk
Website: www.mcps.co.uk

