

## INFORMING AGICOA FURTHER TO A TRANSACTION ON A CATALOGUE

Rightsholders, owners of producers' retransmission rights, do occasionally inform AGICOA of a change in ownership of their audiovisual assets. This may be the result of a commercial transaction with another company, when a catalogue changes proprietorship. It may also be the case when rightsholders reassign their retransmission rights to an agent, tasked to collect royalties on their behalf.

Whichever the reason underlying these rights changes, it is important to precisely inform AGICOA as to how these should be enacted. In doing so, careful consideration will be given to the following elements which may be impacted by the right changes:

1. The **scope** of works concerned: rightsholders will precisely inform AGICOA which works in their catalogue will be affected by the right changes: this may be the whole of the catalogue declared at AGICOA or a subset thereof.
2. For each of these works, rightsholders will inform AGICOA how each **rights dimension** is affected by the transaction:
  - a. Territory
  - b. Language
  - c. Channels

Rights changes may affect all or part of these rights ("I have transferred my producer's rights for French speaking retransmissions in Belgium to Blue Lagoon Productions").

3. For each of these rights, rightsholders will also need to specify a time boundary, expressing a **right to be paid retransmission royalties** that is either based on:
  - a. **The broadcasting date** of the declared work ("right from" & "right to"), Example: "Any retransmission of "Gone with the Wind" between 15 May 1988 and 1 March 2013 should be paid to my company".  
And / or
  - b. **The validity date** of the declared work ("right from" & "right to") which is the period during which Rightsholders' rights are taken into account for royalty allocation. Example: "If the AGICOA allocation process is launched between 15 October 1997 and 10 December 2012 my rights should be taken into account".

A combination of time boundaries applied to both broadcasting and validity dates is also possible.

There are many possible combinations of the above to activate rights changes that will match as closely as possible the underlying transaction. We will illustrate the most commonly enacted rights changes, as we see them passing through the AGICOA system:

1. **Portfolio transfer**: this is the term used at AGICOA to describe the situation where, from a given point in time onwards, all rights on a set number of works will be transferred from one company ("Rightsholder A") to another company ("Rightsholder B"). After a portfolio transfer, no **residual rights** are left with "Rightsholder A". And "Rightsholder B" becomes the recipient of all royalties payable for the re-broadcast of the works, in line with their acquired rights as well as all conflicts, CRP and PCRCP.

Due to the nature of such transactions, AGICOA has devised a form, to be co-signed by the parties, manifesting their common understanding of the scope of rights changes to be implemented. This form can be downloaded from [http://www.agicoa.org/english/rightsholder/transfer\\_of\\_rights\\_form.pdf](http://www.agicoa.org/english/rightsholder/transfer_of_rights_form.pdf).

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The co-signature of the form also clarifies the following:

- a. "Rightsholder B" accepts that the rights transferred, as per the portfolio transfer form, will be based on the rights declared at AGICOA by "Rightsholder A".
- b. "Rightsholder A" may accept to give "Rightsholder B" the full visibility over the payments made to "Rightsholder A", prior to the transaction.

Wherever possible, it is advisable to inform AGICOA well in advance of the date when such transaction is to be activated.

2. **Rights splits:** there are also transactions where rightsholders may still keep certain residual rights, on any of the rights dimension, in their transacted audiovisual assets. Rights on these works are "split", as one part migrates to the new owner, and the other part remains with their original owner. In such cases, each rightsholder may inform AGICOA independently of their rights changes.

Example: Company A: "Our company does not own retransmission rights on "Gone with the Wind" anymore, for re-broadcasts in France after 1 October 2014". Company B: "Our company does now own retransmission rights on "Gone with the Wind", for re-broadcasts in France starting 2 October 2014".

We strongly encourage both parties to come forward and declare their newly transacted rights. In contrast to **portfolio transfer** transactions, split of rights can be activated independently at AGICOA, in the absence of a co-signed form. A declaration of rights and / or an update on an existing declaration is sufficient for AGICOA to modify the rights on either party' side, in line with instructions received. Rightsholders may find it more effective to agree on the rights configuration that each party will submit to AGICOA, to ensure that their modified / new rights do not overlap, leading to conflicts, nor would create unnecessary "rights gaps", by mistake.

Such rights splits are typically enacted by specifying the reduced / augmented:

- Territorial scope
- Language scope
- Channels scope

And by specifying

- Their right to receiving retransmission royalties based on a modified broadcasting date.
- Their right to receiving retransmission royalties based on a modified validity date.