

CONFLICT RULES

of January 6, 2003

as amended on February 10, 2004, March 30, 2004, November 16, 2005, February 14, 2008, September 30, 2008, November 19, 2013, March 19, 2015, May 18, 2015 and June 23/30, 2015, May 23, 2017, May 15, 2018.

I. GENERAL CONDITIONS

ARTICLE 1

SCOPE OF APPLICATION

1. For the purposes of the present Rules a conflict arises in the event of a double declaration (or more) in respect of the same work and with an overlapping cumulative percentage of declared rights of more than one hundred percent (100%).
2. AGICOA shall initiate a conflict resolution procedure only with respect to conflicts that involve royalties and shall retain such royalties until a conflict is resolved in accordance with the present Rules. In administering conflicts, AGICOA shall give priority to conflicts of high monetary value.

For conflicts of two hundred Euros (€ 200) or less, an expedited procedure will apply as per Article 9 below.

3. AGICOA encourages the parties to resolve a conflict through direct negotiations at any Phase of a conflict resolution procedure. In the event that at Phase 1 or 2 direct negotiations have been initiated and a conflicting party requests AGICOA in writing, copying the other party(ies), to proceed directly to Phase 3 as set out in Article 7 below, AGICOA shall do so and notify the parties accordingly.
4. The present Rules do not apply:
 - (a) To declarations in relation to periods and territories for which the deadline to declare has expired at the time of declaration according to the AGICOA distribution rules;
 - (b) To declarations made by the same declarant pertaining to the rights that were in conflict and deleted from the AGICOA database after the conflict was resolved, unless such declarant provides new legal substantiation in support of the new declaration;
 - (c) To conflicts that occur following the registration of a declaration by the same declarant on behalf of different rightsholders. AGICOA shall ask such declarant to resolve such conflicts directly and shall retain royalties until the terms of a resolution, as agreed by the rightsholders in the conflict, is communicated to AGICOA;
 - (d) To conflict resolution procedures launched by AGICOA before July 1, 2017.

ARTICLE 2
COMMUNICATIONS, DEADLINES AND EXTENSIONS

1. All communications, including notifications, under the present Rules shall be in writing, in English and sent in electronic form.
2. The deadlines set out in the present Rules start on the day after AGICOA sends an electronic communication, with the date of expiry to be stated on the communication. Calendar days shall be used in computing time limits.
3. As a general rule, where applicable, AGICOA shall send relevant communications to the parties within sixty (60) days.
4. Any deadline may be extended by AGICOA in its sole discretion upon written request by any of the conflicting parties only in case of serious and objective circumstances. Any extension granted shall be to ensure fairness and due process, and a party requesting an extension must provide sufficient justification for an extension. An extension can only be granted once per party for a maximum of thirty (30) days during a conflict resolution procedure.
5. Failure to react at any Phase of a conflict resolution procedure or provide documents as required under Article 6(1) below within the established deadlines shall be deemed as a withdrawal of the rights in conflict and AGICOA shall amend the declaration(s) accordingly.
6. In order to ensure timely and efficient procedures, AGICOA has the right in its sole discretion within a given deadline to send to the parties up to a maximum of two (2) reminders per each Phase.
7. AGICOA shall notify the conflicting parties about the start and the end of each Phase of a conflict resolution procedure and of an expedited procedure as set out in Article 9 below.

ARTICLE 3
NEW DECLARANTS JOINING AN EXISTING CONFLICT

1. Should a new declarant register a declaration in relation to a work in conflict and provided that it is not a late declaration in the sense of Article 1(4)(a) above, AGICOA shall inform the new declarant of the existing conflict resolution procedure and the initially conflicting parties of the existence of the new declarant.
2. The new declarant shall then have a maximum of thirty (30) days, if it joins the conflict at Phase 1, and a maximum of sixty (60) days, if it joins the conflict at Phase 2, to verify and/or amend its declaration and to comply with other requirements set forth in Articles 5 to 6 of these Rules. For the initially conflicting parties the deadlines at the respective Phases shall remain the same.

If the initially conflicting parties and the new declarant comply with all the requirements set forth in the present Rules and the conflict persists, AGICOA shall proceed to the next Phase of the conflict resolution procedure and inform all the conflicting parties accordingly.

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3. Should the new declarant join the conflict at Phase 3, AGICOA shall suspend the conflict resolution procedure until it reviews the legal substantiation, if any, provided by the new declarant within a maximum sixty (60) days. If the provided documents comply with Article 6(1) below and the conflict persists, AGICOA shall restart Phase 3 of the conflict resolution procedure from the very beginning and notify all the conflicting parties accordingly.

ARTICLE 4

WARRANTY IN CASE OF PAYMENT

1. Any party receiving royalties pursuant to the present Rules shall hold AGICOA harmless and indemnify it with respect to all actions, proceedings, costs, damages, expenses, claims and demands which are brought, threatened or made by another conflicting party or any third party upon or against AGICOA in relation to said royalties.
2. Should none of the conflicting parties be entitled to receive royalties from AGICOA after a conflict has been resolved, the amounts unduly received by a party prior to that conflict being announced shall be returned to AGICOA.

II. CONFLICT PROCEDURES

ARTICLE 5

PHASE 1

1. AGICOA shall notify the relevant declarants of the existence of a conflict pertaining to a declared work, indicating the territories, language versions, TV channels/broadcasts, percentage of rights in conflict and/or periods being in conflict, whichever is relevant, as well as the percentage of rights declared by each of the parties and the amounts retained by AGICOA at the time in relation to each of the parties.
2. The parties shall have a maximum of thirty (30) days to amend their declarations by confirming, withdrawing or modifying their rights. The parties shall notify AGICOA of their final position by either using the proposed AGICOA reply form or the AGICOA web declaration portal.
3. If the conflict is solved after the parties amend their declarations within the deadline, AGICOA shall close the conflict resolution procedure and distribute the retained royalties to the entitled party(ies) within the next relevant distribution.
4. If all parties withdraw their claims, AGICOA shall close the conflict resolution procedure and distribute the retained royalties at a next country distribution among relevant AGICOA declarants.
5. Failure to react within the established deadline shall be deemed as a withdrawal of the rights in conflict and AGICOA shall amend the declaration(s) accordingly.

ARTICLE 6

PHASE 2

1. Should more than one party maintain or modify their claims in Phase 1 in a manner that a conflict persists, AGICOA shall ask such parties to provide within a maximum of sixty (60) days (i) legal substantiation, such as contracts and/or other supporting documents, relevant to demonstrate a party's entitlement to claim the rights in conflict, and (ii) a written summary in English highlighting the relevant provisions of the documents supplied and substantiating the reasons for the documents supplied to be sufficient and adequate to prove a party's entitlement, provided that:

(a) The documents submitted shall be considered as legal substantiation if they refer to the work and parties in conflict, an express grant or reservation of rights, territories, language versions, TV channels/broadcasts, percentage of rights and/or periods, for which the conflict exists, whichever is relevant, and include a full chain of title, if applicable. The parties may also provide other information relevant to the conflict;

(b) General statements and objectively inadequate substantiations are not sufficient;

(c) Copies of documentation submitted must be complete and signed; copies of agreements from which confidential or sensitive information has been removed or redacted are acceptable provided that such removed or redacted information does not relate to assignment or ownership of the rights.

2. AGICOA shall then review the submitted documents and notify the parties if they do not comply with Article 6(1) above.

For the avoidance of doubt, AGICOA shall review the submitted documents only to ensure their pertinence to the conflict and compliance with the requirements of Article 6(1) above and shall not make any decision on the entitlement of claims for works in conflict.

3. If one or more party(ies) submit(s) all documents as required under Article 6(1) above and another party does not react or provides documents that do not comply with that Article, in a way that solves the conflict, AGICOA shall delete the rights in conflict of the non-responding or non-complying party(ies) from the AGICOA database, close the conflict resolution procedure and distribute the retained royalties within the next relevant distribution to the party(ies) that provided all documents as required.

4. If none of the parties reacts within the deadline nor sends documents that comply with Article 6(1) above, AGICOA shall delete their rights in conflict from the AGICOA database, close the conflict resolution procedure and distribute the retained royalties at a next country distribution among relevant AGICOA declarants.

ARTICLE 7

PHASE 3

1. Should the conflict persist after more than one party has submitted the documents as required pursuant to Article 6(1) above, AGICOA shall notify the parties and request them to resolve the conflict through direct negotiations within one hundred and eighty (180) days.
2. In the event that the parties start negotiations, they must actively engage in such negotiations, including without limitation by regularly arranging and participating in conference calls, meetings, electronic communications and sharing the substantiation of their claims. A party may inform AGICOA if the other party(ies) fail(s) to do so after sixty (60) days of the beginning of Phase 3. AGICOA shall then ask the failing party(ies) to respond, copying AGICOA, and actively engage in negotiations until the expiry of the deadline of one hundred and eighty (180) days. In the event that the failing party(ies) do(es) not respond or do(es) not actively engage(s) in negotiations within said deadline, AGICOA shall delete the rights in conflict of such party(ies) from the AGICOA database.
3. If only one party actively engages in the process of negotiations outlined above, AGICOA shall close the conflict resolution procedure after the expiry of the deadline of one hundred and eighty (180) days and distribute the retained royalties within the next relevant distribution to such party.
4. If two or more parties actively engage in negotiations, the following shall apply:
 - (a) If none of the parties informs AGICOA about the terms of their settlement within one hundred and eighty (180) days, AGICOA shall delete their rights in conflict from the AGICOA database, close the conflict resolution procedure and distribute the retained royalties at a next country distribution among relevant AGICOA declarants.
 - (b) If a party informs AGICOA, copying the other party(ies), about the terms of their settlement within one hundred and eighty (180) days, AGICOA shall amend their declarations and distribute the retained royalties according to such terms.
 - (c) If after failing to reach an agreement, the parties inform AGICOA within one hundred and eighty (180) days of their intention to initiate legal proceedings, arbitration or mediation, AGICOA shall proceed to Phase 4 as per Article 8 below and inform the parties accordingly.

ARTICLE 8

PHASE 4

If the parties inform AGICOA of their intention to initiate legal proceedings, arbitration or mediation as per Articles 7(4)(c) or 9(4) of the present Rules, the conflict resolution procedure shall be suspended provided that the parties submit to AGICOA within a maximum of sixty (60) days of the beginning of Phase 4 documentary evidence that legal proceedings, arbitration or mediation have been initiated.

ARTICLE 9
EXPEDITED PROCEDURE

1. For conflicts of two hundred Euros (€ 200) or less, an expedited procedure will apply. AGICOA shall notify the parties and ask them to resolve the conflict through direct negotiations and to amend (or request AGICOA to amend) their declarations accordingly within a maximum of one hundred and eighty (180) days. The date of the deadline expiry shall be specified in the notification.
2. In the event that the parties start negotiations, they must actively engage in such negotiations, including without limitation by regularly arranging and participating in conference calls, meetings, electronic communications and sharing the substantiation of their claims. A party may inform AGICOA if the other party(ies) fail(s) to do so after sixty (60) days of the beginning of the expedited procedure. AGICOA shall then ask the failing party(ies) to respond, copying AGICOA, and actively engage in negotiations until the expiry of the deadline of one hundred and eighty (180) days. In the event that the failing party(ies) do(es) not respond or do(es) not actively engage(s) in negotiations within said deadline, AGICOA shall delete the rights in conflict of such party(ies) from the AGICOA database.
3. If only one party actively engages in the process of negotiations outlined above, AGICOA shall close the conflict resolution procedure after the expiry of the deadline of one hundred and eighty (180) days and distribute the retained royalties within the next relevant distribution to such party.
4. If two or more parties actively engage in negotiations, the following shall apply:
 - (a) If none of the parties informs AGICOA about a positive resolution and the terms of their settlement within one hundred and eighty (180) days, AGICOA shall delete their rights in conflict from the AGICOA database, close the conflict resolution procedure and distribute the retained royalties at a next country distribution among relevant AGICOA declarants.
 - (b) If a party informs AGICOA, copying the other party(ies), about the terms of their settlement within one hundred and eighty (180) days, AGICOA shall amend their declarations and distribute the retained royalties according to such terms.
 - (c) If after failing to reach an agreement, the parties inform AGICOA within one hundred and eighty (180) days of their intention to initiate legal proceedings, arbitration or mediation, AGICOA shall proceed to Phase 4 as per Article 8 above and inform the parties accordingly.