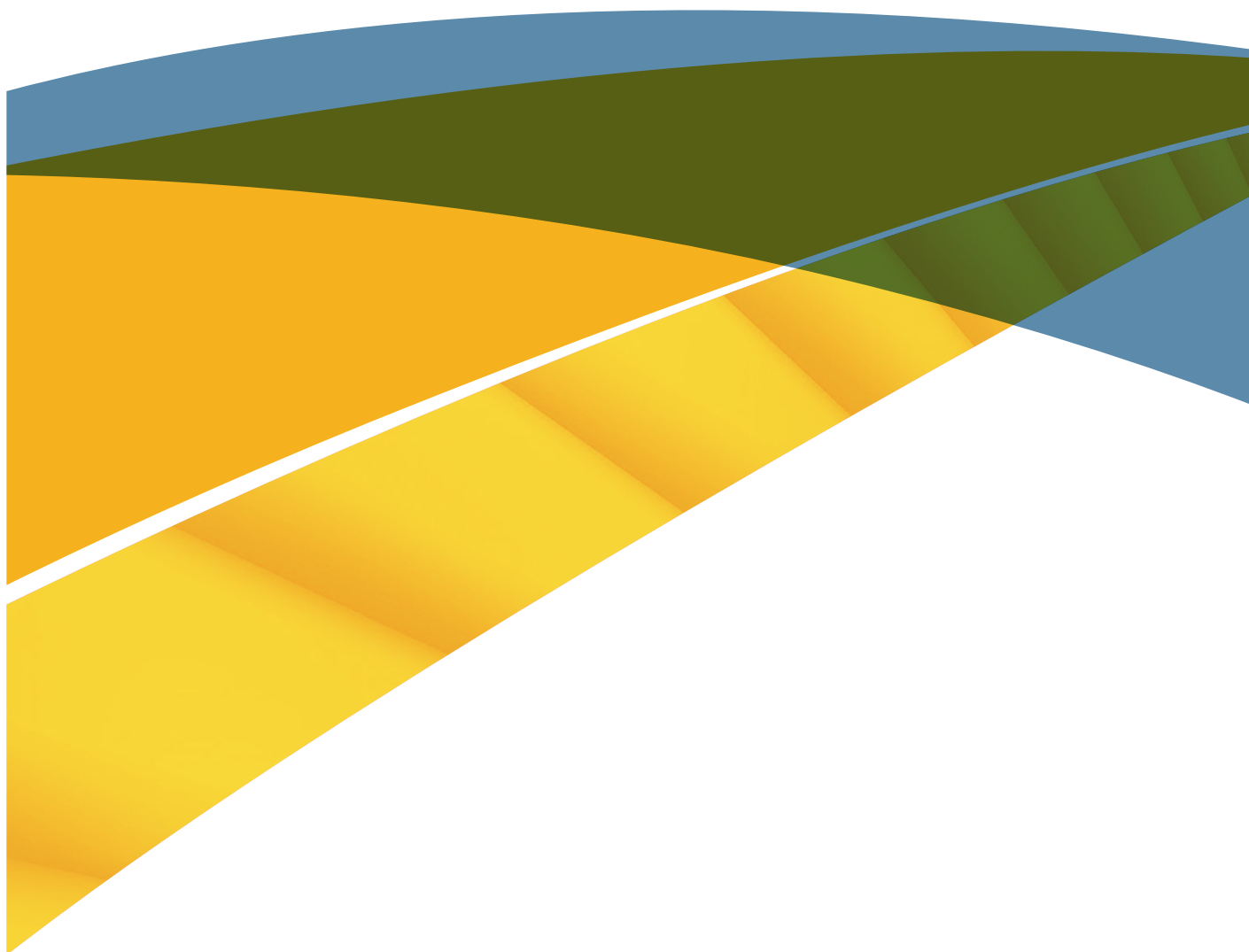




Intellectual
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Office

Guidance on the collective management of Copyright (EU Directive) Regulations 2016: supplementary guidance on annual transparency reports and audit

(October 2017)



Contents

Annual transparency report.....	1
Audit of annual transparency report.....	2
Annex A	3
Appendix 1	9
Illustrative example.....	10
Annex B	11

Annual transparency report

1. Collective Management Organisations (“CMOs”) have an obligation to publish annual transparency reports. These reports contain a range of information about their activities, and breakdowns of their income and distributions. The following guidance provides suggestions on good practice which CMOs should consider when completing their reports.
2. The information set out in the annual transparency report should ideally be in a format that is easily readable and clearly provides the information required to allow right holders to monitor the performance of CMOs over the reporting period. CMOs should consider cross-referencing and annexing documents such as Financial Statements and Directors’ reports where appropriate, to clarify where additional information can be found.
3. Regulations 21(4)(h), (i), (j) and (k) require a breakdown of financial information by category of rights and type of use. It is acknowledged that each CMO will have their own definition with regard to their categories of rights, and that some income received via reciprocal agreements may not be immediately allocable to a category. Nevertheless, CMOs should use their best endeavours to provide a breakdown as far as possible and provide an explanation where they are unable to allocate income to a particular category of rights or type of use.
4. Regulation 21(4)(i) specifically requires the breakdown and allocation of costs in relation to each category of rights and type of use. Direct costs should be listed relating to specific rights, and where costs cannot be allocated, the annual transparency report should explain how the CMO has attempted to allocate these costs or why they cannot be allocated.
5. It is possible for a CMOs annual transparency report to be incomplete because, for example, some EU member states may not have implemented the Directive on time, or incomplete information is received from CMOs with whom it has a representation agreement, and a CMO may therefore not be in receipt of complete information on the matters referred to in regulation 21(4)(k). In such cases the description of the information which the CMO will be able to give of these matters which are required under that provision will necessarily be limited.

It may also be that some sub-paragraphs of regulation 21(4) will not apply to all CMOs – for example, because they do not have any subsidiaries. Where this is the case, the CMO should clearly state this within the annual transparency report, along with the reason(s) why, where applicable.

6. The IPO has developed a checklist for internal use by CMOs when compiling their annual transparency report. CMOs can use this on a voluntary basis; it allows them to assess their progress in completing the report and offers them the chance to address potential issues or questions before publication.

Audit of annual transparency report

7. The Regulations require that certain information contained within the annual transparency report is audited by a person eligible for appointment as a statutory auditor under Part 42 of the 2006 Companies Act. This requirement is designed to support the objective of providing right holders and users with comparable, accurate information on the performance of different CMOs.
8. The requirement to audit this information is not expressed to be a requirement to perform a full scope audit or review engagement in accordance with International Standards of Auditing (UK) or the International Standard for Review Engagements (UK and Ireland). The requirement should be seen as entirely separate from any statutory audit requirements that apply to CMOs under company law.
9. Working in conjunction with audit firms and the Institute of Chartered Accountants for England and Wales (ICAEW), the IPO has produced a series of Agreed Upon Procedures which auditors should use when conducting the audit. A copy of these procedures, and a template for the auditors' report on the procedures, is available at Annex C. The report should be reproduced (including any qualifications) as part of the annual transparency report. The Procedures set out different processes which should be followed dependent on whether the CMO is also required to produce a statutory audit of its accounts.
10. In relation to the breakdowns required by regulation 21(4) (g) to (k), we again note that the audit requirement is limited to the accounting information used to develop this breakdown. The audit is not intended to cover the merits of the decisions taken by the CMO in order to allocate e.g. income or costs to particular categories – rather, it is designed to ensure that the financial information presented as a result of these decisions is consistent with both the CMOs underlying books and records and the disclosed methodology. Because CMOs may allocate income or costs in a number of different ways, disclosure of a summary of the methodology used by the CMO will be necessary for (a) comparability of the transparency reports and (b) the auditor to perform the required procedures. Failure by a CMO to adequately disclose the methodology will result in the auditor issuing a qualified report.
11. CMOs should use internationally accepted descriptors (such as those developed by the International Confederation of Societies of Authors and Composers) wherever possible in their breakdown of income, costs and distributions according to category of rights and types of use.

Annex A: Agreed upon procedures for the audit of an annual transparency report

If the CMO is subject to statutory audit, then perform test 2 and skip test 3. If the CMO is not subject to statutory audit, then skip test 2 and perform test 3.

1. We will perform the procedures set out in paragraphs 2-21 and report to the CMO the results of our work.
2. We will agree the balances in the financial statements required by section 21(4)(a) of the Collective Management of Copyright (EU Directive) Regulations 2016 (the “Regulations”) to the collective management organisation’s (the “CMO”) statutory financial statements.
3. We will agree the balances in the financial statements required by section 21(4)(a) of the Collective Management of Copyright (EU Directive) Regulations 2016 (the “Regulations”) to the collective management organisation’s (the “CMO”) underlying financial systems¹.
4. We will obtain a detailed analysis of the amounts deducted for the purposes of social, cultural and educational services disclosed in accordance with section 21(5) of the Regulations and:
 - agree the aggregate amounts deducted to the CMOs statutory financial statements/underlying financial systems;
 - agree the totals in the analysis to the disclosure in the CMOs transparency report; and
 - select a sample of items and:
 - agree the items directly to invoices or other third party documentation;
 - check that the disclosed purpose of the cost is consistent with the narrative information on the invoice or other third party documentation;
 - check that the cost is consistent with the CMOs explanation of the use of the amounts;
 - when the cost is attributable to a category of rights managed, check that the category to which it is allocated is consistent; and
 - when the cost is not attributable to a category of rights managed, but is allocated across a number of categories:

¹ In order to comply with the International Standard on Related Services applicable to agreed-upon procedures engagements, we will obtain statutory audit level comfort over the financial information from which the transparency report is derived.

- check that the method of allocation[^] is consistent with the CMOs disclosure in accordance with the Regulations; and
 - recalculate the allocation of the cost across the categories.
5. We will obtain a detailed analysis of the rights revenue, including the income arising from the investment of rights revenue disclosed in accordance with section 21(4)(h)(i) of the Regulations and:
- agree the aggregate income to the CMOs statutory financial statements/ underlying financial systems;
 - agree the totals in the analysis to the disclosure in the CMOs transparency report; and
 - select a sample of items and:
 - agree the items to bank receipts;
 - agree the items to third party documentation; and
 - check that the category of rights managed and type of use to which the CMO has allocated the income is consistent with the third party evidence.
6. We will obtain a detailed analysis of the use of the rights revenue, including the income arising from the investment of rights revenue disclosed in accordance with section 21(4)(h)(ii) of the Regulations and:
- agree the totals in the analysis to the disclosure in the CMOs transparency report; and
 - for the items in the sample selected for (5):
 - agree the items to the detailed analysis of the use of the income arising from the investment of rights revenue;
 - agree the items to supporting evidence whether it has been paid to right holders, other CMOs or otherwise used; and
 - agree that it had been correctly included in the analysis of use.

7. We will obtain a detailed analysis of all operating and financial costs disclosed in accordance with section 21(4)(i)(i) of the Regulations and:
 - agree the aggregate cost to the CMOs statutory financial statements/underlying financial systems;
 - agree the totals in the analysis to the disclosure in the CMOs transparency report;
 - select a sample of items and:
 - agree the items directly to invoices or other third party documentation;
 - check that the narrative information on the invoice or other third party documentation is consistent with their categorisation; and
 - check that the category of rights managed and type of use to which the CMO has allocated the income is consistent with the third party evidence; and
 - check that the method of allocation[^] of the indirect costs is consistent with the CMOs disclosure in accordance with the Regulations.
8. We will obtain a detailed analysis of the operating and financial costs only with regard to the management of rights, including management fees deducted from or offset against rights revenue or income arising from the investment of rights revenue disclosed in accordance with section 21(4)(i)(ii) of the Regulations and:
 - agree the aggregate cost to the CMOs statutory financial statements/underlying financial systems;
 - agree the totals in the analysis to the disclosure in the CMOs transparency report;
 - select a sample of items and:
 - agree the items directly to invoices or other third party documentation; and
 - check that the narrative information on the invoice or other third party documentation is consistent with their categorisation; and
 - check that the method of allocation[^] of the indirect costs is consistent with the CMOs disclosure in accordance with the Regulations.
9. We will obtain a detailed analysis of the operating and financial costs with regard to services other than the management of rights but including social, cultural and educational services disclosed in accordance with section 21(4)(i)(iii) of the Regulations and:
 - agree the aggregate cost to the CMOs statutory financial statements/underlying financial systems;
 - agree the totals in the analysis to the disclosure in the CMOs transparency report; and

- select a sample of items and:
 - agree the items directly to invoices or other third party documentation; and
 - check that the narrative on the invoice or other third party documentation is consistent with their categorisation.
10. We will obtain a detailed analysis of the resources used to cover the costs disclosed in accordance with section 21(4)(i)(iv) of the Regulations and:
- agree the aggregate cost to the CMOs statutory financial statements/underlying financial systems;
 - agree the totals in the analysis to the disclosure in the CMOs transparency report; and
 - select a sample of items and agree the items to supporting evidence.
11. We will obtain a detailed analysis of the deductions made from rights revenue disclosed in accordance with section 21(4)(i)(v) of the Regulations and:
- agree the aggregate deduction to the CMOs statutory financial statements/underlying financial systems;
 - agree the totals in the analysis to the disclosure in the CMOs transparency report; and
 - select a sample of items and:
 - agree the items directly to third party documentation; and
 - check that the third party documentation is consistent with their categorisation.
12. We will recalculate the percentages that the cost of the rights management and other services provided to right holders represents compared to the rights revenue disclosed in accordance with section 21(4)(i)(vi) of the Regulations.
13. We will obtain a detailed analysis of the indirect costs included in the analysis of the cost of the rights management and other services provided to right holders for the purposes of section 21(4)(i)(vi) of the Regulations and:
- select a sample of items and agree the items directly to third party invoices or other third party documentation; and
 - check that the method of allocation[^] of the indirect costs is consistent with the CMOs disclosure in accordance with the Regulations.

14. We will obtain a detailed analysis of the total amount attributed to right holders, the total amount paid to rights holders, the total amount collected but not attributed to right holders and the total amount attributed to, but not yet distributed to, right holders disclosed in accordance with sections 21(4)(j)(i), 21(4)(j)(ii), 21(4)(j)(iv) and 21(4)(j)(v) of the Regulations and:
 - agree the aggregate amounts to the CMOs statutory financial statements/ underlying financial systems;
 - agree the totals in the analysis to the disclosure in the CMOs transparency report; and
 - select a sample of items and trace the items to third party documentation to check that the amount allocated and the category of rights managed and type of use to which it is allocated is consistent with the documentation.
15. We will obtain a detailed analysis of the payments made to rights holders and:
 - agree the frequency disclosed in the CMOs transparency report for each category of rights managed and type of use to the analysis;
 - select a sample of items and agree the items to bank payments to check that the payments were made in accordance with the analysis; and
 - from a total population of all incoming receipts received by the CMO for distribution within the period provided for in paragraph (2) in regulation (12), select a sample of receipts, and,
 - When the distribution process has identified the intended recipients check that bank payments were made to those recipients within the specified timescales. If any distributions have not met the specified timescales, understand the reasons why and check that they agree to those disclosed by the CMO in accordance with the Regulations; and
 - When the distribution process has not yet identified the intended recipients, understand the reasons why and check that they agree to those disclosed by the CMO in accordance with the Regulations.
16. We will select a sample of transfers from non-distributable income to distributable, understand the basis of the transfer, and check it has been transferred in accordance with the specified timescales. For the non-distributable income transferred out, we will select a sample of payments and check the explanation of the use to which the amounts were put agrees to source documentation.

17. We will obtain a detailed analysis of the amounts received from and paid to other CMOs disclosed in accordance with section 21(4)(k)(i) of the Regulations and:
 - agree the aggregate amounts received from and paid to other CMOs to the CMOs statutory financial statements/underlying financial systems;
 - agree the totals for each category of rights managed and type of use to the amounts disclosed in the CMOs transparency report; and
 - select a sample of items and agree them to:
 - bank receipts or payments; and
 - supporting documentation evidencing that the receipt or payment was from/ due to another CMO.
18. We will obtain a detailed analysis of the management fees and other deductions from the rights revenue due to other CMOs and the management fees and other deductions from the amounts paid by other CMOs disclosed in accordance with sections 21(4)(k)(ii) and 21(4)(k)(iii) of the Regulations and:
 - agree the aggregate deduction for each category of rights and type of use to the amounts disclosed in the CMOs transparency report; and
 - select a sample of items and agree them to invoices or other supporting documentation evidencing that the classification is consistent.
19. We will obtain a detailed analysis of the amounts distributed directly to right holders from other CMOs disclosed in accordance with section 21(4)(k)(iv) of the Regulations and:
 - agree the totals for each category of rights managed to the amounts disclosed in the CMOs transparency report; and
 - select a sample of items and agree them to:
 - bank receipts from the CMO and payments to the right holders; and
 - supporting documentation evidencing that the receipt from the CMO was due to the right holders.
20. We will read the other financial and non-financial information presented within and with the CMOs transparency report and consider whether there is a material inconsistency between the other financial and non-financial information presented and the financial information that we have performed work on in tests 2-19 or our knowledge obtained during the course of our work. We will include any inconsistencies in our report.
21. For the purposes of tests 2-19, we will select a sample of items in accordance with Appendix 1.

^If there is no method of allocation disclosure, we will include this fact in our report.

Appendix 1: Thresholds and sampling

Thresholds

Basis	Thresholds
Income	5%
Allocated to right holders	5%
Costs of rights management	5%
Due to right holders	5%

Sampling

Area	Total sample size	Max	Min	Part of section 21 covered
Income	5% of transactions	10	1	4h,
Allocated to right holders	5% of transactions	10	1	4j(i), 4k
Costs of rights management	5% of transactions	10	1	4g, 4i, 4k
Due to right holders	5% of transactions	10	1	4j(ii to vii), 4k

Notes:

- a. All items over thresholds are to be tested, limited to the total sample size.
- b. Any remaining items in the sample are to be selected at random.
- c. Random selections should be weighted by “category of rights managed” and sampled from the category analysis included in the CMOs transparency report.

Illustrative example

Thresholds and Sample sizes

	%	Income	Allocated to right holders	Costs of rights management	Due to right holders
Thresholds					
Per report		£20m	£16m	£4m	£10m
Thresholds @	5%	£1m	£800k	£200k	£500k
Sample size					
Number of transactions		150	1,500	180	800
Calculated sample size	5%	8	75	9	40
Final sample size		8	10 (max)	9	10 (max)
Sample selection					
Number of transactions over thresholds		4	2	3	6
Random items to be selected		4	8	6	4
Total		8	10	9	10

Income sample selection by category:

Category	Total income	Items over thresholds	Weighted random selection	Total sample selection
Category 1	£13m	3	2	5
Category 2	£2m	0	1	1
Category 3	£5m	1	1	2
Total	£20m	4	4	8

Annex B: Report template for audit of annual transparency reports

To the directors of **[insert name of collective management organisation]**

We have performed the procedures agreed with you and enumerated below with respect to the annual transparency report of **[insert name of collective management organisation]** for the year ended **[insert date]**. Our engagement was undertaken in accordance with the International Standard on Related Services applicable to agreed-upon procedures engagements. The procedures were performed solely for the purpose of your compliance with Regulation 21(2)(b) of the Collective Management of Copyright (EU Directive) Regulations 2016 and are summarised in **[insert reference to the [guidance](#) to be issued by the Intellectual Property Office]**.

We report our findings below:

- With respect to item 2 we found the balances to be in agreement.
- ...

Although the above procedures are of an audit nature, they do not constitute a full scope audit or review engagement performed in accordance with International Standards on Auditing (UK) or the International Standard for Review Engagements (UK and Ireland). Accordingly, we do not express any assurance on the annual transparency report for the year ended **[insert date]**.

Had we performed additional procedures or had we performed engagements in accordance with International Standards on Auditing (UK) or the International Standard for Review Engagements (UK and Ireland), other matters might have come to our attention that would have been reported to you.

Use and purpose of our report

Our report is prepared solely for the use of **[insert name of collective management organisation]** and solely for the purpose of its compliance with Regulation 21(2)(b) of the Collective Management of Copyright (EU Directive) Regulations 2016. It may not be relied upon by **[insert name of collective management organisation]** for any other purpose whatsoever. Our report was not prepared for the benefit of any party other than **[insert name of collective management organisation]**. **[Insert name of professional accountants]** neither owes nor accepts any duty to any other party (including any copyright owner, heirs to copyright owners, agents or licensees) and shall not be liable for any loss, damage or expense of whatsoever nature which is caused by their reliance on our report.

Name of firm

Date

[Insert name and address of professional accountants]

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