

Filmex
Distribution Policy 2018
(Applicable to fees received in 2017)

[In case of doubt, the Danish text applies.]

Filmex manages rights based on rules in the Copyright Act as well as collective and individual agreements. Filmex' purpose is to ensure that the fees are distributed and paid to those performing artists entitled to payment in accordance with the applicable rules as well as collective and individual agreements. Fees are distributed based on the rights of the individual performing artists and the use of the rights that has taken place.

Filmex manages the rights of the members of the Danish Actors' Association and other performing artists, including members of the Danish Artist Union, the Danish Conductors Association, the Danish Choir Association, the Danish Musicians' Union, Danish Organist and Cantor Society, the Danish Soloist Association and the Soloist Association of 1921.

In the following, firstly, the general rules applicable to all rights fields will be described. Secondly, the rules specific for each field will be described.

General rules:

Definition of rights holders

Performing artists whose performances form the basis for collection of the fees for use, and who are covered by the Danish Actors' Association's collective agreements or similar agreements within the field in question, are defined as rights holders.

Children under 18 years of age are considered rights holders on equal terms with adults in accordance with the Copyright Act. Children under 18 years of age are not covered by the Danish Actors' Association's collective agreements.

Documentation

All rights holders are obligated to document their right to receive payment, including documentation that their rights have not been transferred to the producer/TV station. In the absence of correct documentation, no payment will be made to the rights holder.

In general, documentation takes the form of submission of a copy of the contract with the producer/TV station including name, civil registration number, production title, type and code, if applicable, fee as well as production year.

In case of disagreement between the fee specified in the contract and the fee actually paid, the fee should be documented by submission of payslips or similar documentation.

Contracts should be sent to Filmex by the individual rights holders or their trade association.

Filmex received lists of fees from the Danish Broadcasting Corporation. Accordingly, there is no requirement for individual documentation for performances in the Danish Broadcasting Corporation's productions, if the contract is covered by the collective agreement between the Danish Broadcasting Corporation and the Danish Actors' Association.

Payment time

Filmex will pay fees no later than the end of September in the year following the calendar year in which Filmex has received the fee in question. Accordingly, fees received by Filmex in the calendar year 2017 will be paid to the rights holders before the end of September 2018.

If it is not objectively possible to pay a fee in connection with the annual payment in September, the fee will be paid as soon as possible thereafter.

In the case of fees for film performances (please refer to definition in the specific rules), fees received until the end of August will be paid before the end of September of the year in question, if the primary TV broadcast (first broadcast) has taken place.

Payment and declaration to the Danish Tax and Customs Administration (SKAT)

Fees are paid directly to the individual rights holders.

Payment is made to the NemKonto associated with the rights holder's civil registration number, unless another means of payment has been agreed with the rights holder.

Payment is only made to VAT numbers if justified by a testamentary disposition. The fees paid are declared to SKAT as B income with AM contribution duty.

Minimum payment

If the total payment to which a rights holder is entitled amounts to less than DKK 500, payment is not made. Instead, the amount is reserved and paid when the rights holder in question is entitled to a total payment of more than DKK 500.

Payment on account

In exceptional cases (such as in case of acute financial need) payment on account may be made. Payment on account requires prior approval from the chair. The powers of decision can be delegated to others by specific agreement.

Interest

Interest is added/deducted prior to distribution.

Administration costs

Administration costs are deducted prior to distribution of fees.

Administration costs are calculated as the direct costs within a specific rights field as well as Filmex' common costs.

The common costs are allocated among the rights fields based on the relative share of the respective fees of the total fees received.

In the case of fees for film performances, with regard to which fees received until the end of August are paid, 5% are deducted for practical reasons.

Administration fee

After distribution of fees, an administration fee of 10% of the fee to which an individual rights holder is entitled is deducted, the maximum administration fee amounting to DKK 5,000. However, this does not apply to members of the organisations whose members' rights are managed by Filmex.

Upon request, the organisations submit lists of their members to Filmex.

Deduction for social, cultural or educational purposes

After deduction of administration costs, 8% of the fees received (except fees for film performances) are deducted for social, cultural and educational purposes.

Fees to distribution via foreign management associations

In the rights fields within which representation/reciprocity agreements have been entered into with foreign management associations, funds are reserved for payment of fees to such associations based on information from Copydan regarding the share of foreign content on the primary channels.

Provisions for subsequently received claims

9% of the fees received for use in 2017 are set aside for subsequently received claims.

Provisions that have not been paid after 3 years are distributed individually in accordance with the plan of distribution for the year in which the fee was received.

Undistributable funds

If it has not been possible to identify and localise a rights holder within 3 years despite taking all required measures, the fee is deemed to be undistributable.

Undistributable funds are transferred to the rights department of the Danish Actors' Association.

Approval procedure

The present plan of distribution including additions/amendments, if applicable, is approved annually at Filmex' annual general meeting.

Specific rules for individual fields

Regarding fees for film performances

Fees for film performances are defined as fees paid to Filmex in accordance with collective and individual agreements, including:

- The producers' payment for feature films, short films and TV series
- The TV stations' payment for sale of physical and digital media as well as foreign sales
- Other payments regarding individual productions

Fees for film performances are distributed to the performers based on the size of their role. The size of the role is determined based on the size of the fee paid to the individual performer.

With regard to royalties for feature films, the size of the role is determined based on the number of filming days. With regard to older feature films, where the roles were divided into the categories minor, medium and major roles and where information about the number of filming days is not available, it is estimated that:

- A minor role corresponds to 3 filming days
- A medium role corresponds to 8 filming days
- A major role corresponds to 20 filming days

The supplement to which performers in feature films are entitled in accordance with the Feature Films Agreement, § 16.1 (b) is distributed based on the fee paid to the individual performer.

Regarding fees for cable transmission (fees for distribution of radio and TV signals as well as digital use thereof)

Filmex receives fees for distribution of radio and TV signals as well as digital use thereof via Copydan World TV [*Copydan Verdens TV*].

An estimate of 2.5% of the total fee is set aside for payment for radio and 97.5% for TV, as payment for radio channels is included in most TV packages.

The fee is distributed based on the rights of the individual rights holders and the use of the rights that has taken place.

Payment for conversion of payment terms is distributed proportionally between the fees for cable transmission and digital use.

Radio

The right to payment is weighted according to the size of the individual performer's fee as specified in the submitted contract or the Danish Broadcasting Corporation's list of fees (collective agreement code 10, 11 and 12 regarding radio productions).

With regard to commercials, a fixed rate of DKK 2,000 per commercial is applied.

The use of rights is weighted based on the distribution of the individual radio channel from the following fixed values:

- National radio channels 100%
- Regional radio channels 40%
- Local radio channels 10%

TV

The right to payment is weighted according to the size of the individual performer's fee as specified in the submitted contract or the Danish Broadcasting Corporation's list of fees (collective agreement code 13, 14 and 15 regarding TV productions).

Within certain fields, fixed rates are applied:

- Commercials (video and audio): DKK 5,500 per commercial, the maximum calculated fee amounting to the actual fee.
- Commercial speak (audio only): DKK 2,000 per commercial, the maximum calculated fee amounting to the actual fee.

- Feature films: Number of filming days x DKK 3,500 regardless of the numbers of broadcasts. Filmex registers broadcasting of feature films produced after 1975 on Danish TV channels.
- Dubbing: Work fee + a maximum of 100%.

The use of rights is weighted based on the channels where the production has been broadcast, using the channel that has the largest distribution according to Gallup (4-point registration) as basis.

For practical reasons, the use of dubbing rights is weighted presupposing broadcast on national TV with the largest distribution, as the entire fee is paid the year in which the production was made.

All commercials are presupposed broadcast on TV2.

If the right of use of a commercial exceeds 12 months, the rights are also included in the distribution of fees in the subsequent year(s) in accordance with current applicable rules.

With regard to foreign productions, distribution is based on audience ratings in accordance with Gallup's basis registration.

Digital use

The funds are distributed between Danish productions (cinema film, docudrama, documentary, short film, series, TV drama) used on all channels.

20% of the funds received are distributed between all productions, regardless of the number of views. Funds are distributed proportionally based on the duration (runtime minutes) of the productions in relation to the total duration. The remaining 80% of the funds are distributed between the production based on actual use, i.e. number of views in relation to the total number of views. The funds allocated to the individual production is distributed to the performers based on the size of the fee of the individual performers.

Regarding AVE fees

Filmex receives fees for use of TV programmes and films in education and communication via Copydan AVE Media [*AVU-medier*].

The AVE fee is distributed based on the same plan of distribution as cable fees.

Regarding TV for seafarers, stationed soldiers, etc.

If Filmex receives fees for TV broadcasts for seafarers, stationed soldiers, etc. via Copydan, the fee is distributed based on the same plan of distribution as cable fees.

Regarding private copying

Filmex receives fees for private copying via the Copydan association CulturePlus [*KulturPlus*]. The funds from the scheme constitute compensation to the rights holders for lost earnings from legitimate private copying of TV and film productions.

CulturePlus pays 1/3 of the funds to the trade associations for collective distribution. 2/3 of the funds are paid for individual distribution.

In the fields covered by the collective agreements of the Danish Actors' Association, the individual distribution is managed via Filmex in accordance with the below plan of distribution agreed with the trade associations.

The fee is divided into a feature film share and a TV share each receiving 50%, as it is presupposed that the extent of private copying is approximately the same for feature film and TV programmes.

The feature film share

Prior to individual distribution, 2,5% of the share is deducted and paid to the Danish Musicians' Union with a view to payment to collectively performing musicians.

The rest is distributed to the performers in feature films that have been broadcast on DR1 and DR2, TV2 and TV-Zulu, TV3 as well as local and regional TV channels and that have been produced in countries where performing artists have the right to receive compensation for private copying, including film dubbed into Danish.

Payment is distributed based on the same plan of distribution as cable fees. With regard to foreign productions, distribution is based on audience ratings in accordance with Gallup's basis registration. Payment to performers in Danish productions is distributed based on the number of filming days x DKK 3,500 regardless of the numbers of broadcasts.

The TV share

Prior to individual distribution, 5% of the share is deducted with a view to payment to collectively performing musicians/choir singers. Of the 5%, 92% paid to the Danish Musicians' Union and 8% to the Danish Choir Association.

The rest is distributed to the performers in the Danish Broadcasting Corporation's productions (within the collective agreement fields 03, 07, 08, 09, 10, 12, 13, 14,15, 16, 17, 18 and 19) as well as to performers in corresponding TV productions.

Payment is distributed based on the same plan of distribution as cable fees.

With regard to foreign productions, distribution is based on audience ratings in accordance with Gallup's basis registration.

Payment to performers in Danish productions is distributed based on the number of filming days x DKK 3,500 regardless of the numbers of broadcasts. A maximum of DKK 9,000 per filming day can be included in the basis of calculation.

Regarding the Danish Broadcasting Corporation's archive

The agreement covers the Danish Broadcasting Corporation's payment for the following use of its own productions:

- 500 hours of on-demand archive material on the Danish Broadcasting Corporation's own platforms

- 40 hours of new on-demand drama
- Repeat broadcasts of archive material on Ramasjang, DR K, DR Ultra and DR 3 (specialised channels)
- Repeat broadcasts of archive material on radio
- Cuts on all platforms
- Archive material on kulturarv.dk

Please note that the rights of performers expire 50 years after the first broadcast of a production in accordance with the Copyright Act, § 65.2. No rights funds are allocated to productions that are no longer copyright protected.

On-demand use (500 hours of archive material and 40 hours of new drama material on dr.dk as well as archive material on kulturarv.dk)

Based on data received from the Danish Broadcasting Corporation, two lists are prepared of productions with performances by actors (i.e. performers covered by the collective agreement between the Danish Actors' Association and the Danish Broadcasting Corporation):

- drama and non-drama produced before the hold-back periods of 10 and 6 years, respectively (500 hours of archive material)
- drama with first broadcast after expiry of the 10-year hold-back period (40 hours of new drama)

Based on the list of productions used in accordance with the agreement's provision on 500 hours of archive material made available on dr.dk and kulturarv.dk, 20% of the funds received are distributed between all productions that have been made available, regardless of the number of views. Funds are distributed proportionally based on the duration (runtime minutes) of the productions in relation to the total duration. The remaining 80% of the funds are distributed between the production based on actual use, i.e. number of views in relation to the total number of views. The funds allocated to the individual production is distributed to the performers based on the size of the fee of the individual performers.

The list of newer drama productions is reviewed and productions that have been broadcast in accordance with the rules of the collective agreement are excluded, as these broadcasts are not covered by the archive agreement.

With regard to the remaining productions (i.e. productions made available in accordance with the agreement's provision on 40 hours of new drama) 20% of the funds received are distributed between all productions that have been made available based on the duration (runtime minutes) of the productions in relation to the total duration. The remaining 80% of the funds are distributed between the production based on actual use, i.e. number of views in relation to the total number of views. The funds allocated to the individual production is distributed to the performers based on the size of the fee of the individual performers.

Specialised channels

Based on lists received from the Danish Broadcasting Corporation of all broadcasts on the included channels, all productions with performances by actors (i.e. performers covered by the collective agreement between the Danish Actors' Association and the Danish Broadcasting Corporation) are identified. Subsequently, the funds received in accordance with the plan of distribution are distributed proportionally between the productions based on the duration (runtime minutes) of the productions in relation to the total duration. The funds allocated to the individual production is distributed to the performers based on the size of the fee of the individual performers.

Cuts

Funds received in accordance with the plan of distribution are distributed proportionally between the performing actors (i.e. performers covered by the collective agreement between the Danish Actors' Association and the Danish Broadcasting Corporation) based on how many times the individual performer has appeared in a cut, regardless of platform and duration of the cut.

Radio

Filmex has received data from the Danish Broadcasting Corporation on use of archive material on radio, but the data have not yet been processed. A suggestion for a plan of distribution within the radio field will be proposed as soon as possible.

Bonanza

The Danish Broadcasting Corporation's digital platform "Bonanza" has been continuously available in 2015, 2016 and 2017.

Fees for these years, which are expected to be received in 2018, will be distributed proportionally based on the number of views of the available productions. As hitherto, the distribution to the individual rights holders performing in the productions will be based on a relative weighting of the fee received.