



Dear SAMRO Member,

We have just concluded our Roundtable member meetings in the three major centres in the country – Johannesburg, Cape Town and Durban – where we were engaged, as agreed, on matters that need changing in the Membership Rules, Distribution Rules and Board of Directors Rules.

As you know, in the last nine months, we have started a process of significant change at SAMRO. The focus is on policy reform and improving operational delivery and efficiency, such as the establishment of a department dedicated to prioritising and expediting the distribution of undocumented royalties. All membership rules are currently under review and this includes rules that relate to board membership.

I'd like, in this letter, to give a brief overview of the issues discussed at the roundtable meetings and an outline of the process going forward.

The policy review that SAMRO is undertaking, on the distribution rules front, includes reviewing the rules governing the calculation of royalties earned for the arrangement of gospel and traditional music that is in the public domain (so called "DP" works). A musical work is classified as "DP" by SAMRO when it does not enjoy copyright protection and is in the public domain (*domaine publique*, DP). Contrary to various misleading media reports, DP is not person but a system identifier to classify works that are in the public domain.

This arrangement rule currently recognises a capped 16.7% copyright royalty share for the portion of the work that the arranger created on the back of the original public domain work. This percentage is allocated to the person who arranges the DP work. The balance of 83.3% of the royalty share that would have accrued to the rest of the arrangement had the DP portion been in copyright is held back and distributed to all the active musical works belonging to SAMRO members in proportion to the use of their music during the period under review.

The idea behind this rule is that it would not be fair for the re-arranger of the music to benefit from 100% of the royalties because s/he has used someone else's music as a base and has only contributed to a portion of the new arrangement. Royalties are neither collectable or payable for out-of-copyright/public domain works. As such, SAMRO's licensing arrangements are limited to the copyright-protected musical works of its members.

The rule presupposes the following elements of a composition:

Lyrics – 33.33%

Melody – 33.33%

Composition – 33.33% (further divided into 16.7% for Structure and 16.7% for Arrangement).



As such, when a new arrangement is made, it is only the 16.7% portion that is “new”. This is not out of line with international treatment of DP arrangements where the percentage apportioned to the arranger is pegged between 12.5% - 25%, depending on the country.

That being the case, SAMRO does accept that this rule, although not unlawful, is ripe for review for by the membership so as to have a more favourable impact on the arranger who decides to “revive” a traditional song that has now fallen outside copyright. The members of SAMRO, during the roundtable consultations, engaged favourably on this matter and it has been agreed that the percentage payable should be increased from the current 16.7%.

Other important matters discussed at the roundtables were:

- the simplification of membership categories,
- understanding membership criteria,
- streamlining of member benefits,
- the introduction of more independent directors on the board,
- inadequate music usage reporting by users of music,
- the Copyright Amendment Bill currently under review,
- SAMRO’s commitment to continued transformation,
- the link between local content music quotas on broadcasters and higher local royalty distributions, and
- the need for increased member engagement to ensure an increased understanding of how SAMRO operates and its role in the larger music ecosystem.

It is unfortunate to note that at the Johannesburg roundtable meeting that took place on Monday 23 April 2018, a group of non-SAMRO members attempted to force their way into what was a members-only meeting. It is believed the lack of understanding of the role SAMRO plays in the music industry was the cause of the numerous non-member musicians demanding entry into the meeting. SAMRO is in fact an administrator of active copyright music used by licensees, but is largely and wrongly viewed as the central body responsible for policy and socio-economic issues in the music industry. SAMRO accepts it has a contribution to make in this regard, but it is important to note that SAMRO’s mandate remains limited to its members and to matters to do with copyright, and specifically the public performance right, in compositions. This means that matters relating to recording contracts, unfair practices between musicians in general as well as any other artist royalties and revenues are excluded from SAMRO’s mandate.

Although the group intimidated and physically assaulted SAMRO staff members and threatened to burn down SAMRO House, the SAMRO board and management cautiously allowed this group into the meeting as observers. It is regrettable that not only was the group disruptive but it was also intent on perpetuating the inflammatory and misinformed SAMRO-



narrative that has been making rounds in the media of late. Several SAMRO members left the meeting early due to concerns for their safety.

I would like to sincerely apologise to all SAMRO members present who felt threatened and reiterate that threats of violence towards SAMRO and its staff, whether by members or non-members, cannot and will not be tolerated.

I would also like to thank the staff at SAMRO who assisted in containing the volatile situation.

The executive team at SAMRO is now collating all member inputs and encourages any more submissions to be sent to marketing@samro.org.za.

The submissions and recommendations will be presented to the membership of SAMRO at an extraordinary general meeting in **June 2018**, where it is hoped that new rules will be adopted that reflect the member's will and best interests.

I would like to conclude by saying that we ask that you judge us by our actions and that you work with us to ensure that our rules are fair and equitable and reflect the needs of our members. We want you to know that we are here to benefit you and we will make sure that this focus informs our actions and the changes we seek to make.

Regards
Nothando