



CLA AUDIT GUIDELINE CHARTER

1 / INTERNATIONAL AUDIT GUIDELINE CHARTER for CLA Producers



This Audit Charter is an undertaking between the member societies of BIEM for the purpose of setting standards in relation to royalty audits of producers using the BIEM member societies' repertoire.

The International Licensing Annual Review (ILAR) is meant for the audit of Record Producers being part of a Central Licensing Agreement (CLA). ILAR is a part of the necessary auditing activities for CLA.

ILAR - the annual sample audit linked with a systems check - is co-ordinated by the Licensing Society. The completeness and correctness of the accountings by the CLA Producers should be verified in the form of a European wide auditing of 15 catalogue numbers on a yearly basis, which have been selected by the Licensing Society.

ILAR is a part of the Minimum Common Standards annexed to the present Audit Charter for Mechanical Licensing.

In addition to the International audit carried out by the CLA Society, the Local Society has the possibility to audit more items than the 15 items within the sample check **and will report the final result to the CLA society.**

1 INTRODUCTION

The purpose of such minimum common standards relating to audits of Producers is to ensure that:

- audits are undertaken by the CLA Society; which will be in contact with the local societies when discrepancies appear in the best possible and most effective way and sufficiently frequently;
- If during the local audit; the local society identify one or several discrepancies; the local society has to inform the CLA society accordingly; in order to perform further investigations;
- taking into account any audit performed by the local Society in addition to the International audit; there is an acceptable level of transparency so that each Society, as far as its own repertoire is concerned, is able to satisfy itself that each other Society is carrying out its audit obligations in accordance with the agreed minimum common standards and to provide a remedy where any Society fails to carry out such obligations in accordance with such standards;
- the information provided by the Producer, also in relation to the usage of repertoire, is complete, correct, and has been supplied in time, to ensure royalties are properly accounted for by the Producer; and
- in principle, audits results will be evaluated on a country-by-country basis.

Therefore, this Audit Charter and supporting schedules set out matters in relation to, amongst others:

- Autonomy of Societies in their own territories of administration
- Responsibility for audits
- Frequency and timing of audits
- Reporting requirements
- Non-compliance with minimum common standards
- Cross border transactions

In addition, the audit charter fulfils the criteria of the Cannes Agreement, if effective.

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2 DEFINITIONS

In this Audit Charter (including the schedules) the following words and expressions have the following meanings:

“BIEM” is an international organisation that groups together societies administering or having through their statutes the capacity to administrate the mechanical reproduction rights, in view to represent and defend their interests.

“CLA” means a central licensing agreement under which a Licence is granted to a CLA Producer by a Society (or a group of Societies) for the manufacture and distribution by that Producer throughout the European Union or a substantial part thereof of carriers reproducing Musical Works which are included in the Repertoire of BIEM member societies.

“CLA Producer” means a Producer that has entered into a CLA with a Society (or a group of Societies).

“CLA Society” means a Society that has entered into a CLA with the CLA producer.

“International Supply Centre” means a central warehouse from which the CLA producer supplies carriers to affiliates.

“Licence/Agreement” means a Licence/Agreement between a Society (or a group of Societies) and a Producer which grants the Producer the right to proceed to the making of sound recordings of the works of the BIEM Societies repertoire, to make copies of these recordings by way of carriers and to put such carriers into circulation with a view to their sale to the public for private use.

“Licensing Society” means a Society (or a group of Societies) which has entered into a Licence/Agreement with a CLA Producer or International Independent Producer or National Independent Producer.

“ILAR” means International Licensing Annual Review.

“Local Society” means a body of rights owners, member of BIEM, which owns, controls and represents the repertoire within a territory (or territories).

“Repertoire” is defined as the musical works for which rights have been entrusted to the Society can be granted to Producers within Licenses/Agreements.

3 ROLE OF ILAR

ILAR exchanges experiences, information, and discusses problems encountered in the auditing field to find solutions which are applicable at international level.

The member societies of BIEM have agreed to put in place an audit plan under the auspices of ILAR.

ILAR recognise that there are different categories of Producers which enter into Licence/Agreements with the Societies and that, as far as royalty audits are concerned, ILAR has a role to play according to the type of Licence/Agreement.

In case of discrepancies found in the frame of the audit, then the societies shall inform each other and investigate the cause further in close cooperation.

4 PERFORMANCE OF AUDITS

Each Society must be alert to the Statute of Limitation period in its own territory and where any delay in settlement of an audit has occurred, they have within the legal powers, remedies to ensure claim remains within the Limitation period.

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5 RESOURCES

Each Society agrees to carry out audits of Producers in the most effective possible way, using the most appropriate resources. Each Society will use its own suitably qualified and experienced audit staff and /or suitably qualified and experienced independent external auditors/accountants.

Each Society may use such external auditors/accountants (either alone or, in appropriate cases, in combination with such own audit staff) where the audit being carried out relates to a CLA Licence/Agreement.

6 AUDIT COSTS

Each Society shall be responsible for the planning and budgeting of its audit costs.

The costs and expenses properly incurred in carrying out any audit of a Producer whether carried out by external auditors or by internal audit staff or both shall be paid and/or recouped accordingly with the Cannes Agreement and in any case in a manner which does not discriminate against the Society carrying out the audit or any other Society or the members of the Society or the members of any other Society.

7 CROSS BORDER OUTGOINGS (for sales outside Territories covered by CL agreement)

In the frame of exports to an affiliate of the CLA producer in territories not covered by a CL agreement, the CLA Society is not responsible of the audit of the concerned territory. Nevertheless, the CLA society will supply the society of destination with all relevant accounting information when claimed. By Exports, it is understood that these sales only concern local market and not central warehouse of retailers acting at an international level such as mail order selling.

8 CONFIDENTIALITY

The Societies recognise that audits of Producers are carried out according to obligations of the confidentiality provisions in the Licence/Agreement with each Producer.

Each Society shall treat as confidential all information resulting from any audit undertaken except that it may disclose information for well-founded reasons if and to the extent:

- required by the law of any relevant jurisdiction;
- required for disclosure according to its constitutional obligations;

the information has come into the public domain through no fault on its part.

9 DISPUTES AND FAILURE TO COMPLY WITH MINIMUM COMMON STANDARDS

In the event of any disagreement or dispute arising between the Societies concerning any matter covered by this Audit Charter or audit undertaken, the matter may be referred by either or any of them to MAC audit Group who shall act as experts, but not as arbitrators. MAC audit Group shall then make a recommendation on the matter to the BIEM Management Committee for the arbitration procedure provided for by Art. 35 of BIEM Statutes.

10 PARTNERSHIP

Nothing in this Audit Charter shall constitute or be deemed to constitute a partnership or joint venture between the Societies.



1- SCHEDULE ONE – ILAR PROCEDURES

2- SCHEDULE TWO – ILAR1

International audit of outgoing per countries from warehouse by CLA societies (15 catalogue numbers).

3- SCHEDULE THREE – ILAR2

Audit of copyright and local conditions by CLA society.

4- SCHEDULE FOUR – GUIDELINE for CLA/ full audit by the local society.

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SCHEDULE ONE -

International Licensing Annual Review (ILAR) Procedure

ILAR 1

ILAR 1 concerns only the licensing Society. The Licensing Society will have to collect 15 selected catalogue numbers from the CLA/international with their relevant manufactured quantities. This should enable to determine the outgoings, country per country. These quantities will be communicated to each concerned local Society in the header of the ILAR 2.

ILAR 2

In the heading of each ILAR 2, to be sent to each local society, will be indicated the manufactured quantities to be audited locally. Upon receipt of the ILAR 2 each local society should be in position to audit the local affiliate in view to re-conciliate the above mentioned manufactured quantities (communicated by the licensing society) with their local investigations.

ILAR contains not only detailed stock movements but relevant accounting matters as well.

- Stock movements shown in the first column have to be calculated from the top downwards whereas the contractual and accounting matters have to be calculated from left to right.
- Related stock movements (sales channels / returns) are represented alternately by light blue and white fields.
- Free goods (e.g. buy 8 / receive 10) have to be incorporated into the relevant sales channel (e.g. normal sales).
- Remarks indicate methods of calculation, allowances, different prices applied within one and the same sales channel and enables the Local Society, if necessary, to explain local exceptions.
- Differences have to be cleared and explained.

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2 SCHEDULE TWO - ILAR1-CLA audit of outgoing per country from warehouse by licensing societies (15 catalogue numbers).

**ILAR 1: to be completed
by the Licensing society**

INTERNATIONAL LICENSING
ANNUAL REVIEW 1

Audit period :	Catalogue No. :
CLA society :	Type of support :
Record company :	Date of first outgoing :

DETAILED SHIPMENTS FROM INTERNATIONAL WAREHOUSE EXCL. COPYRIGHT

Method of calculation

Total manufactured
+

.....

CLA Countries	Gross shipments / Outgoings	returns		net shipments
Denmark/.
Norway/.
Sweden/.
Finland/.
Island/.
Great Britain/.
Ireland/.
Belgium/.
Netherlands/.
Germany/.
Austria/.
Switzerland/.
France/.
Italy/.
Spain/.
Portugal/.
Greece/.
Other Countries (total units)/.
			
			Difference =



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3 SCHEDULE THREE - ILAR 2 audit of copyright and local conditions by CLA societies

ILAR 2: to be completed by CLA society

Audit period :	Catalogue No. :	Currency :
Local Society :	Type of support :	
CLA society :	Date of first outgoing :	
Record company :	TV advertised (yes/no):	

The Licensing Society Audit Results from ILAR 1 :

Gross shipments/Outgoings Returns: Net Shipments:

DETAILED STOCK MOVEMENTS	Local PPD	CONTRACTUAL MATTERS				TO BE ACCOUNTED (=)	ACCOUNTED TO CLA (/)	DIFFERENCE (to be explained) (=)
		Net sales	Retentions	Reconciliation	Accounted Allowance			
		(+)	(/)	(+)	(-)			
Net Shipment								
Promotional units actual								
Normal sales								
Club sales inc copyr								
Club sales excl copyr								
Others inc copy								
Export sales inc copyr								
Export sales excl copy								
Destructions								
Adjustments								
Others								
Local difference								

(+) (/) (+) (-) (=) (/) (=)

1 Accounted Allowances concerns local conditions deductions such as : deduction for TV Campaign, free goods,

2 When Different PPD : Please add as many lines of normal sales, club sales, export sales.....as there are different PPD



4 SCHEDULE FOUR - Guideline for CLA full audit

GUIDELINE FOR CLA AGREEMENT FULL AUDIT

- 1- AUDIT SCOPE**
- 2- AUDIT PROCESS**
- 3- DATA REQUESTED**
- 4- TYPOLOGY OF ADJUSTMENTS**

Complementary to the above Audit charter procedure (ILAR), the local society has the possibility to engage by its own, a full audit with the agreement of the Licensing society. Therefore, this guideline is a proposal to monitor and manage a framework for a local society full audit.

1- AUDIT SCOPE

The audit scope covers the areas of Works Documentation, Stock movements and Copyright. It thus comprises:

- All systems and procedures in use to ensure completeness and accuracy of works documentation and relative claims databases at each producer site,
- All matters related to product manufacture and Stock movements which cover together the areas of Stock management, those of Sales and Distribution (customer and inter-company) and of Purchasing (third party or inter-company),
- All systems and procedures adopted for copyright calculation and paying processes.

2- AUDIT PROCESS

The audit process should include 6 steps to be followed by the auditor and the auditees which are the following.

2.1 - Introducing letter (specimen)

Dear Mr

In the frame of our Central Licensing Agreement and also in the frame the audit charter approved by authors' societies, we wish to inform you that "Licensing Society" has planned to carry out an audit concerning "CLA Producer" copyright activities.

You will find enclosed a summary of the "Licensing Society" audit procedures, which describes our own method of auditing which is based on overall controls as well as the testing of a sample of references selected by the audit team.

The Audit will concern the reporting periods to "Licensing Society", from "period" up to "period" and we intend to check all the contractual data in the frame of the CL agreement and of the local conditions.

Among this audit procedure summary, an audit time schedule is included.
Could you please let us know if the below dates are convenient for you i.e.





2.1 Introducing letter (specimen)

*- Audit on site: two weeks to be defined and planned for two "Licensing Society" auditors: Mr..... and Mr (Phone number:, e-mails :.....).
We suggest weeks "n°..... and week n°....."*

You will also find included in our audit procedure summary a list of the data, reports and records requested which covers all the audited periods and since "period".

Please be advised that prior to any onsite examination work we have to be sure that workable information should be available : our intent is to be able to trace and cross-check all stock data which lead to copyright reporting in the frame of your country's local conditions.

Should you have any questions or require any further information at this stage, please do not hesitate to contact us.

We remain,
Sincerely yours,

2.2 - Planning

For central licensing operations, the planning phase has to be engaged both by central co-ordination structures and by local organisations (auditors and local affiliate). Conclusions of such a phase must be the formal approval on the scope, place of the audit, the preparatory audit file, the booking of resources and the planning defined during the audit start-up meeting.

2.3 - Audit start-up meeting:

The audit process and objectives must be presented to auditees as well as its present scope and duration to allow common understanding and ensure co-operation.

2.4 - Audit program:

The audit program to be followed by the auditor and the auditee allows to:

- Provide a framework to guide intervening parties,
- Ensure optimal coverage of the audit scope to assess quality of data and processes at stake,
- Facilitate communication between all intervening parties on site and off site.

2.5 - Closing meeting

It should be organised with management of the structure audited. Clear understanding on the results of the audit must be reached as well as on the draft of the audit report presenting summary of conclusions and agreed corrective actions to be undertaken by the auditee.

2.6 - Audit report and settlement

The audit report, summarising tasks effected and related results (adjustments if any), aims at informing all authorised parties of the situation of internal controls and of possible corrective actions to be followed up. On the basis of the attached appendix (Audit Results) this report is also a reference document to up-date the overall audit program database and the reports provided by Central Licensing Annual Reviews.

3. DATA REQUESTED **(when the CLA producer is concerned)**

Such an approach is based on the fact that the auditee's organisation and information systems should allow to bring together all relevant data to allow the copyright society to assess overall internal controls surrounding copyright reporting.

The following data's are deeply requested:

For Copyright Auditing

- Published catalogue list (per item and with the relevant prices) since: "period/year"
- Exhaustive list of retentions made since: "period/year"
- Exhaustive list of free goods (promos, bonus) per period since "period/year":
- Exhaustive list of club sales per period since: "period/year"
- Exhaustive list of bargain sales per period since: "period/year"
- Exhaustive list of budget sales per period since: "period/year"
- Reporting lists to copyright society (gross and net values) per period since: "period/year"
- Exhaustive list of returns per period since: "period/year"
- Exhaustive list of deductions per period since: "period/year"
- Exhaustive list of exports per period since: "period/year"
- Exhaustive list of all catalogue numbers concerned by any movement (sales) since: "period/year"
- Exhaustive list of sales, exclusive of copyright per period since: "period/year"
- Exhaustive list of TV and radios campaigns since: "period/year"
- Sales files sent to CLA Society files since: "period/year"
- Exhaustive list of labels

For Stock Auditing

- Inventory lists since: "period/year"
- List of manufacturing invoices per period since : "period/year"
- List of shipments and origin per period since: "period/year"
- Supplier's invoices per period since: "period/year"
- The Purchase Ledger since: (year)
- List of movements (incoming and outgoing) per period since: "period/year"
- Exhaustive list of destructions per period since: "period/year"
- Exhaustive list of imports per period since: "period/year"



4. TYPOLOGY OF ADJUSTMENTS

1. Quantities not reported in the reporting statement: concerns missing quantities.
2. Stock discrepancies between the producer reporting and the stock result calculation: concerns adjusted quantities.
3. Stock discrepancies between the stock incoming and the quantities manufactured: concerns adjusted quantities.
4. Stock discrepancies between opening stock and the closing stock of the previous period: concerns adjusted quantities.
5. Stock inventory discrepancies not reported: concerns adjusted quantities.
6. Stocks destructions not certified: concerns adjusted quantities.
7. Club sales not reported: concerns adjusted quantities.
8. Deduction of quantities exceeding the maximum allowed: concerns adjusted quantities.
9. Deduction of unjustified quantities: concerns adjusted quantities.
10. Deduction of quantities according to the maximum allowed by contract instead of the official quantities: concerns adjusted quantities.
11. Deduction of promotional quantities without respecting the consolidation of type of support: concerns adjusted quantities.
12. Deduction of quantities after the first period of sales: concerns adjusted quantities.
13. Export deductions unjustified: concerns adjusted quantities.
14. Export returns: concerns adjusted quantities.
15. Incorrect TV advertised deductions (quantities or rate): concerns adjusted quantities.
16. Deduction of TV advertised quantities exceeding the maximum allowed: concerns adjusted quantities.
17. Deduction of TV advertised quantities without respecting the consolidation of type of support: concerns adjusted quantities.
18. Constitution of retentions not allowed: concerns adjusted quantities.
19. Constitution of retentions not allowed in the frame of bargains sales, clubs, exports.....: concerns adjusted quantities.
20. Retentions not reconciliated: concerns adjusted quantities.
21. Reconciliation of retentions outside the contractual reporting period: concerns adjusted quantities.
22. Deduction of returns unjustified: concerns adjusted quantities.
23. Wrong calculation regarding the constitution of retentions: concerns adjusted quantities.
24. Deduction of bargain returns: concerns adjusted quantities.
25. Other stocks discrepancies: concerns adjusted quantities.
26. Unjustified appliance of the minima license instead of the calculation of the normal license: concerns adjusted license.

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27. Unjustified use of the budget minima license: concerns adjusted license.
28. Exceeding duration depending on the type of support: concerns adjusted license.
29. Exceeding work and/or fragment allowed by the contract: concerns adjusted license.
30. Error within the components of an album: concerns adjusted license.
31. The reporting PPD is lower than the published PPD: concerns adjusted license.
32. Error occurred in the license calculation (ratio, minima, etc...): concerns adjusted license.
33. Different reported PPD linked to exports for a non-affiliate: concerns adjusted license.
34. Deduction from the normal sales of the returns instead of the retentions (in case of different PPD's): concerns adjusted license.
35. Retentions reconciliated with wrong PPD: concerns adjusted license.
36. Bargain deadlines are not respected: concerns adjusted license.
37. Reference reported as bargain but has not been removed from the producer catalogue: concerns adjusted license.
38. Reference manufactured in order to be sold as a bargain sale: concerns adjusted license.
39. Exceeding authorized quota: concerns adjusted license.
40. Bargain minima have not been respected: concerns adjusted license.
41. Other complementary license adjustments: concerns adjusted license.
42. Documentation modification: concerns documentation adjustments.
43. Missing recovery: concerns documentation adjustments.