



Digital Licensee Coordinator

The MLC's Annual Assessment Fee Explainer

In December 2020, DLC and The MLC filed a [joint motion](#) with the Copyright Royalty Judges to revise the allocation formula originally established on January 8, 2020. The Copyright Royalty Judges granted an [order](#) accepting DLC's and The MLC's proposal and published the [new regulations](#) in the Federal Register on January 22, 2021.

These are the key points:

- There are two separate allocation schedules for the Annual Assessment paid by all Blanket Licensees and Significant Non-Blanket Licensees to fund the operations of The MLC, one for permanent download services operating exclusively under pass-through licenses, and one for all other Blanket Licensees and Significant Non-Blanket Licensees (SNBLs):
 - Download services operating exclusively under pass-through licenses pay a flat annual fee under a tiered system that ranges from \$2,500 to \$60,000, depending on the Unique Sound Recording Count (USRC) (defined below) during the prior Annual Calculation Period.
 - All Blanket Licensees and those SNBLs not operating exclusively as download stores have a slightly different tiered system under which there are flat fees of \$2,500 to \$20,000 for licensees that have a USRC of less than 100,000 during the prior Annual Calculation Period. Licensees with a USRC of greater than 100,000 during the prior Annual Calculation Period pay an annual minimum fee of \$60,000 and are eligible to pay an additional allocation of The MLC's administrative assessment, to the extent it exceeds the minimum fee. That additional allocation is calculated as follows:
 - Threshold Licensees – those licensees that report at least 7.5% of the Aggregate Total Sound Recordings Count (defined below) of all licensees – would be responsible for 50% of the remaining (post-flat fee) annual assessment amount, with each Threshold Licensee paying on pro-rata basis across Threshold Licensees based on each Threshold Licensee's share.
 - All Licensees – including Threshold Licensees – would be responsible for 50% of the remaining (post-flat fee) annual assessment amount, with each licensee paying on a pro-rata basis across all licensees based on each licensee's share.
- The third and fourth tiers for Blanket Licensees and SNBLs (covering USRCs between 25,001 and 100,000) – but not download services operating exclusively under pass-thru licenses – sunset after the 2024 fees are assessed. Subsequently, any Blanket Licensee or

SNBL with a USRC of 10,001 or more is an Allocated Licensee, leaving only those Blanket Licensees and SNBLs with a USRC of 10,000 or less as Flat Fee Licensees (with that flat fee being \$2,500).

Charts showing the tiers for Blanket Licensees/SNBLs operating exclusively under pass-through licenses are at the end of this document.

- There are detailed rules for allocating assessments to licensees that began engaging in covered activities after the license availability date. In particular, a new licensee begins at the lowest applicable tier in the schedules below. But as soon as the new licensee reports usage to The MLC that can be used to determine its USRC, it will be reassessed. If its USRC exceeds 100,000 at that point, it will be recharacterized as a licensee that will owe an additional allocation of the assessment.
- A few other things to keep in mind:
 - The Unique Sound Recording Count (USRC) is the number of unique and royalty-bearing sound recordings used per month by the licensee in Section 115 covered activities, such as would be reflected in the information required to be reported under Section 115(d), calculated as a monthly average over the respective calculation period. For purposes of clarity: the USRC is based on “reported” usage by a licensee, rather than “royalty-bearing” usage and musical works in the public domain do not count towards the USRC. There are specific rules for calculating the USRC when the licensee is in operation for only part of a calculation period.
 - The Aggregate Sound Recordings Count is the total unique sound recordings across all licensees during the relevant allocation period.
 - Flat fee and annual minimum fee payments occur at the beginning of each year. They will be due on January 15, 2022 and by the later of January 15 or 30 days after the receipt of an invoice from The MLC beginning in 2023 and thereafter.
 - Quarterly invoices of the allocated portion of the administrative assessment must be paid within 45 days rather than the later of 30 days or the next calendar quarter.

Revised Allocation for Download Services Operating Exclusively Under Pass-Through Licenses

<u>USRC Range</u>	<u>Minimum Fee</u>	<u>Eligible for additional allocation</u>
< 50,000	\$2,500	NO
50,001-100,000	\$5,000	NO
100,001-250,000	\$10,000	NO
250,001-500,000	\$20,000	NO
> 500,000	\$60,000	NO

Revised Allocation for All Other Licensees

<u>USRC Range</u>	<u>Minimum Fee</u>	<u>Eligible for additional allocation</u>
< 10,000	\$2,500	NO
10,001-25,000	\$5,000	NO
25,001-50,000	\$10,000	NO
50,001-100,000	\$20,000	NO
> 100,000	\$60,000	YES

Please [contact us](#) with specific questions about The MLC's annual assessment.