PICSEL Annual Transparency Report ("ATR") for 2020

The purpose of this ATR is to provide information about the activities of PICSEL for the financial year ending 31 December 2020 in compliance with the Collective Management of Copyright (EU Directive) Regulations 2016 ("Regulations"), transposed into UK law on 24th February 2016. The information in this report is drawn from the Annual Report and Financial Statements for PICSEL for the year ended 31 December 2020.

This ATR, the Annual Report and PICSEL's Financial Statements are published on PICSEL's website, www.picsel.org.uk. They are updated on an annual basis.

About PICSEL

PICSEL is a not-for-profit private company limited by guarantee (Reg. No. 9899186) and is a collective management organisation (CMO) run by and for its members, who are creative rights holders, and their representatives.

In accordance with the Regulations PICSEL recognises a rights holder as:

Any person or entity other than a CMO that:

- holds a copyright or related right, or
- under an agreement for the exploitation of rights or by law is entitled to a share in the rights revenue.

PICSEL was created by rights holders for rights holders and is governed by a board of directors, the majority of whom are members and all of whom are elected by the members. Under the articles of association, the board is also permitted to appoint non-members as directors where appropriate, subject to ratification by members at the General Assembly. Currently, we have one independent director who is not a member.

As a not-for-profit organisation, PICSEL operates in the interests of all its members to ensure fair, equal and timely distribution of revenue.

PICSEL Governance

During 2020 the Board of Directors comprised:

Isabelle Doran – Loupe Images (Chair – resigned 31st December 2020)
John Balean – Topfoto (Treasurer)
Dirk Hendrickx – Bridgeman Images*
Paul Brown – Mary Evans Picture Library
Hamish Crooks – Magnum Photos
Jonnie Leger – AKG-images
Fergus McKenna – Mirrorpix
Denise Swanson – Individual Creator Member
Florian Koempel – Independent Non-Executive Director**
Matthew Bailey – Independent Non-Executive Director ***
Christopher Barwick – Stockfood (resigned 1st February 2020)
Paul Seheult – Eye Ubiquitous (CEO)

*In February 2020 Dirk Hendrickx, as the new CEO of Bridgeman Images, replaced Victoria Bridgeman on the Board.

**In February 2020 Florian Koempel was appointed as an Independent Non-Executive Director. Florian is a highly respected German trained lawyer who has worked in the UK as a legal consultant to UK Music, international copyright consultant to the BCC, public affairs consultant to the Music Publishers Association, copyright consultant to the Publishers Association, and is a Teaching Fellow at Queen Mary University, London, specialising in international copyright law and music industry contracts. Brexit and the EU DSM legislation have occupied him in these roles and put him in high demand.

***In August 2020 Matthew Bailey was appointed as an Independent Non-Executive Director. Matt has an extensive background in the heritage sector, most recently at the national Portrait Gallery, and brings new expertise in this area to PICSEL.

REPORT ON ACTIVITIES

The pandemic has meant no travel after March 2020, with all conferences cancelled and face to face meetings suspended. As with everybody else, we adapted very easily to virtual meeting, resulting in there being little or no effect on the day to day running of PICSEL.

Adaptation of Licensing for COVID-19

Both CLA and ERA relaxed licensing terms, up until the end of the 2020-21 academic year, for all levels of educational licensing. This was in response to requests from both the DfE and higher education, with teaching moving almost exclusively online and no access by students and teachers to books held by schools, colleges and universities.

Demands for remote learning access led to greater use of digital content, with fast tracking by CLA and ERA of new products to make possible access to digital content for education.

Despite CLA and ERA ensuring that copyright did not get in the way of remote learning, there was an increase in demands for open access across Europe, not only in the UK. This was an orchestrated move, at a challenging time, by open access groups to use the pandemic as a means to further their campaign.

Financial Impact of COVID-19

In March 2020 financial expectations for the coming financial year were bleak. Language schools and business licensing were immediately affected. Delayed license renewals, requests for flexible payment terms and discounts, together with closures, were all playing a key role.

The license extensions granted by CLA and ERA after consultation with members, to the educational sector, echoed similar moves globally by IFRRO members, which enabled licensing to remain robust and relevant.

As the year progressed, the darkness of earlier forecasts receded and an improving picture emerged month by month. In the end, the 2020 licensing year was a record year, and we look forward to distributing this earlier than we have been able to in the past, which will hopefully help members who may have had a challenging year.

Changes caused by the pandemic

Whilst the relevance of data to distributions has grown in acceptance, the pandemic made data collection difficult. Physical visits were halted, but new IT solutions were increasingly employed.

At the same time, developments already underway for digital delivery of content was fast tracked. The success of these products has meant that further developments of products for digital content delivery, and data collection, have been brought online.

Whilst there will be some return to old ways in time, the digital revolution has really hit collective licensing in an unprecedented way. The reality is that it has simply brought forward what was already in the pipeline, given it new impetus and found even greater technological innovation.

IPO CMO Working Group

Virtual meetings continued with the IPO throughout the year with a pending post implementation review (PIR) of the CRM Directive in the UK to be published in 2021.

The IPO continues to monitor the implementation of the DSM across Europe, with a view to implement relevant sections in the UK should they think it suitable. With the UK not implementing the DSM Directive, there was deep concern that there would be a loss of reciprocity in collective rights management.

Further meetings with the IPO throughout the year centred on Brexit and trade negotiations. PICSEL strongly urged the IPO to support the robust UK copyright regime over the US system in any trade deals that come with Brexit. The IPO stated that their position is to support the UK regime which has proven to be robust, and we continued to urge them to promote Fair Dealing over the American Fair Use provision which is not in rightsholders' interests.

FINANCIAL REPORT

- Overall, there was a 4.18% increase in revenue with a 4.4% increase in distributions.
- Rightsholder representation rose by 20.52% over 2019, with a 21.6% increase in claims.
- Revenue was above expectation with individual images being allocated up to £2,300 showing an increase of 17.95% on 2019. Individual rights holders' allocations ranged from the minimum of £25 to £20,086. These were all once again well above industry reports.
- During the year £79,813 was received from various sources and will be included in the 2021 RightShare® distribution.

To comply with the transparency requirements of the Regulations regarding this ATR, and in particular clause 21 (4) (i) that financial information on the costs of rights management and other services be provided by the collective management organisation to rightsholders, we can confirm that the percentage of costs in relation to rights revenue for 2020 was 9.91. Further, to comply with 21 (4)(i)(ii) (breakdown of costs attributable to the management of rights) the total cost was £83,287 or 86.23%. With regard to 21 (4)(i)(iii) (breakdown of costs attributable to services other than the management of rights) the total cost was £13,295 or 13.77%.

CLA Market Share

PICSEL's market share for CLA and PLS distributions is calculated by an independent auditor appointed by the CLA.

As membership has grown, so has our market share, rising to 12.75% from 12.3% in 2019. At the same time PICSEL's share of the total CLA distribution rose to 14.4% from 13.9% in 2019. This was due to continued success with matched data allocations.

PICSEL members continue to embrace the data driven model for revenue distribution and it has proved a greater success for PICSEL members than expected.

- PICSEL members' claims represented 24.4% of all matched titles.
- 33.83% of images claimed by PICSEL members matched CLA data, up from 33.2% in 2019

PLS Market Share

The total PLS distribution to all VACMOs rose by 0.5% over 2019, and the PICSEL share of this total distribution rose to 19.5% from 16.3% in 2019.

- PICSEL members' claims represented 26.7% of all matched titles
- 19.34% of images claimed by PICSEL members matched PLS data

Remuneration of Chief Executive Officer and Board of Directors

Paul Seheult (Chief Executive Officer)	Total Remuneration £48,000*
Isabelle Doran (Chair, Director)	Fees Received as a PICSEL Director £5,000
John Balean (Director)	Fees Received as a PICSEL Director £0.00
Dirk Hendrickx (Director)	Fees Received as a PICSEL Director £0.00
Paul Brown (Director)	Fees Received as a PICSEL Director £0.00
Hamish Crooks (Director)	Fees Received as a PICSEL Director £0.00
Jonnie Leger (Director)	Fees Received as a PICSEL Director £0.00
Fergus McKenna (Director)	Fees Received as a PICSEL Director £0.00
Denise Swanson (Director)	Fees Received as a PICSEL Director £0.00
Florian Koempel (Director)	Fees Received as a PICSEL Director £0.00
Matthew Bailey (Director)	Fees Received as a PICSEL Director £0.00

**Includes £3,000 inclusive rent charged to PICSEL at a fair market rate.*

RightShare® - Distribution of Revenue

Revenue came from collective management schemes for Visual Artists operated by the CLA (Copyright Licensing Agency), PLS (Publishers' Licensing Services), ERA (Education Recording Agency), IVARO (Irish Visual Artists Rights Organisation) and a payment of historic German royalties from VG Wort for distribution in 2021.

PICSEL made a subvention of 15% for its administration costs on all distributions.

In 2018 it was agreed that any reasonable surplus should go towards a reserve and contingency fund for the benefit of members. The Board therefore agreed to implement a provision of £52,592 for non-distributable amounts for 2020, bringing the total provision to £151,333. In accordance with the obligations of the company under the Collective Management of Copyright (EU Directive) Regulations 2016, the provision is subject to a six-year cap under the Limitations Act, after which the amounts will be distributed to current members.

Please refer to the Report of Factual Findings at the end of this report, prepared by PICSEL's accountants, Carpenter Box Ltd.

PLS Annual Distribution (Royalties received in 2020 for 2019 licensing period)

Revenue*	Net	% of Total PLS Distribution	Paid to Members	Subvention
Matched Data	£51,531	34.29%	£43,801	15%
Unmatched Data	£45,032	13.19%	£38,277	15%
Total	£96,563	19.46%	£82,078	15%

*Collective license revenue generated through business licenses raised by NLA on behalf of PLS

CLA Annual Distribution (Royalties received in 2020 for 2019 licensing period)

Revenue**	Net	% of Total CLA Distribution	Paid to Members	Subvention
Educational Matched	£190,259	18.97%	£161,720	15%
Non-educational Matched	£101,521	17.5%	£86,293	15%
Unmatched Data	£469,929	12.74%	£399,440	15%
Total	£761,709	13.96%	£647,453	15%

**Collective license revenue generated by educational, government and business licenses generated by CLA, document delivery and payments from overseas RROs.

TV Annual Distribution (Royalties received in 2020 for 2019 licensing period) from ERA.

Revenue***	Net	% of Total IVARO Distribution	Paid to Members	Subvention
ERA	£14,535	NA	£12,354	15%

*** Under our agreement with DACS, whereby a market share is calculated annually by an independent auditor, the original payment from ERA was adjusted and £3,065.25 was paid to DACS.

IVARO Annual Distribution (Royalties received in 2020 for 2019 licensing period)

Revenue	Net	% of Total IVARO Distribution	Paid to Members	Subvention
RETURN****	£7,057	NA	£5,999	15%

****RETURN is a service for distributing reprographic royalties to visual creators. Reprographic royalties are collected from Universities, schools and businesses in the Republic of Ireland that use photocopying machines.

Deductions for social, cultural and educational services

There were no deductions for social, cultural and educational services during 2020.

Refusals to grant a license

We have not refused to grant a license during this reporting period.

General Distribution Policies

Distribution of this revenue is outlined in PICSEL's Distribution Policy which is available in full on our website www.picsel.org.uk

However, the principles, and execution, can be briefly summarised.

The PICSEL Board, working with the Distribution Committee, is responsible for the formulation and implementation of the Distribution Policy and is required to ensure that the policy is fair, transparent and cost effective. It will regularly review the policy in response to:

- Any changes in the terms of the licences;
- Any change in the availability of data that has the potential to impact upon a distribution;
- Member satisfaction with the current policy.

Licence revenue is allocated to PICSEL in two distinct ways:

- To titles that match survey data. For 2020 revenue this was 30%. It is planned to rise each year until 2021 to 40% for educational licences and 30% for non-educational.
- To all titles that do not match survey data or where data is unavailable. For 2020 revenue this was 70% decreasing each year until 2021 to 60% for educational licences and 70% for non-educational licences.

This applies to both CLA and PLS Licence revenue.

The Distribution Committee has advised the Board that revenue allocated to titles in the matching process should be paid to those titles following the principle of revenue following rights, and that the availability allocation should be shared out amongst claimants based on the number of uses claimed for.

All claims from all rights holders are treated equally without discrimination or prejudice to ensure PICSEL's principles of ensuring fair, equal and timely distribution of revenue to rights holders.

Acronyms used in this Report

ATR – Annual Transparency Report
CLA – Copyright Licensing Agency
CMO – Collective Management Organisation, commonly known as a collecting society
DSM – Digital Single Market
ERA – Educational Recording Agency
EU – European Union
IPO – UK Intellectual Property Office
IFRRO – International Federation of Reproduction Rights Organisations
IVARO – Irish Visual Arts Rights Organisation
NLA – Newspaper Licensing Agency
PIR – Post Implementation Review
PLS – Publishers' Licensing Services
VA – Visual Artists
VACMO – Visual Artists Collective Management Organisation

REPORT OF FACTUAL FINDINGS

To the directors of Picsel Limited

We have performed the procedures agreed with you and enumerated below with respect to the annual transparency report of Picsel Limited for the year ended 31 December 2020. Our engagement was undertaken in accordance with the International Standard on Related Services applicable to agreed-upon procedure 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 the Collective Rights Management Directive.

We have carried out the agreed procedures as detailed in the 'Guidance on the collective management of Copyright (EU Directive) Regulations 2016: supplementary guidance on annual transparency reports and audit' issued by the Intellectual Property Office in October 2017. In relation to the breakdowns required by regulation 21(4) (g) to (k) our work was limited to the accounting information used to develop the breakdowns, and our work did not cover the merits of the decisions taken by Picsel Limited in order to allocate e.g. income or costs to particular categories, but was designed to ensure that the financial information presented as a result of these decisions is consistent with both the underlying books and records and the disclosed methodology.

We performed the procedures as set out in the guidance with no matters to report.

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 31 December 2020.

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 Picsel Limited 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 Picsel Limited for any other purpose whatsoever. Our report was not prepared for the benefit of any party other than Picsel Limited. Carpenter Box 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.

Carpenter Box

Carpenter Box **Date:** 31 August 2021

Chartered Accountants
Worthing

Carpenter Box is a trading name of Carpenter Box Limited