PICSEL Annual Transparency Report ("ATR") for 2023

The purpose of this ATR is to provide information about the activities of PICSEL for the financial year ending 31 December 2023 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 2023.

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 2023 the Board of Directors comprised:

John Balean – Topfoto (Chair)
Paul Brown – Mary Evans Picture Library
Jonnie Leger – AKG-images
Hamish Crooks – Magnum (resigned 30/09/2023)
Fergus McKenna – Mirrorpix (resigned 11/03/2023)
Adele West – Bridgeman Images
Denise Swanson – Individual Creator Member
Florian Koempel – Independent Non-Executive Director
Matthew Bailey – Independent Non-Executive Director
Trevor Jennis McDermott – GAP Photos (appointed 21/06/2023)
Alan Capel – Independent Non-Executive Director (appointed 05/09/2023)
Paul Seheult – Eye Ubiquitous (CEO)

FINANCIAL REPORT

- Overall, there was a 3.7% increase in cash receipts with a 3.7% increase in cash distributions.
- Membership rose by 4.44%.
- Revenue was above expectation with individual images being allocated over £5,300, up 17.77% from over £4,500 in 2022. Individual rights holders' allocations ranged from the minimum of £25 to over £29,000. These were all once again well above industry reports.

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 2023 was 11.96%. Further, to comply with 21 (4)(i)(ii) (breakdown of costs attributable to the management of rights) the total cost was £100,329 or 86.92%. With regard to 21 (4)(i)(iii) (breakdown of costs attributable to services other than the management of rights) the total cost was £15,092 or 13.08%.

The Board note that there are some timing differences between some of the figures disclosed in the Annual Transparency Report and the statutory accounts. This is due to the accounting treatment of certain items on an accruals basis rather than a cash basis.

Note on CLA Distribution Change

From April 2023 payments CLA revenue distribution to VACMOs changed from a single annual payment to a monthly payment to be in line with distributions to the other members of CLA, namely ALCS and PLS.

These payments are based on the market share of the previous year. However, the market share changes every year as it is dependent on the claims made by the VACMOs. An adjustment is then made based on the new market share, which will then also be applied to the monthly payments going forward.

In the interests of transparency, the monies received throughout the CLA financial year of 1^{st} April 2023 to 31^{st} March 2024, relating to licence period of 1^{st} January to 31^{st} December 2023 and distributed in RightShare® 2024 were treated as advance payments as will all future payments.

CLA Market Share

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

Our market share increased slightly to 13.1%. PICSEL's share of the total CLA distribution remained fairly static at 14.4% from 14.5% in 2022. This was due mainly 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 26.65% of all matched titles, down slightly from 27.39% in 2022.
- 34.65% of images claimed by PICSEL members matched CLA data, slightly down from 35.44% in 2022 whilst PICSEL members only represented 5.58% of all images claimed.

PLS Market Share

The total PLS distribution to all VACMOs fell by 4.4% over 2022, due mainly to publishers moving to NLA from PLS. PICSEL's share of this total distribution was up slightly to 17.03% from 16.9% in 2022.

- PICSEL members' claims represented 31.21% of all matched titles, up from 27.26% in 2022.
- 35.89% of images claimed by PICSEL members matched PLS data, down from 41.25% in 2022.

Remuneration of Chief Executive Officer and Board of Directors

Paul Seheult (Chief Executive Officer)	Total Remuneration £49,783*
John Balean (Chair)	Fees Received as a PICSEL Director £5,000
Adele West (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
Alan Capel (Director)	Fees Received as a PICSEL Director £0.00
Trevor Jennis McDermott (Director)	Fees Received as a PICSEL Director £0.00

**Includes £3,000 inclusive rent charged to PICSEL at a fair market rate and £1,522 pension contributions.*

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).

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 £ 34,381 for non-distributable amounts for 2023, bringing the total provision to £ 267,162. 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.

PLS Annual Distribution (Royalties received in 2023 for 2022 licensing period)

Revenue*	Net	% of Total PLS Distribution	Paid to Members	Subvention
Matched Data	£29,734	25.32%	£25,274	15%
Unmatched Data	£36,010	13.41%	£30,608	15%
Total	£65,744	17.03%	£55,882	15%

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

During the year a supplementary payment of £331.22 was received from PLS and was included in the 2023 RightShare® PLS unmatched distribution. A subvention of 15% was applied and £281.54 was added to the PLS unmatched distribution.

CLA Annual Distribution (Royalties received in 2023 for 2022 licensing period)

Revenue**	Net	% of Total CLA Distribution	Paid to Members	Subvention
Educational Matched	£247,333	17.37%	£210,234	15%
Non-educational Matched	£98,008	15.34%	£83,306	15%
Unmatched Data	£473,753	13.09%	£402,689	15%
Total	£819,094	14.42%	£696,229	15%

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

An Exceptional Distribution was made by CLA during 2023 and was included in the unmatched distribution for 2023.

Revenue received in 2023 from CLA	Net	% of Total CLA Distribution	Paid to Members	Subvention
Exceptional Distribution	9,882	NA	8,399	15%

Additional returned overseas funds were received in late 2022 through CLA and was included in the main distribution as Unmatched Data as no title specific data was supplied.

Source	Net	Paid To Members	Subvention
Various Overseas	£3,970	£3,374	15%

TV Annual Distribution (Royalties received in 2022-23 for 2022 licensing period from ERA) and an historic payment from IMRO in The Republic of Ireland for 2020-22.

Revenue***	Net	% of Total ERA Distribution	Paid to Members	Subvention
ERA	£40,765	NA	£34,650	15%
IMRO	£21,709	NA	£18,453	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 £15,065.34 was received from DACS. The income relating to this distribution was received in both 2022 and 2023 and adjusted through the DACS agreement in July 2023 in time to be included in the main RightShare® 2023 distribution.

IVARO Annual Distribution (Royalties received in 2023 for 2022 licensing period)

Revenue	Net	% of Total IVARO Distribution	Paid to Members	Subvention
RETURN****	£20,659	NA	£17,560	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 this reporting period.

Refusals to grant a license

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

Income arising from investment of rights revenue

There was £956.75 income arising from investment of rights revenue 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.

It was decided by the Distribution Committee, and confirmed by the Board, that the £25 minimum payment for TV claims would be discontinued as there was already a £25 minimum payment for all claims.

CLA and PLS Licence revenue in 2023 was allocated to PICSEL in the following ways:

- 60% to unmatched educational claims
- 70% to unmatched non-educational claims
- 40% to matched educational claims
- 30% to matched non-educational claims

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.

REPORT ON ACTIVITIES

2022 AGM

Due to illness the 2022 AGM was postponed to early 2023 with the approval of the Board and the IPO.

This in-person event was held in The Fish Room at The Royal Society of Chemistry, Burlington House, London, with one member attending virtually.

Ian Jenkins attended as the IPO observer.

Members unanimously approved the appointment of Trevor Jennis McDermott as a Director of the company.

Members also unanimously approved that PICSEL accept the invitation to join The Smart Fund, a fund that comes from sales of electronic devices that copy, store and share creative content. We will join the four CMO founding members – ALCS, BECS, DACS and Directors UK – in lobbying for the establishment of the fund in UK Law as it is in most European states.

The Board were proud to announce that PICSEL has joined with DACS as the visual arts representatives of a new collecting society AVLA, the Audiovisual Licensing Alliance. PICSEL are co-founders with AGICOA, ALCS, BECS, DACS and Directors UK representing producers, authors, performing artists, visual artists and independent directors. This project began in 2020, and licensing is scheduled to begin in autumn 2023 for the making available to the public of television broadcasts, initially in the hospitality sector.

To precede the AGM itself we were delighted to welcome Dr Tom Chatfield who gave a thought provoking and entertaining presentation on AI, and Justin Manton, who continued our series of presentations by members of the CLA management team, bringing greater clarity and understanding of the work they do on behalf of members.

2023 AGM

The 2023 AGM was held via Zoom on Friday 8th December 2023.

Ordinary resolutions were voted on and passed.

The appointment of Alan Stuart Capel as a Director to the Board was approved.

CEPIC

Congress23 was held in Juan Les Pins, beside Antibes, in the South of France. Its success showed that CEPIC had come out well from the pandemic following on from the success of Congress22 in Majorca.

It was announced that Congress24 will again be held in Juan Les Pins.

During the year our CEO was part of the AI Working Group on CEPIC's Guidelines for Responsible AI which was launched at their AGM in November. This was part of the lobbying work carried out in Brussels by CEPIC and its Board members throughout the year and concentrated on the EU AI Bill. A major concern for CEPIC was that copyright was not considered in the Bill with its concentration on consumer protection.

In November Emily Shelley from Alamy became President of CEPIC, replacing Christina Vaughan who had stepped down after successfully guiding CEPIC through its post-COVID recovery.

IFRRO

There are two annual conferences for IFRRO. The Mid-Year Conference in late Spring and the World Conference in the Autumn.

The Mid-Year Conference was held in Stockholm, Sweden. As with all conferences this year, AI dominated the agenda both here and at the autumn World Conference which was held in Reykjavik, Iceland.

Between the two conferences the CEO of IFRRO, Caroline Morgan, had sadly passed away. She was hugely loved and respected in the IFRRO community which made the tributes paid to her very moving and emotional for all who knew her. A personal tribute was made by PICSEL who she had welcomed into the IFRRO community, giving enormous support, understanding, advice and warm friendship. She is sorely missed by PICSEL.

Anita Huss-Ekerhult became CEO and Secretary General of IFRRO in October 2023 after serving as Counsellor in the Copyright Management Division of the World Intellectual Property Organisation (WIPO) for eight years.

In 2024 the Mid-year Conference will be in Valencia, Spain, and the World Conference will be in Quebec, Canada.

Membership

We have been very pleased that membership continued to grow through 2023. These rightsholders will be involved for the first time with claims on the 2024 RightShare® distribution.

Rights Valuation

The FTI Valuation of 2015 set the percentage splits between publishers, authors and visual artists for license revenue. Various events have stalled the review that the Valuation suggested, and we hope to see the process resume in 2024.

Creators Remuneration

In November 2023, the members of the Smart Fund gave evidence before the DCMS Select Committee developing a report on Creator Remuneration. In addition to promoting the Smart Fund, ALCS proposed the idea of a Freelance Commissioner to advocate for the needs of freelancers in the creative industries This was a sector that was badly affected financially during the pandemic as they fell out of the scope of the support schemes made available to others.

The Report by the Committee was highly supportive of both The Smart Fund and the Freelance Commissioner, and both were recommended to the Government in the report published April 2024.

This DCMS Select Committee Report coincided with one from the DSIT (Science, Innovation and Technology) Select Committee on Governance of Artificial Intelligence where they supported attempts to find licensing solutions and noting that *"the status quo allows developers to potentially benefit from the unlimited, free use of copyrighted material, whilst negotiations are stalled".*

IPO CMO Working Group

The IPO reported that there were no issues to report on its analysis of the 2022/23 ATRs.

The IPO advised that no sanctions had been issued for non-compliance of the Collective Management of Copyright (EU Directive) Regulations 2016 (the Regulations) because there were no incidents where it had received evidence of a possible breach that had warranted further investigation.

Concerns were raised with the IPO about the delays at IPEC and its move out of London.

Now that we are outside the EU, reciprocity has impacted some creative sectors as EU CMOs begin to base distributions on reciprocity adversely affecting UK CMOs and their members (e.g. private copying compensation).

Further meetings with the IPO throughout the year centred on REUL and trade negotiations. PICSEL continued to urge the IPO to promote the robust UK copyright and enforcement regime in any new or continued trade deals (in particular, rejecting the wide US "Fair use" approach to exceptions). The IPO concurs with this approach.

The Retained EU Law (Revocation and Reform) Act 2023 (REUL)

Following intensive work by all Government departments and lobbying by industry organisations, the final version has replaced a sunset clause for all EU legislation with specific EU laws which were not retained. Our main interest concerns the fact that the CRM Regulations, under which CMOs operate, have been retained for the time being.

Significant for us is that the requirement for an audit of the ATR will be removed from small CMOs bringing audit requirements in line with the Companies Act. Whilst we have lobbied for this for over two years, and it would be a considerable saving, the Board decided that we will continue with the audit for now in the interests of transparency.

Also significant is that the CJEU ruling in the Soulier Doke case which limited extended collective licensing will be set aside under the provisions of the REUL Act 2023 and thus make ECL applications to the Secretary of State possible again.

Artificial Intelligence

Artificial intelligence (AI) grows as both a threat and an opportunity.

After months of roundtables and working groups, tech companies would not move beyond claiming their actions are justified under the Fair Use doctrine and other exceptions (outside the US). As a result, the IPO's proposed Code of Practice has been dropped, and next steps are yet to be established at policy or legal level.

Whilst the leading photo agencies and large publishing houses can licence their content to AI developers, CMOs globally are also considering how the collective model could be applied. CCC in the USA are leading the way developing licence-based models, but only regarding text. EU and UK CMOs are currently consulting with their members, but there are many unresolved issues for images yet to be addressed.

Governments are reluctant to legislate or regulate such a rapidly evolving area. Their priority is to make AI fulfil the expected benefits for society but, more importantly, for their respective economies. There is little reference to copyright principles being the foundation of the creative industries whose success depends on copyright. But given lobbying activities by organisations such as the BCC and PICSEL, international policy makers (e.g. in the US and the EU)are increasingly at least referencing copyright.

An emerging issue, as increasing numbers of publishers licence their content for AI Training Models, is their assertion over the rights they hold. We will continue to recommend that UK rights holders do not assign their rights and retain their right to opt out.

Whilst input has dominated the debate, the copyright status of output is gaining traction globally. The US Copyright Office have made their position clear, saying that AI generated works are attracting copyright. The situation in the UK (still applying EU principles) is similar. Academic discussions reference Section 9.3 of the 1988 Copyright, Designs and Patents Act (CDPA) which deals with computer-generated works, but this section has not been understood or used in practice; It is not fit for purpose in our opinion.

Student Numbers

Any fall in student numbers is a direct threat with this being a key factor in licensing tariffs. The Government's introduction of restrictions on overseas student visas has begun to affect the sustainability of many courses. The impact is real and has not yet been fully realised.

Streaming

With a move away from traditional terrestrial broadcasting to streaming, pressure is being placed on AV licensing models which need to adapt.

Acronyms used in this Report:

AGICOA – Association of International Collective Management of Audiovisual Works
AGM – Annual General Meeting
AI – Artificial Intelligence
ALCS – Authors' Licensing and Collecting Society
ATR – Annual Transparency Report
AV - Audiovisual
AVLA – Audiovisual Licensing Alliance
BECS – British Equity Collecting Society
CCC – Copyright Clearance Center
CDPA – Copyright Design and Patents Act
CEO – Chief Executive Officer
CEPIC – Centre of the Picture Industry
CJEU - Court of Justice of the European Union
CLA – Copyright Licensing Agency

CMO – Collective Management Organisation, commonly known as a collecting society
CRM – Collective Rights Management
DACS – Design and Artists Collecting Society
DCMS – Department for Digital, Culture, Media & Sport
ECL – Extended Collective Licensing
ERA – Educational Recording Agency
EU – European Union
FTI – FTI Consulting
IPO – UK Intellectual Property Office
IFRRO – International Federation of Reproduction Rights Organisations
IMRO – Irish Music Rights Organisation
IP – Intellectual Property
IPEC – Intellectual Property Enterprise Court
IVARO – Irish Visual Arts Rights Organisation
NLA – Newspaper Licensing Agency
PLS – Publishers' Licensing Services
REUL – The Retained EU Law (Revocation and Reform) Act 2023 (REUL)
VA – Visual Artists
VACMO – Visual Artists Collective Management Organisation
WIPO – World Intellectual Property Organization

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 2023. 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 2023.

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
Chartered Accountants
Worthing

Date: 19 September 2024

Carpenter Box is a trading name of Carpenter Box Limited