

Annual Transparency Report 2020

Executive Summary

2020 was a challenging year for many in the face of the global Covid-19 pandemic and the UK's departure from the European Union. Artists were particularly hard hit by the pandemic with many reporting an immediate loss of income, work and commissions. The royalties DACS pays to artists and artists' estates are more important than ever to sustain artists and the significant contribution they make to the UK's cultural economy.

In 2020, DACS distributed **£15.3m** in royalties in total across its core services to **72,000** artists and estates. DACS pivoted its strategic plan to ensure royalties are secured and sustainable through campaigning and advocacy. DACS continued to call on Government for the fair payment of artists and retention of the Artist's Resale Right in UK law. DACS is delighted to announce that Artist's Resale Right was formally recognised in the **UK-EU Trade and Cooperation Agreement**.

DACS convened a series of focus groups and surveys with artists at different points in their careers to understand the impact of the pandemic on their financial sustainability. Based on their responses, DACS crowd-sourced a **Manifesto for Artists** which sets out the key policy changes that can make a material and significant difference to the financial sustainability of visual artists and a road map of how DACS will lobby to secure these changes in the medium and long-term.

DACS' Core Services

About DACS

Established by artists for artists, DACS is a not-for-profit visual artists rights' management organisation. DACS collects and distributes royalties to visual artists and estates through three main services: Artist's Resale Right; Copyright Licensing; and Payback®, the collective licensing service. Through Payback®, DACS distributes royalties that are collected through a variety of UK and overseas licensing schemes:

- Reprography schemes run by the Copyright Licensing Agency (CLA)
- Educational recording schemes run by the Educational Recording Agency (ERA)
- Cable retransmission schemes
- Public Lending Right schemes (PLR) – overseas scheme
- Extended Collective Licensing schemes (ECL) – overseas scheme

DACS campaigns for the rights of visual artists and their heirs and pays them their due royalties, which help support their livelihoods and artists' legacies. DACS works with galleries, dealers and auction houses to fulfil the obligations arising from the Artist's Resale Right Regulations.

Relationships with other Collective Management Organisations (CMOs)

DACS' relationships with other CMOs are vital in its mission to ensure that artists are fairly remunerated for uses of their work.

The Copyright Licensing Agency (CLA) sells licences to businesses, educational institutions and public sector organisations, allowing them to photocopy and scan publications containing copyright-protected content. As a member of the CLA, DACS can ensure that this revenue goes back to visual artists. DACS is a member of the Educational Recording Agency (ERA), which runs a blanket licensing scheme for educational institutions for off-air recordings which also include visual artists' works. These royalties from the CLA and ERA schemes are, amongst others, distributed via Payback®.

DACS is a truly global organisation with strong relationships with overseas collecting societies, known as sister societies, in 37 countries. These relationships mean that UK artists can get royalties when images of their works are licensed for products or works are re-sold on the secondary art market in other countries, and, in return, DACS represents its sister societies' members in the UK.

Managing Artists' Rights

There is no fee to rightsholders for using DACS' services, instead, DACS covers its administration costs by deducting a percentage of the royalties that it collects for artists.

- **Copyright Licensing**

For the Copyright Licensing service DACS makes a deduction for administration of 25% which covers the work that takes place to manage requests for licensing members' works – from pricing to rights granted. DACS actively develops its customer base.

DACS makes a deduction for administration of 15% for royalties collected from its overseas sister societies for Copyright Licensing.

- **Artist's Resale Right**

DACS deducts 15% for Artist's Resale Right (ARR) to cover the work carried out collecting and distributing ARR royalties in a timely manner. Unpaid royalties are proactively pursued from art market professionals that do not declare their sales, and DACS searches for artists and their heirs who are due ARR royalties. DACS actively campaigns for a global resale right so that all artists can benefit from this vital right, irrespective of their nationality.

DACS makes a deduction for administration of 5% for ARR royalties collected from its overseas sister societies.

• Collective Licensing

Payback® is paid to rightsholders each year, with DACS making administrative deductions of 16%. In 2020, the Payback® campaign ran from January to May, during which time members submitted claims for the usage and publication of their works through DACS' online Payback® System.

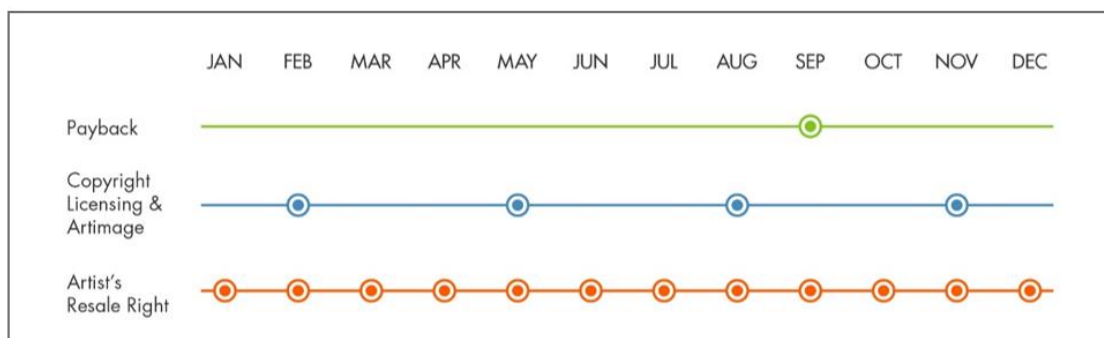
Extended Collective Licensing – ECL – allows collecting societies to run licensing schemes without individual permission from the rightsholder. This means that in addition to granting licences on behalf of its members, a collecting society can also grant licences on behalf of copyright owners who they do not directly represent, but who are covered by the scheme. In 2020 there were no ECL schemes authorised under the ECL legal framework in the UK. However, where DACS receives royalties for UK artists from ECL schemes abroad, DACS makes a deduction of 15% to cover the management of these ECL royalties in the UK.

Public Lending Right (PLR) is received by DACS from sister societies operating where public lending libraries pay a royalty in their territories, for instance through the Dutch Public Lending Right Scheme. These royalties too are subject to a 15% deduction for the administration of these royalties in the UK.

Distribution Timetable

The distribution timetable is established by DACS' Distribution Policy, which is agreed by Voting Members annually in DACS' Annual General Meeting (AGM). The Distribution Policy can be found on the DACS website:

<https://www.dacs.org.uk/about-us/corporate-resources/distribution-policy>



Memberships of Other Bodies

DACS' relationships with other organisations improve its governance, keep it at the forefront of changes in the legal and political landscape and allow DACS to make heard the voices of the thousands of visual artists it represents.

DACS is a member of international bodies who set standards for CMOs, such as CISAC, and European lobbying organisations, such as EVA.

In the UK, DACS is part of the Alliance for IP, holding the Vice Chair position representing creators; the British Copyright Council; the Creative Industries Federation and the International Authors Forum. These societies facilitate interactions with government and policymakers to improve the lives of artists. In an era of economic and political uncertainty, these networks are highly valuable.

Social, cultural, educational and other activities

DACS does not make deductions from royalties to fund social, cultural, educational and other activities.

Refusals to grant a licence

DACS reserves the right to refuse granting a licence under certain circumstances, such as when permission has not been given by the rightsholder, in which case DACS will inform the client without undue delay. Any unlicensed requests are recorded and reviewed on a quarterly basis. In 2020 DACS was unable to grant a licence in 125 instances due to rightsholders refusing permission for the intended use.

DACS' Financial Statements

This report should be read in conjunction with DACS' Financial Statements and Annual Review, both of which are available on the DACS website:

<https://www.dacs.org.uk/about-us/corporate-resources/annual-reports>

Revenue recognition for each categories of rights

Revenue is recognised in DACS' accounts when it is probable that the economic benefits will be realised, and the revenue can be reliably measured. Each category of rights has criteria by which revenue is recognised:

Category of rights	Criteria for revenue to be recognised
Copyright Licensing	Copyright licensing refers to those rights that can be administered on an individual and transactional basis. Income is recognised at the point of invoicing.
Artist's Resale Right	Artist's Resale Right is conferred by legislation, which allows DACS to collect income on behalf of qualifying artists on secondary sales made by art market professionals. Income under the Resale Rights scheme is invoiced once DACS has been informed that a sale has been made to a third party by the art market professional. DACS reviews each sale and verifies with the art market professional that all the necessary conditions are met. Revenue is recognised once the sale has been confirmed with the art market professional.
Collective Licensing	Collective licensing cannot be administered on a transactional basis. Rights are licensed under blanket licensing schemes operated by a third party. Where there is uncertainty regarding the timing and amount of such funds, the income is recognised on a notification basis only.

Income arising from the investment of rights revenue

Funds that arise because of a timing difference between payment being made to DACS by clients, art market professionals or other collecting societies and payment being made by DACS to the rightsholder, are invested as per DACS' investment policy, which is available on DACS' website or upon request.

This income is allocated to each category of rights based on the average balance of funds due to, but not yet distributed to, rightsholders during the year. It is shown in the Income and Expenditure Report by category of rights managed as interest and investment income, and comes to a total of £45.8k in 2020.

Fair value movements are changes to the value of investments held due to movements in the stock market. Gains of £271k in 2020 are excluded from the allocation and are reported as other activities in the Income and Expenditure by category of rightsholder report.

Income & Expenditure by Category

Income & Expenditure by Category of Rights					
	ARR	COPYRIGHT LICENSING	COLLECTIVE LICENSING	OTHER	TOTAL
	2020	2020	2020	2020	2020
	£	£	£	£	£
Turnover	9,988,326	1,684,224	6,419,740	55,669	18,147,958
Payable to Artists & Other Cost of Sales	(8,557,456)	(1,302,677)	(5,394,808)	(37,013)	(15,291,955)
Other Income	560	250	0	18,092	18,902
Net Income	1,431,430	381,797	1,024,931	36,747	2,874,905
Direct Costs	(221,446)	(267,553)	(107,653)	(63,173)	(659,824)
Gross Profit/(Loss)	1,209,984	114,244	917,279	(26,425)	2,215,081
Income and Other Operational Items	31,563	5,588	30,848		67,999
Fair Value Movements				271,082	271,082
Contribution	1,241,547	119,832	948,127	244,656	2,554,162
Administration Costs	(1,358,765)	(229,114)	(873,311)	0	(2,461,190)
Occupancy Costs	(31,208)	(56,564)	(5,851)		(93,623)
Indirect costs	(1,389,972)	(285,678)	(879,163)	0	(2,554,813)
Profit/(Loss) before Taxation	(148,426)	(165,846)	68,964	244,656	(649)
Costs of Rights Management	1,611,418	553,230	986,815	n.a	2,880,383
Costs as a % of Revenue	16%	33%	15%		16%

In 2020, the Covid-19 pandemic impacted the operation of DACS' services therefore some services experienced a higher cost of rights management than anticipated.

Income from and Distribution to Other Collective Management Organisations

	Income from other CMOs	Distribution to other CMOs
Artist's Resale Right	£653,419	£3,576,041
Collective Licensing	£6,338,590	£77,328
Copyright Licensing	£406,012	£579,592
Total	£7,398,022	£4,232,961

Non-distributable Amounts

In line with our distribution policy, DACS holds funds for artists and beneficiaries for six years after the corresponding funds were received, whether in respect of Artist's Resale Right, Copyright Licensing or Collective Licensing income. DACS' members have elected that DACS should continue to search for the relevant rightsholders for a further three years after Regulation 12 (9) of *The Collective Management of Copyright (EU Directive) Regulations 2016 (CRM Regulations)* classifies these royalties as non-distributable.

After six years, the funds are then classified as undistributable and paid out according to the following guidelines:

- Undistributable Artist's Resale Right royalties: DACS Voting Members decide on an annual basis how these are treated. Following a decision of members at the Annual General Meeting, DACS donated £1.7k to charity in 2020.
- Undistributable Copyright Licensing royalties: These are royalties that generally could not be distributed because of a change in the beneficiary structure and are either being paid to an authorised representative in the form of an executor/administrator of the will or the remaining beneficiaries once the six year period expires. At 31 December 2020 the amount of corresponding undistributable Copyright Licensing royalties was £1k.
- Undistributable Collective Licensing royalties: These are returned to the annual Payback® distribution. On 31 December 2020 the value of the fund was £2.3k.

Deductions made by revenue stream, rights managed and types of users

DACS revenue stream	Deductions when managed by DACS	Deductions when managed by overseas CMOs	Rights Managed	Types of uses	Purposes of deduction
Copyright Licensing	25%	15%	Copyright Licensing Rights and Secondary Rights	Physical reproductions and reprographic Digital reproductions Inclusion in other media	Administration costs
Artimage	35% direct and 30% collections		Copyright Licensing Rights Secondary Rights	Physical reproductions and reprographic Digital reproductions Inclusion in other media	Administration costs
Payback®	16%	ECL: 15% PLR: 15%	Secondary Rights	Physical reproductions and reprographic Digital reproductions Educational recording Cable retransmission Public Lending Right Extended Collective Licensing Inclusion in other media	Administration costs
Artist's Resale Right	15%	5%	Artist's Resale Rights	N/A	Administration costs

Key: COL = Collective Licensing; ARR = Artist's Resale Right; CL = Copyright Licensing

Total Income from and distribution to other CMOs by territory and by category of rights

Territory		Category of rights		Royalties by Value	
		Income	Distribution	Income	Distribution
UK					
ACS	UK	ARR	ARR	£60,526	£816
ALCS	UK	COL		£2,172	£0
CLA	UK	COL		£4,381,451	£0
ERA	UK	COL		£230,855	£0
PLS	UK	COL		£393,252	£0
EUROPE					
ADAGP	France	ARR, CL, COL	ARR, CL, COL	£482,358	£1,925,485
AKKA-LAA	Latvia	COL		£18,107	£0
BILDRECHT	Austria	ARR, CL, COL	ARR, CL, COL	£29,329	£54,586
BONO, Billedkunst opphavsrett i Norge	Norw ay	ARR, CL, COL	ARR, CL, COL	£16,630	£7,186
EAU	Estonia	CL, COL		£4,439	£0
GESTOR	Czech Republic	ARR,	ARR	£513	£6,542
HUNGART	Hungary	CL, COL	ARR, CL, COL	£5,660	£3,810
IMRO	Ireland	COL		£51,428	£0
IVARO	Ireland	ARR, CL	ARR, CL, COL	£12,236	£29,316
KUVASTO	Finland	ARR, CL, COL	ARR, CL, COL	£469	£489
LATGA-A	Lithuania	CL, COL	ARR, CL	£926	£284
LITA	Slovakia	CL	CL	£87	£187
PICTORIGHT	Netherlands	ARR, CL, COL	ARR, CL	£414,201	£48,331
PRO LITTERIS	Sw itzerland	CL, COL	ARR, CL, COL	£11,907	£21,745
SABAM scri	Belgium	ARR, CL, COL	ARR, CL, COL	£147,617	£108,230
SAIF	France		CL	£0	£1,753
SIAE	Italy	ARR, CL		£52,831	£0
SOFAM	Belgium		ARR, CL, COL	£0	£4,048
SPA, Sociedade Portuguesa de Autores, Cri	Portugal	ARR,	ARR, CL, COL	£476	£1,388
VCSS, Bildupphovsrätt i Sverige, ek.för	Sw eden	ARR, CL, COL	ARR, CL, COL	£11,551	£4,145
VEGAP	Spain	ARR, CL, COL	ARR, CL, COL	£32,733	£363,174
VG BILD KUNST	Germany	ARR, CL, COL	ARR, CL, COL	£266,557	£1,268,595
VISDA	Denmark	ARR, CL, COL	ARR, CL, COL	£267,778	£55,210
AMERICAS					
ARS	USA	CL	ARR, CL, COL	£92,071	£190,133
AUTVIS	Brazil	CL	CL, COL	£4,356	£8,897
CARCC, Canadian Artists Representation Copyright Collec	Canada		CL, COL	£0	£381
SOCAN	Canada	CL, COL	CL, COL	£8,512	£1,530
SOMAAP	Mexico	CL	CL, COL	£221	£3,257
VAGA	USA		ARR, CL, COL	£0	£110,368
REST OF WORLD					
COPYRIGHT AGENCY	Australia	CL, COL	CL, COL	£378,206	£8,981
DALRO	South Africa	CL	CL, COL	£436	£1,737
ICSC	China		CL, COL	£0	£381
JASPAR	Japan	CL		£9,958	£0
SACK	South Korea	CL		£6,712	£0
UPRAVIS	Russia	ARR, CL	CL	£1,460	£1,976

The Report for Audit of Annual Transparency Reports

To: The Directors of The Design and Artists Copyright Society

We have performed the procedures agreed with you and enumerated below with respect to the annual transparency report of The Design and Artists Copyright Society for the year ended 31 December 2020. Our engagement was undertaken in accordance with the International Standard on Related Services applicable to agreed-upon procedures 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.

We report our findings below:-

- With respect to the Income and Expenditure we found the balances to be in agreement.
- With respect to the Income and Expenditure to Other Collective Management Organisations we found the balances to be in agreement.

Because the above procedures do not constitute engagements made in accordance with International Standards on Auditing (UK) or the International Standard for Review Engagements (UK and Ireland), 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 The Design and Artists Copyright Society 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 The Design and Artists Copyright Society for any other purpose whatsoever. Our Report was not prepared for the benefit of any party other than The Design and Artists Copyright Society. Kingston Smith LLP 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.



James Cross
Senior Statutory Auditor

Date 10 August 2021

Moore Kingston Smith LLP
Devonshire House
60 Goswell Road
London
EC1M 7AD