



Guidance note on Sampled Performances

This guidance is intended to provide useful information for performers whose performance has been included on new recordings as a result of a sample being used from an earlier recording. The information may also be useful for other performers on the line-up of new recordings where the line-up also include performers who contributed to a sampled recording.

This guidance should be read in conjunction with PPL's Distribution Rules (available here: www.ppluk.com/tools-resources/member-policies-and-distribution-rules) References to Schedules and Rules are to the relevant provisions of the Distribution Rules, and terms used in this guidance have the same meaning set out in the Distribution Rules (unless otherwise specified below). PPL will periodically review this guidance and the processes it describes to ensure that it continues to be a fair, reasonable and proportionate approach in all the circumstances.

Does PPL pay performers if their performances are incorporated in other recordings by means of a sample?

PPL is committed to paying equitable remuneration to all performers who are legally entitled to receive such payments in respect of their performances on the sound recordings that PPL licenses. This includes where a qualifying performance on one published recording (the "Sampled Recording") has been sampled and incorporated into another published recording (the "Subsequent Recording").

However, given the sheer number of sound recordings involved, it is not feasible for PPL to check whether any given performance from any Sampled Recording is in fact used in a Subsequent Recording. PPL has therefore adopted certain presumptions and processes, pursuant to PPL's Distribution Rules and approved by PPL's Performer Board, which seek to allocate and pay remuneration to performers in respect of the Subsequent Recording in a fair, reasonable and proportionate way, and in accordance with the applicable legal framework.

How can I make a claim against a Subsequent Recording on the basis of my performance having been sampled?

Performer claims based on a performer's contribution having been sampled should be raised in the same way as any other performer claim, via the performer's MyPPL account.

You can search the PPL Repertoire Database (which contains details of all the recordings registered with PPL) for recordings on which your performances are included. If from that search you find a recording into which your performance has been sampled and, having checked the details of the recording, you are not already listed as a performer, then you can claim for your performance to be added to the performer line-up in a role as 'Sample Performer'.

You may need to provide evidence in some circumstances. PPL's performer claims guidance provides a non-exhaustive list of the types of evidence that could be submitted to PPL for consideration. You will be sent an email for each claim that you need to supply evidence for and to notify you once your evidence has been accepted.

Please contact Member Services for more information about the claims system or download this PDF for instructions.

How does PPL decide whether to accept a claim against a Subsequent Recording from a performer on a Sampled Recording?

Where a performance was originally recorded for a recording that has been directly sampled for inclusion on the Subsequent Recording (i.e. a “First Generation Sample”), a presumption is applied under PPL’s Distribution Rules that the performances of all performers on the Sampled Recording have been included on the Subsequent Recording.

Applying this presumption in the case of a First Generation Sample means that all performers on the Sampled Recording are added to the performer line-up on the Subsequent Recording. Generally, they are added as Non-Featured Performers (irrespective of how their performance on the Sampled Recording is classified) save that in certain limited circumstances set out in PPL’s Distribution Rules (see Schedule 5, Rule 4.3), featured performers on the Sampled Recording may be added to the Subsequent Recording as Other Featured Performers.

However, the inclusion of all performers in the line-up of the Subsequent Recording is merely a presumption (so, for example upon satisfactory evidence that the position is different, PPL may amend the line-up accordingly to more accurately reflect the actual position).

Where PPL identifies Second and Later Generation Samples (as to which see below), PPL will not apply a presumption and instead will conduct an audibility assessment to determine whether the performance claimed is actually included on the Subsequent Recording by listening to the relevant recordings.

In all cases, the normal rules regarding qualifying performances will continue to apply.

How does PPL treat Second and Later Generation Samples?

When PPL refers to “Second Generation Samples” and “Later Generation Samples”, it is referring to the situation where, for example, a Subsequent Recording incorporating a performance from a Sampled Recording is itself sampled, and that sample from the Subsequent Recording (a “Second Generation Sample”) is incorporated into a third recording. This process of sampling can continue, with the third recording being sampled (a “Later Generation Sample”) to create a fourth, and so on.

In such situations, PPL does not consider that it is fair, reasonable or proportionate to apply the same default presumption that all of the performers on the original Sampled Recording have their performances included in all of these further recordings. The reason for this can be illustrated by the following example: If Recording A is sampled and used in Recording B, and then Recording B is sampled and used in Recording C, there is a greater likelihood that the part sampled from Recording B is not the part which incorporates the sample from Recording A. As Recording C is sampled for use in Recording D, and so on, the likelihood further increases that the sample from Recording A will not have been retained. Adding all of the performers from Recording A to the line-ups of all of these further recordings is therefore more likely to result in inaccurate line-ups and payments.

Whilst it therefore does not apply a default presumption, PPL recognises that there may be cases where a performance given on the original Sampled Recording has been retained within a Second/Later Generation Sample. In respect of such claims, PPL therefore conducts an

“audibility assessment” (see below). PPL considers this to be a fair, reasonable and proportionate approach to performer claims on Second and Later Generation Samples due to the relatively small number of such claims.

What is involved when PPL listens to a recording to assess whether a performance is included in a Second or Later Generation Sample?

The “audibility assessment” process includes the following steps:

1. The original recording on which the claimant is an approved linked performer is identified;
2. The audibility of that performer’s original performance on the original Sampled Recording is identified and confirmed. (If necessary, PPL will review or confirm the chain of samples with the performer making the claim.);
3. The recording against which the performer is making a Second/Later Generation Sample claim (the “Claimed Recording”) is listened to, with the goal of audibly identifying the claimed performance;
4. Audibility (or not) of the original performance on the Claimed Recording is confirmed. (If the audibility of the original performance on the Claimed Recording is not confirmed, and it is not obvious where the audibility of the claimed performance is lost, the entire sample chain is reviewed to confirm where this occurred);
5. Findings are cross-correlated with at least one other listener within PPL;
6. Findings are cross-correlated with third party data where appropriate;
7. If circumstances arise where it is unclear from the audibility assessment whether a performance is included in a Claimed Recording (for example if there are multiple violin performances in the same recording and it cannot be readily ascertained which particular violin performance(s) were captured as part of the sample) PPL will apply a presumption in favour of adding the performer to the line-up of the Claimed Recording.
8. The claim is approved or rejected based on the outcome of the above steps.

Those involved in the audibility assessments within the PPL team responsible are experienced repertoire and music specialists, all with a relevant music degree.

What happens if a Second/Later Generation Sample claim is rejected by PPL?

In this situation (whether the claim is rejected as a result of the audibility assessment, or as a result of any other satisfactory evidence that a performer’s performance is not incorporated into the Claimed Recording) the performer will not be added to the line-up of the Claimed Recording.

If the performer already appears in the line-up of other versions of the recording, such as single versions, album versions and radio edits, then PPL may remove the performer from the line-ups of those recordings.

PPL will inform the performer of the unsuccessful outcome of their Second/Later Generation Sample claim and the reasons for rejecting it. PPL will advise the performer of the recordings from which they will be removed from the line-up. PPL will also give the performer affected an

opportunity to submit any further evidence to show that a sample of their original performance has been incorporated into the recording against which the performer is claiming.

What can I do if I disagree with PPL's decision to reject my sample-based claim?

If you disagree with a decision of PPL to reject your claim you can submit the matter to PPL's Dispute Resolution procedures which include adjudication, mediation and arbitration. More information about these procedures and how they are operated, including details of the panel of mediators and arbitrators, can be read in the Performer FAQs available here:

www.ppluk.com/tools-resources/faqs

If you would like to object to the inclusion of any performer in the line-up of a recording (for example, if you are a performer on the line-up of the recording and believe that a person appearing in the line-up should not be included) you should in the first instance raise this with PPL to be considered by contacting our member services team at memberservices@ppluk.com or by calling us on 020 7534 1234. If you disagree with PPL's subsequent decision you can use the Dispute Resolution procedures referred to above.