

ANNUAL REPORT  
2016// **TONO**

# DEAR READER

Through media headlines, we are reminded almost every day that Norwegian music is more popular than ever before. No one takes more pleasure in that than us at TONO. Norwegian composers, songwriters and artists currently dominate playlists and charts in many parts of the world. According to the daily newspaper VG, Elton John recently expressed his amazement over how many good artists Norway is currently producing. TONO bears a solemn responsibility for following up the global management of the 'gold' that Norwegian songwriters and artists are creating these days.

To enable us to satisfy and carry out the mandate that Norwegian and foreign rightsholders have entrusted to TONO, we need a proper framework. At present, the framework conditions are not good enough; this refers both to the legal framework embodied by the Norwegian Copyright Act and to the content of the EU's various directives in this field.

Let us first examine the draft proposal for a new Copyright Act, Proposition 104 L, which was submitted to the Storting (Norwegian parliament) on 5 April 2017. This proposition is the result of consultative paper sent out by the Ministry of Cultural Affairs on 17 March 2016. When the consultative paper was sent out for hearing, the Minister wrote:

*"One central principle of the Copyright Act is that there should be a balance between the interests of rightsholders and consumers. The report on the economy of artists from 2015 showed inter alia that technological development has undermined the rightsholders' position. The Government would like to reestablish this balance and strengthen the rights of creative and performing artists, so that it will be easier to trade in intellectual property and rights. The Government wants to make the Act more modern. It should be more readily accessible and more technology neutral.*

*Creative and performing artists are often the weaker party when it comes to selling what they have created. The Government therefore proposes several rules that will strengthen their position:"*

The Norwegian Government's intentions, as expressed in the consultative paper, may possibly have sounded good. Regrettably, the result of the draft bill is anything but good. Several of the proposals to strengthen the rights-

holders' position were reversed or severely curtailed, and the proposal has ended up being a business- and consumer-friendly draft act of legislation.

- The proposed wording in the consultative paper: The purpose of the Act is to protect the rightsholders. The result in the draft bill: The Act shall give equal status to the interests of rightsholders and users.
- The proposed wording in the consultative paper: The burden of proof rule entails that the purchaser bears the burden of proof that rights have been transferred. The result in the draft bill: No burden of proof rule
- The proposed wording in the consultative paper: Where there is doubt, agreements shall be interpreted in favour of the creator. (the principle of speciality) The result in the draft bill: The principle of speciality has been weakened, compared with the proposal from the consultative hearings
- The proposed wording in the consultative paper: Legislative recognition of the right to reasonable remuneration upon assignment of rights. The result in the draft bill: The right to reasonable remuneration has been weakened, compared with the proposal from the consultative hearings.
- The proposed wording in the consultative paper: Codification of the current principle that all intellectual property created under employment conditions accrues to the employer. The result in the draft bill: Intellectual property created under assignment conditions (not only under employment conditions) accrues to the principal, and this provision also grants the right to make changes and convey further assignment.

This provision could have dramatic consequences, and it is singularly surprising that the Ministry would propose such a provision to the Storting without the merits of this provision in its current form having been subject to consultative hearing.

Among the creators' organisations, the performers' organisations and other rightsholders' organisations, the disappointment was therefore great when the draft bill was submitted to the Storting. The Government

previously stated that technological development has undermined the rightsholders' position and that they wanted to reestablish a good balance of interests and thereby strengthen the rights of creative and performing artists, so that it would be easier to trade in intellectual property and rights. In other words, they have not managed to translate this promise into reality.

Obviously, in the run-up to the parliamentary vote on 12 June, creators and artists must seize every opportunity to ensure that the Copyright Act can be imbued with the rebalancing of interests promised by the Government. The EU regulations also entail obvious weaknesses that impair the rightsholders' position at a time of technological change. In particular, focus is directed at what we refer to as "the value gap" or "the transfer of value". In brief, this means that someone earns money on disseminating rightsholders' works without paying the rightsholders. Facebook is a typical example. While roughly 52% of Facebook's advertising revenue is directly related to creative content, no compensation whatsoever is being paid to the creators. .\*

In autumn 2016, the EU Commission presented a so-called 'copyright package' in which the problem was defined, but no specific solutions could be derived from it. The negotiations in the EU Commission and the EU Parliament will continue. Through our lobby organisations, the efforts to make social media accountable will continue with unabated intensity.

Despite an unsatisfactory judicial framework, TONO reported good results in 2016. The number of members is growing rapidly, and we have seen good growth in most areas. The concerts category showed exceedingly strong growth (17.5%) again in 2016; this is an important area for Norwegian rightsholders. The digital category is continuing to grow, even though the results show a decline for technical reasons related to accounting rules.

Revenues from abroad also indicate that Norwegian music is more popular than ever, and the slight decline from the record year 2015 is due to the fact that the tax authorities in certain countries require very comprehensive documentation before money can be released.

TONO wishes all its members a wonderful summer.



Sincerely,  
**Cato Strøm,**  
Chief Executive Officer

*\*\*Cultural content in the online environment:  
Analyzing the value transfer in Europe"  
(Roland Berger, 2015)*

# DIRECTORS' REPORT 2016

## Status and future development

TONO is a cooperative that manages the performance and audio recording rights of 29 272 Norwegian rightsholders. In addition, TONO has reciprocal agreements with 73 sister societies in other countries. Thus, TONO manages a global repertoire of copyright-protected music on Norwegian territory. TONO has transferred the management of its rightsholders' mechanical rights to the Nordic Copyright Bureau (NCB) in Copenhagen, which is co-owned by the Nordic collection societies KODA (Denmark), STIM (Sweden), STEF (Iceland), TEOSTO (Finland) and TONO.

TONO is headquartered in Oslo at Tøyenbekken 21, 0134 Oslo, Norway.

In 2016, there were eight Board meetings and two Board committee meetings.

## Administration contracts

At 31 December 2016, TONO had administration contracts with 29 272 rightsholders. In 2016, 1 516 new rightsholders joined, 11 of which were music publishers.

By comparison, on 31 December 2015, there were 27 756 rightsholders. In 2015, 1 575 new rightsholders joined, 11 of which were music publishers.

The gender breakdown among the members is 20 per cent female and 80 per cent male.

Publisher members account for 1 per cent.

## Shareholders

At 31 December 2016, there were 1 484 registered unit holders in TONO.

At 31 December 2015, there were 1 412 registered unit holders in TONO.

98.7 per cent of the unit holders are creators, of which 15.7 per cent are women. 1.3 per cent are music publishers.

## Financial situation

In 2016, TONO had a turnover of NOK 541 884 811. After deductions of 2 per cent for the Norwegian Composers' Fund, losses and administrative expenses, a total of NOK 447 339 687 was left for distribution. Costs came to 15.05 per cent of the funds for distribution.

TONO's accounts have been prepared in accordance with the requirements set out in the Norwegian Accounting Act of 1998 and are in compliance with the requirements embodied in current legislation, regulations and generally accepted Norwegian accounting practices. The Norwegian Accounting Act of 1998 entailed major changes in the recognition of pension costs in 1999. As a result of this, TONO recognises negative equity. Originally, this effect came to minus NOK 11 026 446 but, as expected, this has

been reduced significantly in subsequent years.

In 2013, the negative equity increased once again due to the implementation of pension liabilities. At 31 December 2016, the total effect of commitments charged against equity was NOK 11 938 975.

Since TONO's net income for distribution accounts for about 85 per cent of its revenues each year, as well as the fact that the net income for distribution is always what is left after all expenses have been deducted, it is the Board's opinion that TONO's financial results for 2016 are good, and that the organisation's financial position is strong. It is thereby a going concern, entailing no risk.

TONO has a comprehensive portfolio under management at all times. The goal is to obtain the highest possible return with the lowest possible risk. TONO's conservative investment strategy ensures stable investment performance. The individual investments are to be among those with the lowest risk in their asset class. Risk is reduced further by having a well-diversified portfolio, and TONO patronises several financial service providers in order to reduce management risk.

TONO manages its ownership of the organisation's premises in Sameiet Gallery through its wholly-owned subsidiary Harmoni AS.

## Market trends

We see that the market areas are stable, but there is reason to note the significant increase from 2015 to 2016, i.e. 17.6 per cent, for concerts. A substantial decline in re-transmission is ascribable to the formidable back payment we received from Norwaco in 2016 as a result of a settlement agreement signed with the major media companies.

The market for digital streaming of music and film is still growing, but is influenced somewhat by more direct licensing. The tendency to compete for customers in the background music segment is growing keener as providers of non-licensed music are becoming increasingly more active. This tendency diminished in 2016. This challenge is addressed in the bill for the new Copyright Act sent out for consultative hearing by the Ministry of Cultural Affairs last year.

The sale of phonograms is declining continuously, and NCB's turnover has dropped significantly. In May 2016, this led NCB's Annual General Meeting to ask NCB's Board to draw up a new model for the management of mechanical rights in the Nordic countries. The Board worked on the restructuring of NCB throughout the latter half of 2016. On 22 March 2017, NCB's Board will ask the Annual General Meeting to adopt a new model for the management of

mechanical rights. TONO's Board of Directors has followed the process closely since the decision was taken by NCB's Annual General Meeting on 20 May 2016.

There were no extraordinary circumstances in 2016 that had a significant impact on TONO's activities.

#### TONO's staff

At the end of 2016, TONO had 63 permanent employees, five of whom worked part-time. In 2015, the number of permanent employees was 65, five of whom worked part-time.

TONO's goal is full equality between female and male employees. This means we try to ensure there is no gender-based discrimination in respect of salaries, career advancement opportunities or recruitment. There are 35 women and 28 men on TONO's staff. Two men and three women are employed in part-time positions. The average age for all staff members is 45.1 years (43.8 for women and 46.8 for men).

The average monthly salary for all female employees at the end of 2016, managers included, was NOK 45 580. The average monthly salary for male employees, managers included, was NOK 58 918. The higher average wage for men is because there is a higher proportion of men than women in managerial positions.

#### Internal control, HSE (health, safety and the environment)

Thanks to the Working Environment Committee (WEC), comprised of representatives from the employees' trade unions and management, TONO's HSE work has been systematised. WEC meetings are held on a regular basis. At least two meetings each year are devoted to sickness absence.

TONO has an IA (Inclusive Working Life) agreement, a cooperation agreement between an individual company and the Norwegian Labour and Welfare Administration (NAV). The primary goal of the agreement is to

accommodate everyone who can and wants to work, be it full time or part time.

In 2016, sickness absence was 4.53 per cent, compared with 2.8 per cent the year before. Absence due to illness is followed up in accordance with the Inclusive Working Life agreement and the provisions of the Working Environment Act.

TONO does not engage in activities that can pollute the outdoor environment.

#### Employer responsibility to promote gender equality and prevent discrimination

TONO's goal over time is to achieve an approximately 50/50 breakdown between women and men on its staff. At 31 December 2015, there were 56.9 per cent female employees and 43.1 per cent male employees. Women and men in comparable positions are paid the same.

Five employees work in part-time positions of their own volition, partly due to family obligations at home and partly due to functional disabilities.

Compassionate leaves and leaves to provide family care are equally divided between men and women, but there is more sickness absence among women than among men.

TONO devotes attention to gender equality, and the statistics show that we follow the provisions of the Gender Equality Act.

TONO's Articles of Association include an article stating that each gender is to have at least 40 per cent of the seats on TONO's Board of Directors.

TONO's 63 employees come from a broad range of ethnic backgrounds. We have co-workers from all the Scandinavian countries and the rest of Europe, as well as from Africa, Asia and the USA.

We would therefore maintain that TONO promotes equal opportunity in keeping with the purpose of the Act.

Oslo, 16 March 2017

  
Bendik Hofseth  
Chair of the Board of Directors

  
Jørgen Karlstrøm  
Deputy Chair

  
Åse Hedstrøm

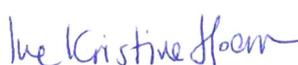
  
Bjørn Eidsvåg

  
Ingrid Kindem

  
Rita Engedalen

  
Kai Robert

  
Jan Stefan Bengtsson

  
Ine Kristine Hoem

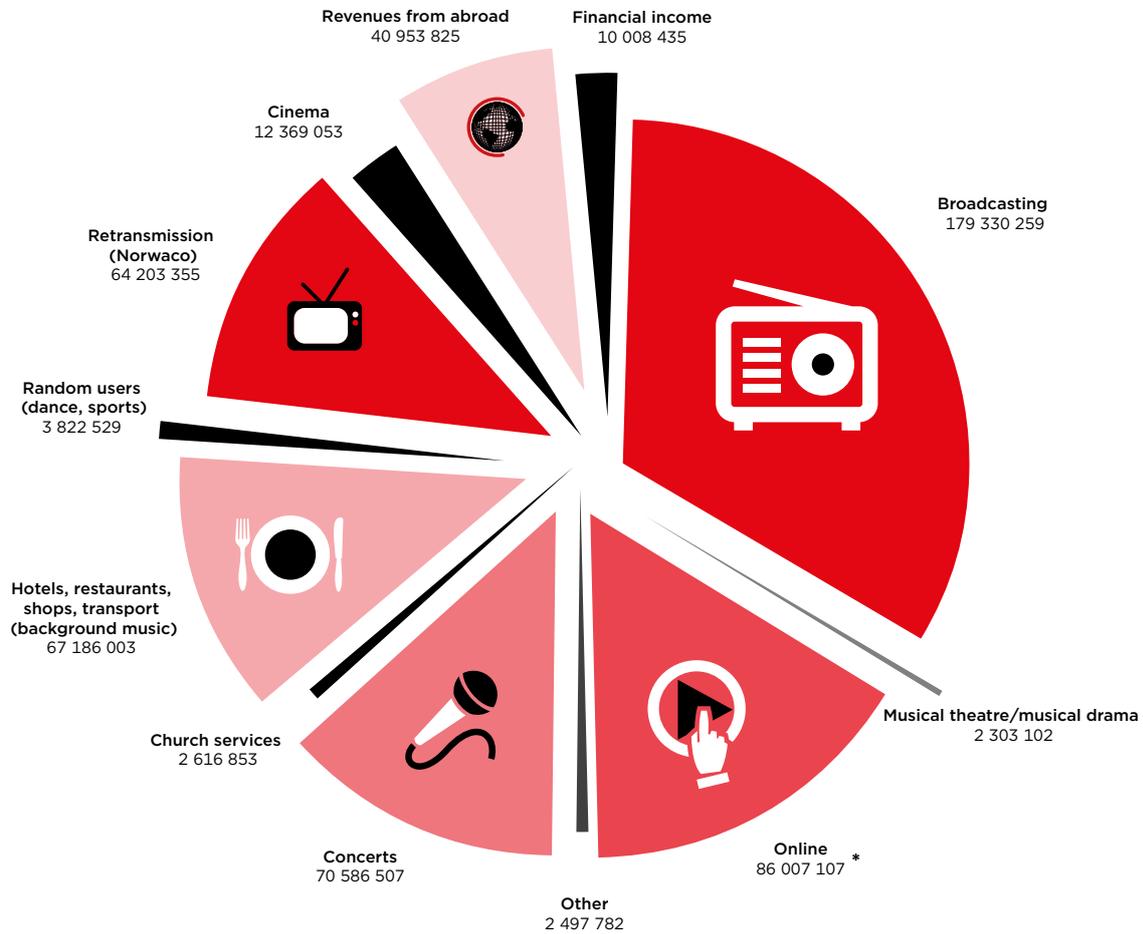
  
Ellen Tove Gunleiksen  
Employee Director

  
Glenn Nilsen  
Employee Director

  
Cato B. Strøm  
Chief Executive Officer

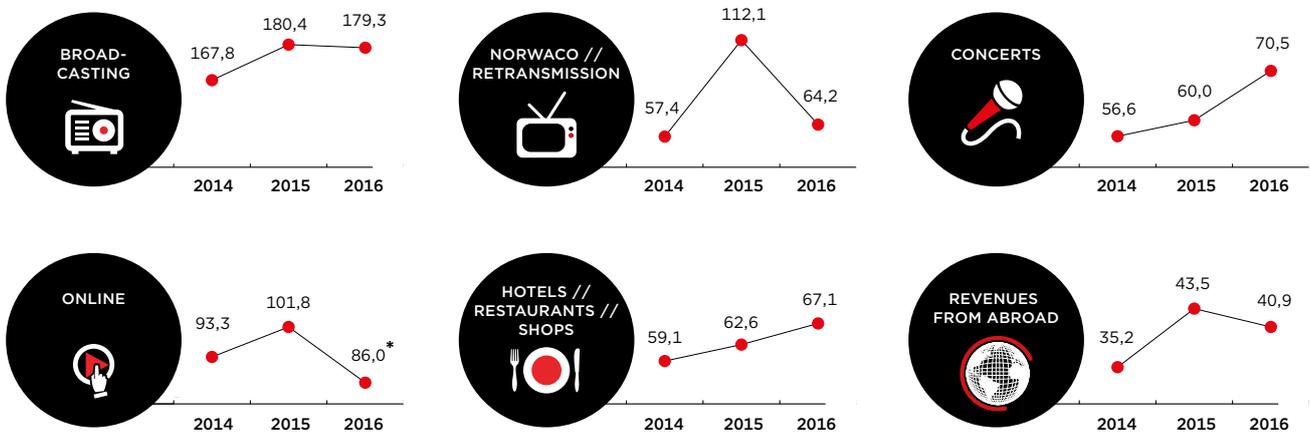
## OVERVIEW OF TONOS INCOME // 2016

In 2016, TONO had a turnover of NOK 541,884,811. Distribution less costs was NOK 447,339,687, while costs were equivalent to to 15.05 per cent.



### DEVELOPMENT, SOURCES OF INCOME

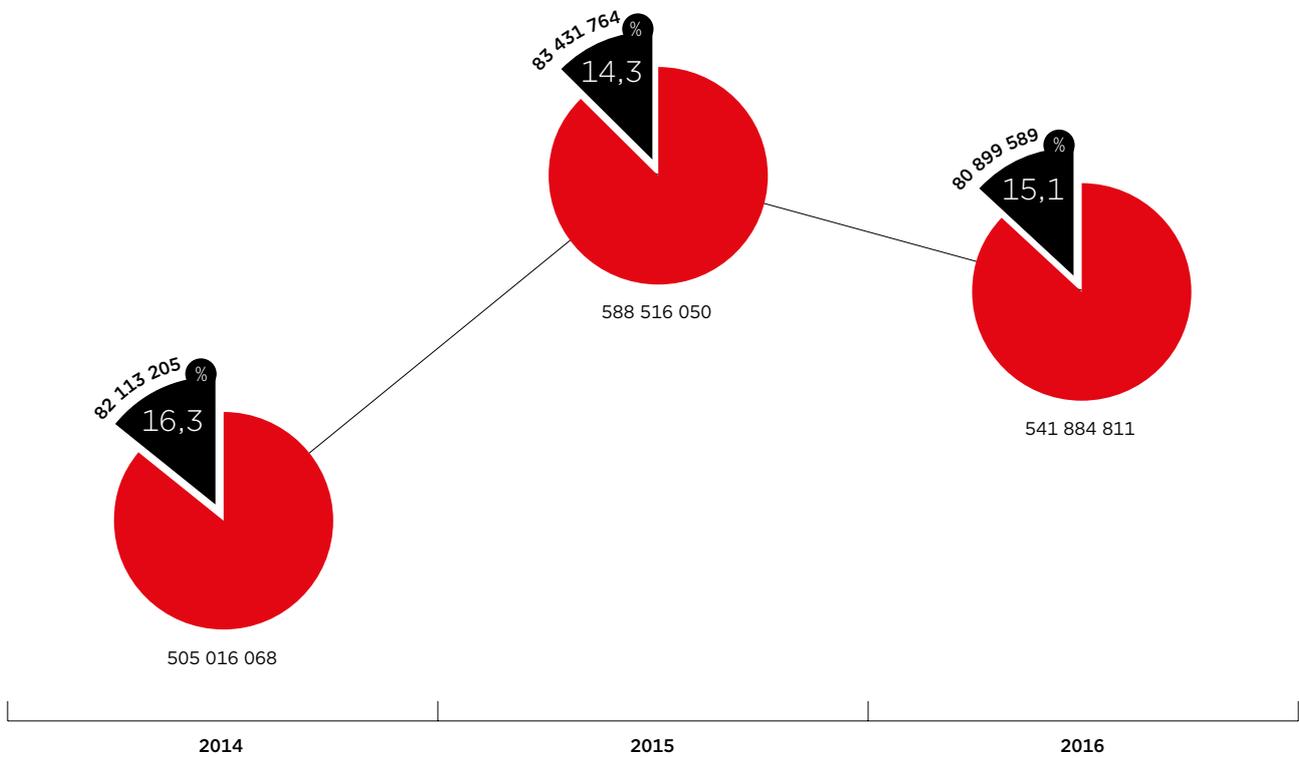
Numbers in mill NOK



\* Invoiced online revenues for TONO amounted to approximately NOK 115 mill in 2016. The accounting result is lower due to crediting of previously unmatched collections for works later identified as not belonging to the repertoire licensed by TONO for the relevant online services.

## TREND IN REVENUES AND EXPENDITURES // 2014-2016

Revenue before 2% deduction to the Norwegian Composers Fund.  
Expenditures in percent.



## DISTRIBUTION // 2007-2016

The graph below shows performance trends over the past 10 years.  
The result is the amount added to the funds available for distribution each year.



## DISTRIBUTION, AMOUNTS DISBURSED

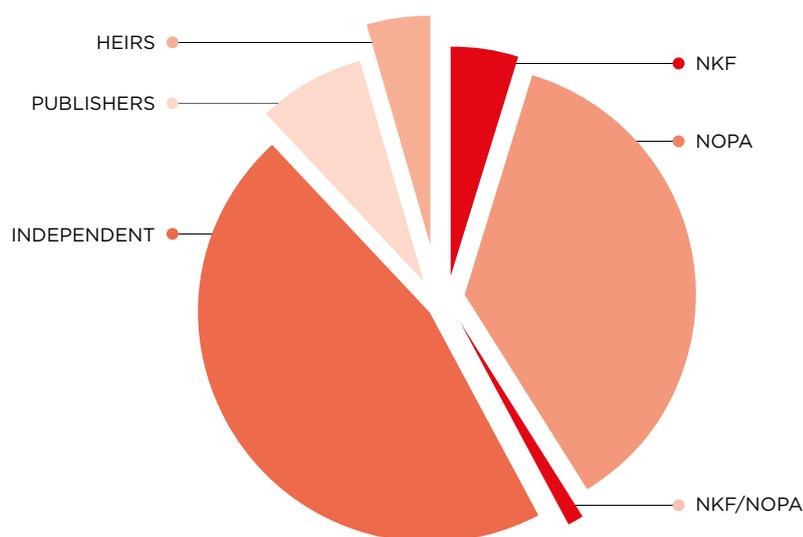
The information below shows how TONO's remunerations were distributed among various member groups in 2016.

According to the Norwegian Act on Cooperatives terminology, those who have an administration contract with TONO, and in addition have earnings that qualify to vote at the general assembly, are the members of TONO (for historic reasons, TONO in its by-laws uses the term "andelshavere", which means "shareholders"). Those with administration contract, but not earnings which qualify to vote at the general assembly, are referred to as "ordinary members". However, in day-to-day terms, all of TONO's rightsholders are referred to as "members". The term "Organised" refer to those members who are associated with the associations NOPA (The Norwegian Society of Composers and Lyricists), NKF (Norwegian Society of Composers) and Musikkforleggerne (The Norwegian Society of Music Publishers)

DISTRIBUTION, SHAREHOLDERS AND ORDINARY MEMBERS	Amount	Average amount
Shareholders	109 890 201	71 172
Ordinary members	46 040 827	3 021
<b>Total</b>	<b>155 931 028</b>	

DISTRIBUTION BY MEMBER CATEGORY	Amount	Average amount
Organised NKF	7 604 832	42 249
Organised NOPA	56 644 753	52 303
Organised NKF/NOPA (double membership)	1 614 834	47 495
Independent	71 329 899	5 072
Publishers	12 148 107	62 619
Heirs	6 588 584	5 361
<b>Total</b>	<b>155 931 009</b>	

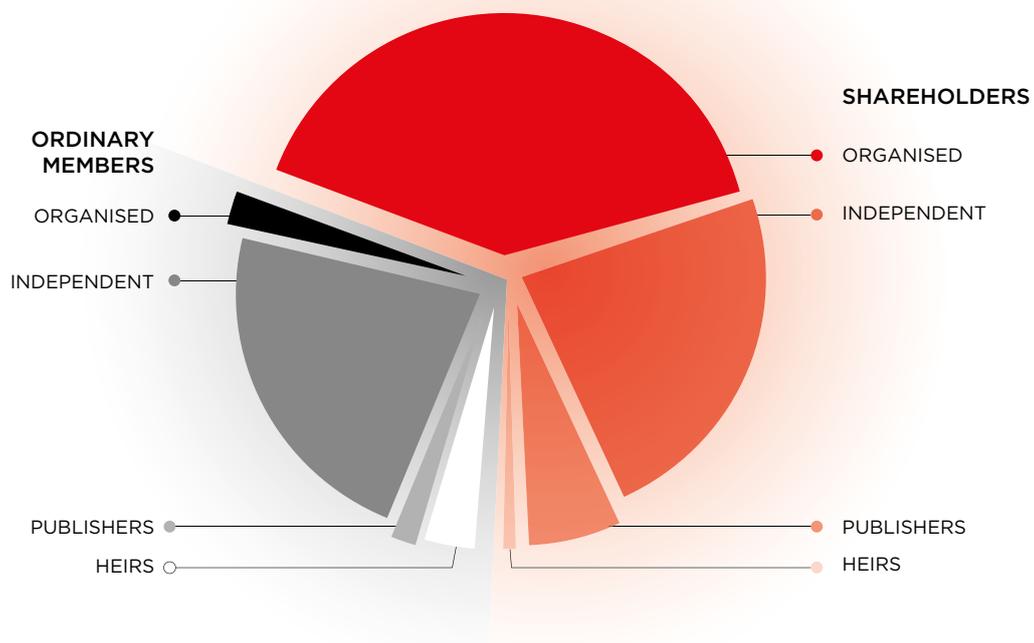
### DISTRIBUTION BY MEMBER CATEGORY



DISTRIBUTION ORDINARY MEMBERS	Amount	Average amount
Organised	3 367 584	6 987
Independent	34 826 283	2 604
Publishers	2 646 933	15 212
Heirs	5 200 008	4 294
<b>Total</b>	<b>46 040 808</b>	

DISTRIBUTION SHAREHOLDERS	Amount	Average amount
Organised	62 496 834	76 683
Independent	36 503 616	52 827
Publishers	9 501 175	475 059
Heirs	1 388 576	77 143
<b>Total</b>	<b>109 890 201</b>	

**DISTRIBUTION, ORDINARY MEMBERS AND SHAREHOLDERS**



## DISTRIBUTION TO AND FROM ABROAD

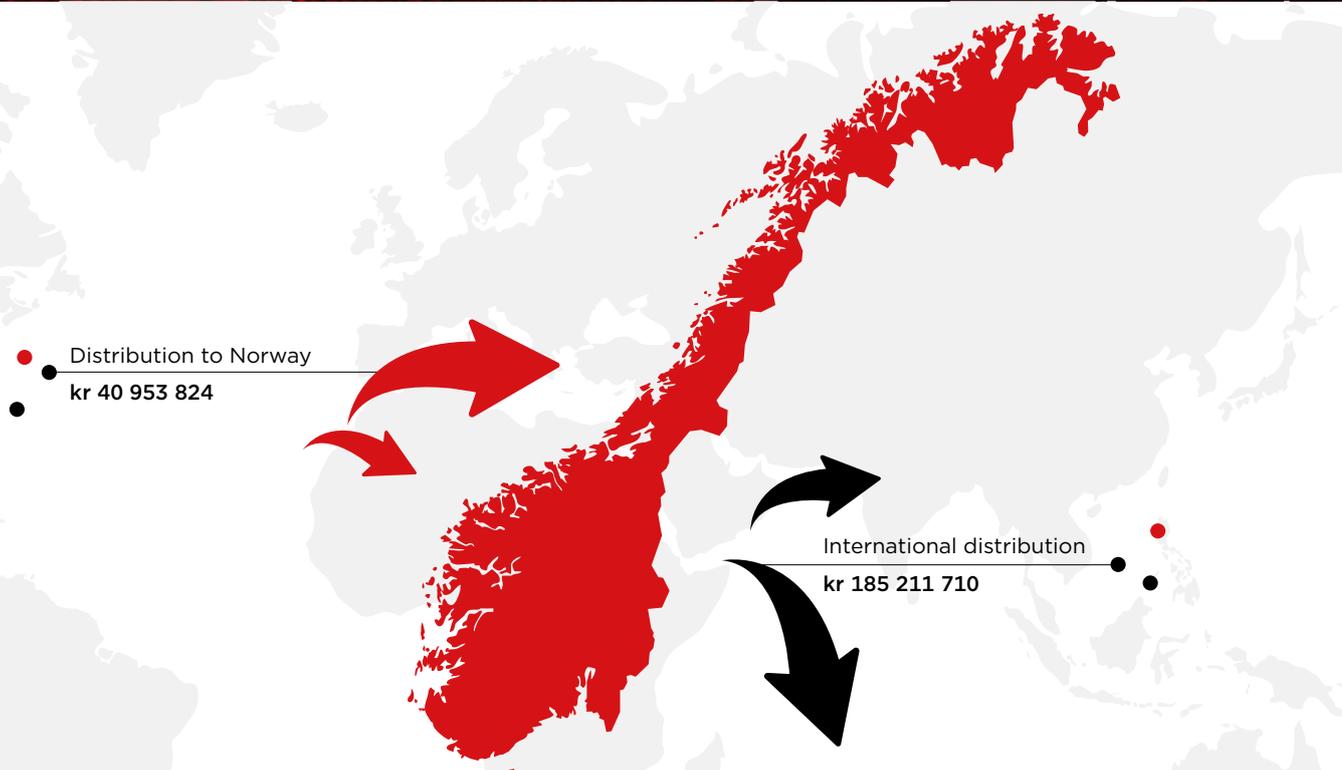
At the end of 2016, TONO had 73 reciprocal agreements with sister societies in other countries. Some of the agreements cover several countries and, collectively, they mean that TONO is represented in more than 100 countries and territories. The reciprocal agreements entail that the companies claim remuneration for public performances of each other's repertoires in their respective countries and territories, and then pay the remuneration back to the various companies to be passed on to the rightsholders as compensation for the works performed.

### INTERNATIONAL DISTRIBUTION

Remuneration to foreign rightsholders from TONO added up to NOK 185 211 710 in 2016. The comparable figure for 2015 was NOK 185 115 609.

The table below shows a list of what TONO has distributed to some sister companies over the past three years. The figures do not reflect exactly how much of the individual country's repertoire is performed in Norway. For example, the payments to STIM are largely for Anglo-American repertoire because the repertoire has a 'sub-publisher' in Sweden. The table includes remuneration claimed by Norwaco, and which is largely passed on to STIM and PRS for further distribution to rightsholders.

COMPANY/COUNTRY	Distributed 2016	Distributed 2015	Distributed 2014
AKM, Austria	861 400	525 754	495 296
APRA, Australia	2 530 561	2 405 062	1 741 916
ASCAP, USA	20 151 186	18 610 789	16 630 740
BMI, USA	18 790 978	16 078 961	13 911 591
BUMA, The Netherlands	665 003	509 546	518 945
GEMA, Germany	4 182 870	3 712 375	3 209 495
JASRAC, Japan	183 495	109 796	78 818
KODA, Denmark	8 513 831	9 459 197	5 491 132
OSA, Czech Republic	132 794	80 322	80 130
PRS, England	47 561 846	44 243 695	47 540 277
SABAM, Belgium	355 037	393 486	332 968
SACEM, France	6 541 253	6 281 717	5 961 684
SGAE, Spain	378 202	478 304	401 627
SIAE, Italy	633 950	597 256	649 379
SOCAN, Canada	2 337 215	2 000 980	2 119 863
STEF, Iceland	179 442	242 482	135 857
STIM, Sweden	65 442 276	74 400 410	52 486 884
SUISA, Switzerland	333 619	353 265	372 741
TEOSTO, Finland	1 734 447	1 297 259	837 681
ZAIKS, Poland	80 255	304 112	212 434
Other	3 622 050	3 030 841	1 964 929
<b>TOTAL</b>	<b>185 211 710</b>	<b>185 115 609</b>	<b>155 174 387</b>



## DISTRIBUTION FROM ABROAD

Altogether, revenues of NOK 40 983 824 were recognised from foreign sister societies as payment for the use of TONO's repertoire in other countries in 2016. The comparable figure for 2015 was NOK 43 567 894. There has been a significant increase in income from abroad over the last few years. The income reduction from 2015 to 2016 is mainly due to the fact that we did not receive money from GEMA (Germany) in 2016. In 2017, we expect this retrenchment to be retrieved, which means that the figures for 2017 will include income from both 2016 and 2017. The revenue flow can also vary as a result of formal claims from tax authorities in certain countries. Below is a list of payments from the countries from which TONO receives the highest remunerations.

SELSKAP/LAND	Received 2016	Received 2015	Received 2014
AKM, Austria	627 826	511 930	434 687
APRA, Australia	1 275 438	717 697	577 435
ASCAP, USA	1 453 437	1 478 865	1 085 267
BUMA, The Netherlands	1 605 568	1 388 327	1 252 684
GEMA, Germany	0	6 919 360	5 083 059
JASRAC, Japan	1 779 080	1 351 976	792 712
KODA, Denmark	9 043 858	8 161 001	9 003 398
PRS, England	1 347 519	3 503 048	3 077 087
SABAM, Belgium	842 909	702 744	291 831
SACEM, France	2 473 523	2 974 692	1 756 186
STIM, Sweden	12 938 425	8 343 688	5 849 730
SUISA, Switzerland	1 295 536	1 564 186	920 337
TEOSTO, Finland	2 280 408	221 078	1 912 197
BMI, USA	541 883	516 868	237 912
Other	3 448 414	5 212 434	2 947 284
<b>TOTAL</b>	<b>40 953 824</b>	<b>43 567 894</b>	<b>35 221 806</b>



Want to know  
more about TONO?

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**TONO**