

For the above reasons:

1. the results of the application of the policy at a particular point in time should not be legally binding; and
2. the policy should be applied, in whatever form the policy is, at the time that Commercialisation Revenue is actually to be distributed.

13. APPLICATION OF THE POLICY

If the policy is a flexible one for the reasons described in 12.3, Creators will be concerned about how their rights will be adequately protected. This is overcome by there being a legal obligation, created in the Deed of Assignment:

1. to have a policy; and
2. to apply the policy.

The distinction between:

1. the legal obligation to have a policy; and
 2. the application of the policy at the required point in time
- needs to be stressed.

If the policy has the flexibility discussed above, Creators will be concerned about the application of the policy and the possibility that it may be applied in a way that is contrary to their interests. This legitimate concern can be addressed as to:

1. who is a Creator; and
 2. in what proportions Creators will share in Commercialisation Revenues
- being determined by the Authorised UOW delegate(s) considering recommendations made by the Commercialisation Revenue Committee.