

Who gets Screenrights royalties – and why

Screenrights is a non-profit copyright collecting society for producers, distributors, rightsholders in scripts, music, sound recordings of music and artistic works, and other rightsholders in film and television programs. Screenrights collects money from Australian and New Zealand educational institutions for television and radio copying, for the communication of these copies, and distributes this money to the relevant rightsholders in the film, script, sound recordings, broadcast signal, musical works and artistic works.

The purpose of this fact sheet is to provide a summary of Screenrights' Distribution Policy for educational royalties. The full Distribution Policy can be found on our website.

Who determines how Screenrights distributes royalties?

The manner in which Screenrights distributes educational royalties is determined by Screenrights' Board of Directors, who are voted in by members. In doing this, the Board must have regard to the provisions in the Australian and New Zealand Copyright Acts.

Allocation of Royalties

How is the total amount allocated to each copied program determined?

In summary, allocations for Australian and New Zealand educational royalties are determined in the following way:

- The total distributable amounts for the accounting period are determined and operating expenses are deducted

Screenrights separately determines the total amount collected over an accounting period from both Australian and New Zealand educational institutions. The operating expenses for each service are deducted from the relevant pools of money. Generally, accounting periods accord with the financial year (1 July to 30 June).

- An allocation is made to a contingency fund and reserve fund

Once operating expenses are deducted, an allocation from the total distributable amount of each pool is made to a fund known as the IBNR Fund. This fund is used to meet "claims incurred but not reported", which includes payments to members of their share of royalties previously paid mistakenly to another member and payments to correct data entry errors. Additionally, amounts are allocated to Screenrights' Reserve Fund to fund new business opportunities, as determined by the Board on an annual basis.

- An allocation is made to the Artistic Works Fund

An allocation is made to an Artistic Works Fund (1.9% under the Australian Educational Service and 1.85% under the New Zealand Educational Service). This pool is used to make payments to rightsholders in artistic works incorporated in copied and communicated programs.

- Programs are categorised and valued per minute

Once these deductions are made and Screenrights has determined a total distributable amount for each pool, all reported programs are categorised as either ephemeral in nature (that is, programs that are not likely to be kept as an ongoing resource, such as news and magazine style current affairs programs) or as "other". The category affects the dollar value allocated to each minute copied or communicated with ephemeral programs receiving less than other programs. Screenrights can then determine the total amount that should be allocated to each program identified as having been copied or communicated.

How much is allocated to each copyright in a copied title?

Because each film and television program contains a number of copyrights, Screenrights' Board has had to determine how the total amount for each title should be allocated among these various copyrights.

The division differs slightly for New Zealand and Australian royalties because of differences in the wording of the relevant Copyright Acts.

The allocations are as follows:

Copyright	Australian Educational Royalties	New Zealand Educational Royalties
Film	68.5%	67.1% (includes allocation to copyright in associated sound track)
Script	22.1%	21.7%
Musical Works	7.4%	7.3%
Sound Recordings of Musical Works	2.0%	1.9%
Broadcast Signal	N/A	2.0%

Artistic Works

For information as to how Screenrights distributes royalties to rightsholders in artistic works please contact Member Services.

Who gets the allocations in a copied or communicated program?

Under the Australian and New Zealand Copyright Acts, Screenrights must pay the specified share of the total royalties allocated to each copied or communicated program to the relevant rightsholder at the time of broadcast in the film, script, sound recordings, broadcast signal, musical works, and artistic works.

For educational copying royalties, the relevant right is the right to copy the program (or the film, script, sound recordings, musical works or artistic works incorporated in the program) from television or radio broadcasts in Australia or New Zealand.

For communication royalties, the relevant right is the "right to communicate" the program (or the film, script, sound recordings, musical works or artistic works incorporated in the program) in Australia.

For Screenrights' purposes, under the Australian and New Zealand Copyright Acts, the producer is the first owner of the relevant rights in the film, the writer is the first owner of the relevant rights in the script, the composer is the first owner of the relevant rights in the music, the person or company that commissioned the sound recording is the first owner of the relevant rights in the sound recording of commissioned music, and the broadcaster is the first owner of the relevant rights in the broadcast signal. These rules are subject to exceptions and potential claimants should always seek legal advice.

However, in order to determine who is entitled to the Screenrights royalties, it is usually necessary to look beyond the first owner and consider if any agreements have been entered into which concern the relevant right.

For example, where a producer enters an agreement with a distributor or a funding agency, the question of who owns the relevant right (and is therefore entitled to Screenrights' royalties) is normally dealt with in this contract.

If you are uncertain as to the effect of particular clauses in a contract on your entitlement to Screenrights royalties, we recommend you seek legal advice. Screenrights cannot offer legal advice but we are happy to view a contract to determine whether we would be likely to accept a claim. Where there is a conflict over entitlement to royalties, Screenrights' Alternative Dispute Resolution (ADR) Policy will apply. This policy is available on our website.

How can I ensure that I get Screenrights royalties?

When you are negotiating agreements concerning the making or subsequent distribution of a film, it is advisable to specifically address the issue of who is entitled to claim Screenrights royalties. In drafting such agreements, rightsholders should always seek independent legal advice.

Screenrights cannot provide legal advice, however we are happy to view draft clauses and confirm whether we would be likely to accept a claim on the basis of such documentation. We also publish suggested draft clauses that you may wish to include in your agreement. These clauses could be adapted for use in agreements between producers and writers, artists, rightsholders in sound recordings; in distribution agreements and in agreements with funding agencies.

Contact us or visit our website for a copy of these clauses.

Screenrights full Distribution Policy is available on our website.