



Competing Claim Resolution Procedures:

Member Request for Independent Expert Decision

This process allows a member to request that an independent expert (**Independent Expert**) decide an issue if the member is not satisfied with an internal decision made by Screenrights about a Competing Claim.

What kind of decisions can be decided by an Independent Expert?

A member may use this procedure if Screenrights made an internal decision affecting the member under its [Express Resolution Process](#) or [Alternative Dispute Resolution \(ADR\) Procedure for Competing Claims](#).

For example, under the ADR Procedure for Competing Claims, where members cannot resolve the competing claims between themselves:

- if the value of the claim is from \$500 to \$9,999 Screenrights *may* make an internal decision. If Screenrights does make an internal decision, then this procedure may be used. However, Screenrights reserves the right at any time to request that an independent organisation choose an independent expert to make a decision instead of Screenrights. See the [Screenrights Initiated Expert Decision guide](#). In that case, the decision will not be considered an internal decision.
- if the value of the claim is \$10,000 or more and a determination has been made by an expert adjudicator, the decision will not be considered an internal decision given the independent nature of the decision. Click here to view the [ADR Procedure for Competing Claims](#).

How to start the process:

Any member wanting an internal decision referred for Independent Expert decision must complete an Independent Expert Decision Form. This form must be completed within 14 days of receiving the original decision from Screenrights.

Who are the parties?

The parties to the process will be Screenrights and any member requesting the Independent Expert decision.

Who will decide it?

An independent organisation will appoint an Independent Expert with both subject matter knowledge and experience in deciding claims to make an independent decision.

Costs

Screenrights will pay the cost of the independent organisation and the Independent Expert for the decision. Members will need to pay any associated costs they may incur in relation to the process (e.g. costs of advice and disbursements).

Joinder of claims

If several members have similar substantive issues with Screenrights or if the same member requests Independent Expert decisions for matters with similar substantive issues, Screenrights may suggest that the matters be determined together. It will be up to the Independent Expert to decide if that should happen taking into account the views of the parties.

Conflicts of Interest

The independent organisation will select the Independent Expert following consultation with the parties and ensure that the Independent Expert discloses any potential conflicts of interest that s/he may have. If there is a disclosed conflict of interest the parties may either accept the Independent Expert, or any party (Screenrights or a member) may exercise the right to have an alternative person appointed by the independent organisation.

Information exchange and format of the Independent Expert process

On appointment, the Independent Expert will be provided with all the documents used by Screenrights to make its internal decision. The Independent Expert or independent organisation will then provide the parties with a timetable for the decision which may include a request for additional information / a round table conference, or verbal submissions (in conference or by video link as appropriate).

A decision will be made on the merits of the parties' submissions (both written and oral) within the timeframe agreed with the Independent Expert which shall not be more than 90 days from receipt by Screenrights of a completed Independent Expert Decision Form for matters involving no more than two parties.

What is the status of past decisions?

Past decisions by an Independent Expert are binding on the member and Screenrights for the specific matter decided. A past decision (internal or external) on a similar matter may also be supplied to the Independent Expert at the request of the member or at Screenrights option, but the past decision will not be formally binding on the Independent Expert.

Publication of Independent Expert decisions

Screenrights wishes to assist members to self-manage competing claims wherever possible, without the costs and time involved in using an external decision maker.

In pursuit of this aim, Screenrights will publish a summary of all Independent Expert decisions made under the Competing Claim Resolution Procedures and all other decisions made under the ADR Procedure for Competing Claims on its website <http://www.screenrights.org>. Publication will be a useful tool for other members facing a competing claim of a similar nature. As it is important to protect the confidential information of members, the names of the members involved and any confidential information will be removed.

Copies of decisions will be made available to members on request with the consent of the parties to decision. If all parties agree, they will be afforded the opportunity to assist in identifying and deleting confidential and commercially sensitive information such as payment terms.



*If you would like any details about the process, please contact the Screenrights Resolutions team at **(02) 9904 0133** or by email at resolution@screenrights.org.*