



Competing Claim Resolution Procedures:

Screenrights Initiated Expert Decision

This procedure allows Screenrights to elect that an independent expert (**Independent Expert**) chosen by an independent organisation to decide an issue where Screenrights is called to make an internal decision under the Competing Claim Resolution Procedures.

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

Screenrights may use this policy if Screenrights is called upon to make an internal decision 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 a competing claim between themselves if the value of the claim is from \$500 to \$9,999 Screenrights *may* make an internal decision. However, Screenrights may instead elect for a Screenrights Initiated Expert Decision under this procedure.

In what circumstances will Screenrights elect for a Screenrights Initiated Expert Decision?

Screenrights reserves a discretion to make such an election for any reason. For reference purposes, circumstances in which Screenrights may elect to do so may include:

- Where Screenrights considers that the matter is complex.
- Where Screenrights does not have the internal resources available to make the decision.
- Where Screenrights is of the view that taking into consideration the interests of all concerned, it would be preferable for the decision to be made externally.

This procedure is distinct from circumstances where Screenrights seeks a recommendation from an expert and makes its own decision, in which case it is an internal decision for the purposes of a [Member Request for Independent Expert Decision](#).

How will the procedure be started?

Screenrights will notify the relevant parties to the competing claim that it intends to make the election in writing. In any case the decision will be made within a similar timeframe that Screenrights would usually have to make an internal decision, wherever possible in light of the availability of the independent organisation and independent experts.

Who are the parties?

The parties to the procedure will be the same parties to the internal decision relating to the Competing Claim.

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.

Effect of decision

Since an independent organisation will choose an independent expert to make a decision instead of Screenrights, the decision will not be considered an internal decision. Therefore, the Member Request for Independent Expert Decision is not available.

Costs

Screenrights will pay the cost of the independent organisation and the Independent Expert for the decision. Members will be in the same position in terms of costs as if Screenrights were making the decision. This means they will need to pay any associated costs they may have incurred in relation to the internal decision process (e.g. costs of advice and disbursements).

Joinder of claims

If several members have similar substantive issues or the same member is involved in several competing claims with similar substantive issues that require an internal decision, 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 may exercise the right to have an alternative person appointed by the independent organisation.

Information exchange and format of the Independent Expert procedure

On appointment, the Independent Expert will be provided with all the documents that would have been available to Screenrights to make its internal decision. The format of the procedure will be similar to the format that would have been used by Screenrights in making its internal decision.

What is the status of past decisions?

Past decisions by an Independent Expert are binding on members 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.

Effect of decisions

All Independent Expert decisions made under the Competing Claim Resolution Procedures serve as a precedent for future royalty claims in relation to the same right under [Presumption 9](#) of the [Express Resolution Process](#).

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 procedure, please contact the Screenrights Resolutions team at **(02) 9904 0133** or by email at resolution@screenrights.org.*