

## **Screenrights submission: *Exploring Convergence Review***

Thank you for the opportunity to comment on “*Convergence Review: Content Regulation in a Converged World.*”

### **INTRODUCTION**

1. Audio-Visual Copyright Society Limited trading as Screenrights is a not for profit copyright society representing rightsholders in film, television and radio programmes. Screenrights has 334 New Zealand members and over 3,840 members in 52 countries world-wide covering a wide spectrum of copyright owners including broadcasters, producers, writers, music copyright owners and creators of artistic works.
2. Since 1998, Screenrights has licensed New Zealand educational establishments under s48 of the New Zealand Copyright Act to copy television and radio broadcasts and cable programmes from broadcasts or the internet.
3. Section 48 is technology neutral and provides access to audio visual content for users no matter how the technology is delivered. Licensed institutions don't need to obtain individual copyright clearances, but simply pay an annual fee. Programmes can be copied in any format, and they can be played and stored on digital content management systems, allowing educators and students to have access to this rich learning resource whether they are at home or in the classroom.
4. Screenrights' licences cover schools, universities, polytechnics, institutes of technology, wananga and other tertiary institutions. Screenrights distributes the licence fees it collects to rightsowners of the copyright works that are being used.
5. Screenrights is supportive of the approach of exploring the impact of convergence across platforms.

## **IMPORTANCE OF COPYRIGHT**

6. In administering the audio visual educational copying provisions in New Zealand, Screenrights believes it is uniquely placed to recognise the central role that copyright plays in a converged media environment. The audio visual educational provisions are drafted in a technologically neutral way that is most appropriate for convergence.
7. The recent report commissioned by We Create and conducted by PWC found that the Copyright Industries contributed 3.5 billion dollars to the New Zealand economy.<sup>1</sup>
8. An effective copyright regime must balance the interests of consumers in being able to access content anywhere at anytime, with the rights of creators to ensure they are paid for the use of their work. Failure to balance these competing needs can stifle consumer use of technology, lead to increased unauthorised use of works and have a detrimental impact on creative industries, both emerging and established.
9. The audio visual educational copying provisions in New Zealand <sup>2</sup> provide an excellent example of a broad and fair access regime, enabling teachers and students to use this important resource while providing fair payment for rightsholders.
10. Importantly, the provisions have been flexible enough to enable new technologies to emerge for content management. Auckland based eTV (<http://www.etv.org.nz/>) is the innovative creator and distributor of a cloud based learning management system which works with the access the Screenrights licence provides.<sup>3</sup>
11. Clickview also provides learning management systems for schools with a Screenrights licence giving teachers and students the capacity to store vast archives of programmes and to access these programmes remotely or at the institution.<sup>4</sup>

## **RESPONSE TO GENERAL THEMES**

12. Screenrights agrees with the underlying principals set out in the paper.
13. Screenrights supports policies that support growth and diversity of screen production in New Zealand. We support the important role of New Zealand On Air and the New Zealand Film Commission in directly supporting the creation of

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<sup>1</sup> <http://wecreate.org.nz/home/facts-stats/>

<sup>2</sup> Section 48, Copyright Act, 1994.

<sup>3</sup> [www.etv.org.nz](http://www.etv.org.nz)

<sup>4</sup> [www.clickview.co.nz](http://www.clickview.co.nz)

New Zealand film and television programs. We also support policies which encourage fair access to content which encourages the creation of a vibrant screen sector.

14. Screenrights also notes that New Zealand does not have retransmission legislation which would enable a wide range of service providers to carry free to air channels as part of their consumer offering. Section 90 of the Act provides for retransmission to a cable programme service. This very narrow, technologically specific provision is incompatible with a converged media environment. As a consequence, new media companies are more restricted in their ability to retransmit broadcasts than in similar competing economies such as Australia and the United States of America.
15. In Australia, the retransmission licence in Part VC of the Copyright Act is applicable to all services except those over the internet. This has encouraged a wide range of services including mobile phone retransmission, retransmission to hospitals as part of a wider e-health service and retransmission over telco controlled IPTV services. The policy benefit has been the encouragement of new media services by their ability to use retransmission to include existing broadcasting services. This can be especially valuable during the start up phase.
16. The retransmission licence has also benefited both consumers and creators. Critically, the retransmission provision is remunerated, so copyright owners are compensated for the use of their content in the retransmitted service.
17. Again, this licence increases access to content and provides payment to the rightsholders who make this work.

*The perspective of Screenrights' members*

18. Our members frequently testify to us as to the importance of Screenrights' royalties in helping them to continue to produce programmes. A recent member survey told us that more than half of them felt Screenrights' royalties played an important role in the financial sustainability of their business, with close to 20% saying these royalties are "extremely important". As secondary rights revenue streams become increasingly important within a more fragmented distribution environment, and the digital economy continues to grow, we anticipate that the significance of Screenrights' royalties will increase.