DISTRIBUTION POLICY

As approved by the Board effective 28 November 2018

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Screenrights Distribution Policy as at 28 November 2018
ROYALTY COLLECTION SERVICES

Australian and New Zealand Collection Services

**Australian Educational Service**

1.1 Screenrights administers the provisions in Division 4 of Part IVA of the Copyright Act 1968 (Cth) (the ‘Australian Act’), allowing educational institutions to copy from radio and television, and communicate these copies subject to certain conditions, including the payment of a fee to the relevant copyright owners.

**New Zealand Educational Service**

1.2 Screenrights administers similar provisions in the Copyright Act 1994 (NZ) (the ‘New Zealand Act’). These provisions do, however, differ from those in the Australian Act in an important respect. Copyright owners who wish us to undertake this service on their behalf must appoint us to do so.

**Australian Government Service**

1.3 Screenrights administers s183 of the Australian Act, allowing state and federal government departments to copy from television and radio subject to certain conditions, including the payment of a fee to the relevant copyright owners.

**Australian Retransmission Service**

1.4 Screenrights administers the provisions of Part VC of the Australian Act, allowing cable, satellite and other services (the ‘retransmitters’) to retransmit free-to-air broadcasts subject to certain conditions, including the payment of a fee to the relevant copyright owners.

Distribution Policy for Australian and New Zealand Collection Services

1.5 The money that Screenrights collects from these Services is distributed according to Screenrights’ Distribution Policy as determined by the Board, having regard to the relevant provisions in the respective Copyright Acts. The Board is elected by Screenrights’ members.
International Collection Services

**Screenrights International**

1.6 Screenrights also registers titles with other audio-visual collecting societies on behalf of copyright owners who have appointed us as their non-exclusive agent to undertake this service. We collect royalties being held by these societies on behalf of the copyright owners we represent.

Distribution Policy for International Collection Services

1.7 The money that Screenrights collects from other societies is distributed to Screenrights according to the relevant society’s distribution policy.

1.8 Screenrights on-distributes the money it collects from other societies to its members according to the policies outlines in the Screenrights International section of this policy (See Screenrights International).
MONITORING USE

Monitoring Copying and Communication

2.1 Record-keeping and sampling procedures are used for collection and distribution purposes. The methods are:

(a) **Record-keeping:** payment is based on copies and communications disclosed in comprehensive records; or

(b) **Sampling:** an annual payment is made and a statistical sample is used to assess the amount and nature of copying and communication.

**Record-Keeping**

2.2 Record-keepers forward their records to Screenrights on a quarterly basis.

**Sampling**

2.3 Institutions/departments are selected randomly from within certain groups that meet specific parameters to create a sample that provides appropriate representation in the sample population of institutions/departments by type, size and geographical location.

2.4 Resource centre records are added to the sampling system to improve statistical efficiency. A weight is applied to the records to reflect their relative value (see Sample Weights).

Monitoring Retransmission

2.5 Royalties for the retransmission of television are determined on the basis of a rate per subscriber, per retransmitted television channel, per month. Royalties for the retransmission of radio channels are determined on the basis of a rate per subscriber, per month.

**Retransmitted Television Program Sample**

2.6 A sample is used to determine the retransmitted television programs paid each distribution year. The sample consists of 365 days (366 days in a leap year) for each of the 5 networks (7, 9, 10, SBS and ABC) compiled from a number of days drawn from each of the network’s stations and their affiliates (if any).

2.7 The relative income of each network station or affiliate determines the number of days they are represented in the sample.

2.8 The specific days chosen to represent each of the network stations and affiliates are random.
2.9 A part year sample is used when the value of the pool of royalties available to distribute to a Network is insufficient to efficiently distribute to a full 365 day sample.

2.10 To determine the number of days in a part year sample Management determines an amount that it considers efficient to distribute to a single day of television programming. The distributable amount is divided by the efficient amount per day to calculate the number of days in the part year sample as follows:

\[
\text{No. of Days in Part Year Sample} = \sqrt{\frac{\text{Distributable Amount}}{\text{Efficient Amount per Day}}} 
\]

Let’s say there is $50,000 available to distribute across all programs on a channel for an entire year.

Most channels broadcast between 12,000 and 15,000 programs a year - so that $50,000 won’t go very far. On average a single program would be allocated only $4.00.

That’s not efficient for Screenrights to distribute or ultimately fair to rightsholders.

In these circumstances Screenrights creates a sample of retransmitted programs across the year, but the sample does not cover all 365 days. We want to allocate royalties to as many programs as possible while still keeping our administrative expenses low so we try to sample as many days as we can.
We work out how many days we can efficiently include in the sample by first estimating the minimum amount that we could reasonably allocate across a day’s worth of programming.

Let’s say that a reasonable minimum amount is $1,000. There’s usually somewhere between 30 and 40 programs on a channel each day. This means that on average a program would be allocated $25 to $34. That’s more efficient to distribute.

The number of days that would be covered in the Part Year Sample is then determined by using the formula:

\[
\text{No. of Days in Part Year Sample} = \frac{\$50,000}{\$1,000}
\]

This would mean that the number of days in the Part Year Sample is 50.

2.11 The efficient amount per day is reported to the Board each year.
2.12 The days sampled are determined by an independent statistical authority.

**Television Multi-channels**

2.13 Where a multi-channel, aligned with a Network, receives no separately specified rate per subscriber per month, the proportional allocation to the multi-channel is:

(a) where no audience share data is available, no allocation;

(b) where audience share data is available, the multi-channel’s proportion of the Network’s total audience share (combining the multi-channel and the primary channel only).

**Radio channels**

2.14 Retransmitted radio programs are paid on a per channel rather than a per program basis.
CALCULATING THE DISTRIBUTABLE AMOUNT FOR EACH COLLECTION SERVICE

Australian and New Zealand Collection Services

Accounting Periods

3.1 Accounting periods are determined by Screenrights. No period extends beyond 30 June in any year but shorter periods may be adopted. Accounting periods equate with Australian financial years from 1 July to 30 June.

Defining the Gross Distributable Amount

3.2 “Distributable amount” in relation to an accounting period is defined in Regulation 23J(2) of the Australian Copyright Act Regulations as the amount of equitable remuneration received by the society that is attributable to that period.

3.3 The gross distributable amount includes amounts referable to the period whether or not they were actually received in that period. Screenrights includes sums attributable to the period but received after the end of the period without deduction of operating expenses or other deductions where these amounts can be determined when the accounts are prepared.

Deducting Expenses

3.4 Once the gross distributable amount for each collection service for the accounting period is determined, administrative costs are deducted according to the following principles:

(a) operating expenses are apportioned across each of the collection services;
(b) no change is made to the apportionment of expenses under the Australian Educational Service other than to charge part of the overheads to new services;
(c) fixed costs are borne by each collection service in proportion to the contribution of each collection service to the total gross collections (subject to (d) below);
(d) costs and disbursements referable solely to a specific collection service are charged against that collection service.

Allocation to Cultural Fund

3.5 Once operating expenses are deducted, a distribution of up to 1% is made to a fund known as the Cultural Fund, as the Directors consider appropriate.

Allocation to IBNR Fund

3.6 Once a distribution has been made to the Cultural Fund, an allocation is made to a fund known as the IBNR Fund, as the Directors consider appropriate.

3.7 Claims “incurred but not reported” may be met from the IBNR Fund.

3.8 This includes payments:

(a) to a member of a share of the distributable amount being a share already paid in error to another member. (Note that the amount paid in error will be offset against any entitlement that an overpaid member may have in the future);
(b) to a relevant copyright owner not otherwise specifically provided for;
(c) to correct errors, including data entry errors;
(d) based on records submitted after allocation has been made;
(e) for ad hoc claims from members (see Ad Hoc Claims); and
(f) for exceptional use (see Exceptional Use).
**Allocation to Artistic Works Fund**

3.9 Once an allocation is made to the IBNR fund, an allocation is made to an artistic works pool for payment of copyright owners in artistic works as follows:

<table>
<thead>
<tr>
<th>Collection Service</th>
<th>Allocation to Artistic Works</th>
</tr>
</thead>
<tbody>
<tr>
<td>Australian Educational Service</td>
<td>1.9%</td>
</tr>
<tr>
<td>New Zealand Educational Service</td>
<td>1.85%</td>
</tr>
<tr>
<td>Australian Government Service</td>
<td>1.85%</td>
</tr>
<tr>
<td>Australian Retransmission Service</td>
<td>1.9%</td>
</tr>
</tbody>
</table>

**Article 16 Trust Funds**

3.10 Under its Articles of Association, Screenrights has established the Article 16 Trust Funds. All money owing to relevant copyright owners is transferred to the relevant fund and held in trust until they are distributed to the relevant Qualified Person, or returned to the gross distributable funds.

3.11 Money owing to copyright owners is held in trust for a maximum of four years, unless the board is satisfied that circumstances exist to justify holding the money in trust for a maximum further two years.

3.12 Once this period expires, any money that has not been paid to a copyright owner is rolled over into the gross distributable amount for the next distribution year subject to paragraph 3.15.

3.13 Money is also held in the relevant Article 16 Trust Fund where there is a dispute as to the person or entity entitled to collect the royalties as set out in paragraphs 3.15 to 3.19 below or where the accumulated money allocated to a member is less than $200, or such other sum as the board determines. Money held in the IBNR Fund is also transferred to the Article 16 Trust Funds.

3.14 Any allocation to a work in which the copyright has expired is not distributable and rolls over at the end of the trust period.

3.15 Screenrights continues to seek out rightsholders entitled to claim while those sums remain in the Article 16 Trust Funds.

**Competing Claims**

3.16 Where two or more members dispute the right to claim the same Potential Share, the amount of the Potential Share will be held in trust in the relevant Article 16 Trust Fund for the distribution period, where “distribution period” has the meaning set out in Article 1.1 of the Articles of Association.

3.17 If the dispute is resolved by the members within the distribution period, the Potential Share will be paid in accordance with the resolution, as notified by the members to Screenrights.

3.18 If the dispute is not resolved within the distribution period, the Potential Share will be transferred to the Competing Claims Fund, where it may remain for a maximum of one year.

3.19 If the dispute is resolved within the one year referred to in paragraph 3.17, then the Potential Share is paid in accordance with the resolution, as notified by the Members to Screenrights or as resolved under Screenrights’ competing claim resolution procedures, and that payment is final and binding.

3.20 If the dispute is not resolved within the one year referred to in paragraph 3.17, then the Potential Share is returned to the gross distributable funds in accordance with Article 16.2 or 16.4 of the Articles of Association.
ESTABLISHING THE DISTRIBUTION POOLS

Division of Royalties into Funds and Sub-Funds

4.1 The royalties available for distribution are kept separate by Collection Service in funds.

Let’s say there is $20 million available for distribution under the Australian Educational Service in a given year. Some of that $20 million has been collected from the school sector, some from the TAFE sector and some from the university sector. These funds are kept separate so that royalties collected from a particular sector are allocated to the television and radio programs used by that sector.

4.2 The funds are then divided into sub-funds according to the following principles:

(a) Royalties collected via the record-keeping method are allocated to record-keeping sub-funds;
(b) Royalties collected via the sampling method are allocated to sampling sub-funds;
(c) Royalties collected for retransmitted television programs are allocated to a retransmission television sub-fund;
(d) Royalties collected for retransmitted radio programs are allocated to a retransmission radio sub-fund; and
(e) Royalties collected from a specific sub-group of licensees under special arrangement are allocated to separate sub-funds.

Let’s say that $4 million has been collected from the university sector and all programs used by the university sector have been monitored using the sampling methodology. These royalties are allocated to a Sub-Fund for sampling universities.

Universities can copy programs from the TV and radio and they can also communicate the copies they have made of the programs. Copying royalties are kept separate to communication royalties because copied and communicated programs are valued differently. Royalties for television programs are kept separate to royalties for radio, music video programs and so forth because they are also valued differently. (For more information, see CALCULATING ROYALTIES)

That’s why the Sub-Fund is further divided into Distribution Pools for each different type of use by the university.
Further Division of Royalties into Distribution Pools

4.3 The sub-funds are further divided to create distribution pools unique combination of right (copying, communication, retransmission) and scheme of allocation (see Scheme of Allocation to Copyright Components).

Retransmission Collection Service

4.4 Royalties for the retransmission of television programs are divided into network works for each of the five television networks. The relative size of each network pool is determined by the amount collected for the retransmission of that network.

4.5 Royalties for the retransmission of radio programs are divided into radio channel pools for each unique retransmitted radio channel. Where audience share data is available for any retransmitted radio channel, the size of the pools are determined through a combination of a base allocation of a third split evenly between the channels, with the remaining two thirds split on the basis of the relative audience share of each channel. In the absence of audience share data the royalties are divided evenly amongst the retransmitted radio channel pools.

Calculating the Dollar Value of a Distribution Pool

4.6 The point value of programs (see Calculating Royalties) is used to determine the relative value of each distribution pool for the distribution period as follows:

(a) Each program is associated with a specific distribution pool;
(b) The total point value of each distribution pool is determined by summing the point values of the associated programs;
(c) The total value of the sub-fund is calculated by summing the total point values of all the distribution pools related to the sub-fund; and
(d) The dollar value of a distribution pool is calculated by dividing the total points of the distribution pool by the total points of its related sub-fund, then multiplying the result by the total dollar value of the sub-fund.

4.7 The formula for calculating the dollar value of a distribution pool is:

\[ \frac{\text{Dollar Value of Distribution Pool}}{\text{Total Points of Distribution Pool}} \times \frac{\text{Total Value of Related Sub-Fund}}{\text{Total Points of Related Sub-Fund}} \]
CALCULATING ROYALTIES

Educational and Government Collection Services

Program Categories

5.1 Program categories affect the value of each minute copied or communicated.

5.2 For television programs, the program categories are:

<table>
<thead>
<tr>
<th>Program Category</th>
<th>Point Value of Category</th>
</tr>
</thead>
<tbody>
<tr>
<td>Category A</td>
<td>18 points per minute</td>
</tr>
<tr>
<td>Category B</td>
<td>10 points per minute</td>
</tr>
<tr>
<td>Category C</td>
<td>3 points per minute</td>
</tr>
</tbody>
</table>

Category A is a program notified as such to Screenrights prior to broadcast by an owner of the copyright in the program or its representative as:

(a) principally intended to be used for educational purposes; or

(b) having a significant potential market for sale as an education program; and

(c) accepted by Screenrights as being a Category A program.

There are very few Category A programs and Screenrights identifies them title by title. This category applies to record-keeping institutions only, and all relevant institutions are notified that the program has been classified as Category A.

* Note: as at the date of this policy there are no record keeping institutions.

Category B is any program not falling within the definitions of a Category A program or a Category C program.

Category C is a program classified by Screenrights as being:

(a) news;
(b) current affairs (magazine);
(c) series;
(d) serials;
(e) light entertainment;
(f) sports programs; or
(g) advertisements

5.3 For radio programs, the program categories are:

<table>
<thead>
<tr>
<th>Program Category</th>
<th>Point Value of Category</th>
</tr>
</thead>
<tbody>
<tr>
<td>Category M</td>
<td>10 points per 15 minutes</td>
</tr>
</tbody>
</table>
Category M is a program consisting principally of music;

Category T is a program consisting principally of talk, literary works or dramatic works, notwithstanding that music may be included in the program; and

Category MT is a program featuring both music and talk.

**Copy Format Factors**

5.4 The copy format affects the value of each minute copied or communicated. The copy format factors are:

<table>
<thead>
<tr>
<th>Copy Format</th>
<th>Factor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Analogue</td>
<td>1</td>
</tr>
<tr>
<td>Digital Tape</td>
<td>1.25</td>
</tr>
<tr>
<td>CD/DVD</td>
<td>1.37</td>
</tr>
<tr>
<td>Hard Disk</td>
<td>1.68</td>
</tr>
</tbody>
</table>

**Sample Weights**

5.5 An independent survey authority calculates the sample weights each year. These are presented to the Board.

5.6 Records of copying and communication by resource centres on behalf of educational institutions receive a royalty allocation. To reflect the relative value of a resource centre record a sample weight is applied. The effect is that the survey records are weighted up relative to the resource centre records.

5.7 Where a survey’s sample size creates an internal imbalance in the probability of reported copying or communication, a sample weight is applied to rectify these imbalances.

**Communication Method Factor**

5.8 Communication method factors affect the value of each minute communicated. The communication method factors are:

<table>
<thead>
<tr>
<th>Communication Method</th>
<th>Factor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Email</td>
<td>1</td>
</tr>
<tr>
<td>Broadcast</td>
<td>0.01</td>
</tr>
<tr>
<td>Making Available Online</td>
<td>1</td>
</tr>
</tbody>
</table>

**Advertisement Component**

5.9 For programs copied from television stations with advertisements, a percentage of the number of minutes is deducted from the number of minutes copied to compensate for the advertising

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component. There are no points allocated to the incidental advertising component within a copied or communicated program.

**Point Calculation for Copies**

5.10 Once the advertising component has been factored out, the following formula is applied to calculate the point value of a copied program:

\[
\text{Point Value of a Copied Program} = \sqrt{\frac{x}{y}} = \text{No. of Copies} \times \text{No. of Minutes} \times \text{Program Category} \times \text{Copy Format Factor} \times \text{Sample Weight}
\]

Let’s say a teacher has copied a 52 minute documentary from a television broadcast onto the hard drive of a computer, and this copy was made under the sampling system. To calculate the point value of the copied program we first need to answer these questions:

- How many copies of the program were made? - 1 copy
- How many minutes of the program were copied? - 52 minutes
- What type of program was copied, how is it categorised? - **Category B**
- What format was used to make the copy? - **Hard Drive**
- Are there any imbalances in the sample, skewing the results? - (The answer to this question is supplied by an independent statistical authority. For simplicity, let’s say there are no sample imbalances.)

The formula is then applied to calculate the point value of the program:

\[
\text{Point Value of a Copied Program} = 1 \times 52 \times 10 \times 1.68 \times 1
\]

The point value of the program that the teacher copied is **873.6**

**Point Calculation for Communications**

5.11 The following formula is applied to calculate the point value of a communicated program:

\[
\text{Point Value of a Communicated Program} = \sqrt{\frac{x}{y}} = \text{Point Value of a Copied Program} \times \text{Communication Method Factor}
\]
Retransmission Collection Services – Television Programs

Duration Factor
5.12 Screenrights determines the duration of each program. Each program is then allocated 1 point per minute retransmitted.

5.13 The duration is the time between the start of the program and the start of the program that follows it.

Advertising Component
5.14 No consideration is given to the advertising component of programs on the presumption that advertising affects the duration of each program on a given Network consistently. There are no points allocated to the incidental advertising component within a retransmitted program.

Ratings Band Factor
5.15 The number of minutes retransmitted in each ratings band affects the value of the program. A ratings band factor is applied based on the number of minutes in the following ratings bands:

<table>
<thead>
<tr>
<th>Ratings Band</th>
<th>Ratings Band Period</th>
<th>Factor Applied to Minutes in Ratings Band</th>
</tr>
</thead>
<tbody>
<tr>
<td>PrimeTime</td>
<td>18.00 and 22.29</td>
<td>1.0</td>
</tr>
<tr>
<td>Night Shoulder</td>
<td>22.30 and 23.59</td>
<td>0.3</td>
</tr>
<tr>
<td>NightTime</td>
<td>00.00 and 05.59</td>
<td>0.1</td>
</tr>
<tr>
<td>DayTime</td>
<td>06.00 and 17.59</td>
<td>0.3</td>
</tr>
</tbody>
</table>

Sample Weights
5.16 To maintain the relative value of each retransmitted program a sample weight is applied on a network station (or affiliate) basis, for each Network.

5.17 To maintain the relative value of each day of the week in a part year retransmitted television program sample, a weight is applied to ensure that no day of the week is favoured by the sample design.

Point Calculation for Retransmitted Television Programs
5.18 The following formula is applied to calculate the point value of a retransmitted program:

\[
\text{Point Value of a Retransmitted Program} = \text{Duration} \times \text{Ratings Band Factor} \times \text{Sample Weight}
\]
Retransmission Collection Services – Radio Programs

5.19 Radio royalties are allocated on a per channel rather than a per program basis. Each channel is classified as one of the following:

- **Music channel**: is a channel which primarily broadcasts music;
- **Talk channel**: is a channel which primarily broadcasts talk (such as talk-back or news channels);
- **Music/Talk channel**: is a channel which broadcasts both music and talk, but which cannot be classified as either a Music or a Talk channel.

5.20 Retransmission royalties for radio programs are paid by channel, without provision of an allocation per radio program broadcast.

Program Valuation

5.21 Each program is associated with a specific distribution pool.

5.22 The amount of royalties available for a program is calculated using the point value of a program and the dollar value of its distribution pool.

5.23 The value of a program is determined as follows:

- (a) the total number of points is calculated for each distribution pool by summing the point value of all programs associated with the pool;
- (b) the value of a single point is calculated by dividing the dollar value of the distribution pool by the total number of points; and
- (c) the value of each program is calculated by multiplying the point value of the program by the value of a point.

5.24 The following formula is applied to calculate the value of a point:

\[
\text{Value of a Point} = \frac{\text{Dollar Value of Distribution Pool}}{\text{Total No. of Points}}
\]

5.25 The following formula is applied to calculate the value of a program:

\[
\text{Value of a Program} = \text{Point Value of a Program} \times \text{Value of a Point}
\]
SCHEME OF ALLOCATION TO COPYRIGHT COMPONENTS

6.1 Once an allocation per program is made, an allocation is then made to each of the various copyrights subsisting in the program.

Television Programs

6.2 The scheme of allocation to copyright components in television programs is as follows:

<table>
<thead>
<tr>
<th>Collection Service</th>
<th>Cinematograph Film</th>
<th>Literary &amp; Dramatic Works</th>
<th>Musical &amp; Associated Literary Works</th>
<th>Sound Recordings of Musical Works</th>
<th>Broadcast Signal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Australian Educational Service</td>
<td>68.5%</td>
<td>22.1%</td>
<td>7.4%</td>
<td>2.0%</td>
<td>N/A</td>
</tr>
<tr>
<td>New Zealand Educational Service</td>
<td>67.1%</td>
<td>21.7%</td>
<td>7.3%</td>
<td>1.9%</td>
<td>2.0%</td>
</tr>
<tr>
<td>Australian Government Service</td>
<td>67.1%</td>
<td>21.7%</td>
<td>7.3%</td>
<td>1.9%</td>
<td>2.0%</td>
</tr>
<tr>
<td>Australian Retransmission Service</td>
<td>68.5%</td>
<td>22.1%</td>
<td>7.4%</td>
<td>2.0%</td>
<td>N/A</td>
</tr>
</tbody>
</table>

Unscripted programs

6.3 When a television program does not contain a literary or dramatic work of authorship, the owner of the relevant copyright in the film receives the script share.

Music Video Programs

6.4 The scheme of allocation to copyright components in music video programs is as follows:

<table>
<thead>
<tr>
<th>Collection Service</th>
<th>Cinematograph Film</th>
<th>Literary &amp; Dramatic Works</th>
<th>Musical &amp; Associated Literary Works</th>
<th>Sound Recordings of Musical Works</th>
<th>Broadcast Signal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Australian Educational Service</td>
<td>51.8%</td>
<td>16.7%</td>
<td>24.8%</td>
<td>6.7%</td>
<td>N/A</td>
</tr>
<tr>
<td>New Zealand Educational Service</td>
<td>50.7%</td>
<td>16.4%</td>
<td>24.5%</td>
<td>6.4%</td>
<td>2.0%</td>
</tr>
<tr>
<td>Australian Government Service</td>
<td>50.7%</td>
<td>16.4%</td>
<td>24.5%</td>
<td>6.4%</td>
<td>2.0%</td>
</tr>
<tr>
<td>Australian Retransmission Service</td>
<td>51.8%</td>
<td>16.7%</td>
<td>24.8%</td>
<td>6.7%</td>
<td>N/A</td>
</tr>
</tbody>
</table>
Radio Programs

Educational and Government Collection Services

6.5 The scheme of allocation to copyright components in radio programs is as follows:

<table>
<thead>
<tr>
<th>Collection Service</th>
<th>Radio Program Category</th>
<th>Literary &amp; Dramatic Works</th>
<th>Sound Recording</th>
<th>Musical &amp; Associated Literary Works</th>
<th>Sound Recordings of Musical Works</th>
<th>Broadcast Signal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Australian Educational Service</td>
<td>T</td>
<td>50.0%</td>
<td>50.0%</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td></td>
<td>M</td>
<td>N/A</td>
<td>N/A</td>
<td>50.0%</td>
<td>50.0%</td>
<td>N/A</td>
</tr>
<tr>
<td></td>
<td>MT</td>
<td>25.0%</td>
<td>25.0%</td>
<td>25.0%</td>
<td>25.0%</td>
<td>N/A</td>
</tr>
<tr>
<td>New Zealand Educational Service</td>
<td>T</td>
<td>49.0%</td>
<td>49.0%</td>
<td>N/A</td>
<td>N/A</td>
<td>2.0%</td>
</tr>
<tr>
<td></td>
<td>M</td>
<td>N/A</td>
<td>N/A</td>
<td>49.0%</td>
<td>49.0%</td>
<td>2.0%</td>
</tr>
<tr>
<td></td>
<td>MT</td>
<td>24.5%</td>
<td>24.5%</td>
<td>24.5%</td>
<td>24.5%</td>
<td>2.0%</td>
</tr>
<tr>
<td>Australian Government Service</td>
<td>T</td>
<td>49.0%</td>
<td>49.0%</td>
<td>N/A</td>
<td>N/A</td>
<td>2.0%</td>
</tr>
<tr>
<td></td>
<td>M</td>
<td>N/A</td>
<td>N/A</td>
<td>49.0%</td>
<td>49.0%</td>
<td>2.0%</td>
</tr>
<tr>
<td></td>
<td>MT</td>
<td>24.5%</td>
<td>24.5%</td>
<td>24.5%</td>
<td>24.5%</td>
<td>2.0%</td>
</tr>
</tbody>
</table>

Performers’ Protection Rights

6.6 Where a sound recording of a program contains a live performance that:

(a) attracts performers’ protection rights under Part XIA of the Australian Act; and

(b) the performer is entitled to remuneration under Division 4 of Part IVA of the Australian Act for the exercise of those rights;

the share of the sound recording allocation for to the portion of the program containing the performance is deemed the allocation for the exercise of those performers’ protection rights.

Retransmission Collection Services

6.7 The scheme of allocation to copyright components in radio channels is as follows:

<table>
<thead>
<tr>
<th>Collection Service</th>
<th>Radio Channel Category</th>
<th>Literary &amp; Dramatic Works</th>
<th>Sound Recording</th>
<th>Musical &amp; Associated Literary Works</th>
<th>Sound Recordings of Musical Works</th>
</tr>
</thead>
<tbody>
<tr>
<td>Australian Retransmission Service</td>
<td>Music</td>
<td>5.0%</td>
<td>5.0%</td>
<td>45.0%</td>
<td>45.0%</td>
</tr>
<tr>
<td></td>
<td>Talk</td>
<td>45.0%</td>
<td>45.0%</td>
<td>5.0%</td>
<td>5.0%</td>
</tr>
<tr>
<td></td>
<td>MusicTalk</td>
<td>25.0%</td>
<td>25.0%</td>
<td>25.0%</td>
<td>25.0%</td>
</tr>
</tbody>
</table>
Sound Recordings of Musical Works

Television Programs

6.8 Royalties are allocated to copyright owners in sound recordings of musical works in television programs in the following manner:

<table>
<thead>
<tr>
<th>Class of Sound Recording</th>
<th>Proportion</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commercial Sound Recordings</td>
<td>55.61%</td>
</tr>
<tr>
<td>Commissioned Sound Recordings</td>
<td>33.67%</td>
</tr>
<tr>
<td>Library Sound Recordings</td>
<td>10.72%</td>
</tr>
</tbody>
</table>

Radio Programs

6.9 Royalties are allocated to copyright owners in sound recordings of musical works in radio programs in the following manner:

<table>
<thead>
<tr>
<th>Class of Sound Recording</th>
<th>Proportion</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commercial Sound Recordings</td>
<td>90.00%</td>
</tr>
<tr>
<td>Commissioned Sound Recordings</td>
<td>10.00%</td>
</tr>
</tbody>
</table>
DISTRIBUTION

General Distribution Principles

Claiming Royalties

7.1 The final step is the distribution of the money collected to each of the relevant copyright owners or their agents. All relevant copyright owners or their agents are entitled to become members of Screenrights and must become a member to collect royalties. The process is free and simple.

7.2 A “relevant copyright owner” is an “owner of copyright in a work, a sound recording or a cinematographic film”. The Acts do not define an “agent”. Screenrights’ Articles of Association define an agent as “a person authorised by a relevant copyright owner to exercise the rights of such relevant copyright owner”.

7.3 Claims to royalties may be made at any time by submitting registrations to programs. Where royalties are subject to the 30 June deadline in the given calendar year, the latest a registration may be submitted to Screenrights is 30 April.

Warranting a Claim

7.4 Prior to distribution, Screenrights requires the relevant copyright owner or their agent to have signed a warranty that they own or control the relevant rights. The warranty includes the:

(a) name or description of program; and
(b) relevant copyright

Capacity of Claim

7.5 On a discretionary basis, information about the capacity in which a claim is made may be required, such as whether the person or entity is the copyright owner, exclusive licensee, assignee, agent, administrator, trustee or executor.

Claiming on Behalf of the Copyright Owner

7.6 Where someone other than the owner of copyright makes a claim, he or she may be required to provide the name of the owner.

Joint Ownership

7.7 Where a joint owner makes a claim, he or she may be required to provide the name of the co-owner and the proportion owned.

Additional Information

7.8 In normal circumstances, Screenrights relies on the warranty provided by the relevant copyright owner or their agent. However, Screenrights does reserve the right to make further enquiries and to seek additional information if required.

Minimum Distributable Amount

7.9 Upon receipt of a claim, a member is paid the amount allocated, provided that there are not conflicting claims and that the amount exceeds $100.

7.10 Sums below $200 are placed in the Article 16 Trust Fund (see Article 16 Trust Fund). Screenrights keeps track of amounts owing to members held in trust so that they can be paid when the aggregate exceeds $200.

Interim Allocations

7.11 Screenrights may allocate and distribute sums by way of an advance before the principal allocation in respect of an Accounting Period, if Screenrights is satisfied that an allocation to a member can be reasonably estimated at that earlier point in time.
Where this occurs, the amount of the interim allocation will be deducted from the sum ultimately payable.

In the event of an over-payment, the amount of the over-payment may be deducted from amounts to which that member may become entitled in the future or, with the member’s agreement, may be repaid to Screenrights.

**Distribution to Copyright Owners in Musical Works**

Royalties for musical works (and associated literary works) are allocated in collaboration with the Australasian Performing Right Association (APRA) and distributed to Australasian Mechanical Copyright Owners Society (AMCOS) and APRA, as the relevant collection societies, on behalf of the rightsholders they represent.

**Distribution to Copyright Owners in Sound Recordings of Commercial Music**

Royalties for sound recordings of commercial music are distributed to the Australian Recording Industry Association (ARIA), Phonographic Performance Company of Australia (PPCA) and Phonographic Performance NZ (PPNZ), depending on the relevant territory and relevant rights. Royalties are distributed to these entities as representatives for the classes of copyright owners normally entitled to receive these royalties.

**Distribution to Copyright Owners in Library Sound Recordings**

Royalties for sound recordings of library music are distributed to the Australasian Mechanical Copyright Owners Society (AMCOS), as the relevant collection society, on behalf of the rightsholders it represents.

**Distribution of Retransmission Royalties to Copyright Owners in Radio Channels**

The ‘talk’ portion of channels classified as either Talk or Music/Talk are split between the relevant rightsholders in accordance with an allocation determined by Screenrights (following an analysis of the retransmitted radio channels) on an annual basis, and paid upon completion of a warranty to the effect that:

(a) the entity owns the relevant right in retransmitted radio programs;

(b) it acknowledges it has received a predetermined share of the royalties allocated to literary and dramatic works and the sound recording comprising the program together with other copyright owners in Radio programs; and

(c) it will not contest its share.

**Special circumstances**

There are a number of special circumstances where there are exceptions to the usual warranty process. These are outlined below.

**Distribution of royalties to Supplier Footage**

Where royalties are owed to suppliers of footage in compilation programming (“Suppliers”), the outstanding sum is split amongst the relevant Suppliers. Both the split and the set of relevant Suppliers will be determined annually by analysing a sample of compilation program information and distributed upon provision of a warranty to the effect that:

(a) the Supplier provides its footage for inclusion in the compilation program;

(b) it owns the relevant right in such footage; and
(c) it acknowledges it has received a share of the royalties together with other Suppliers and will not contest its share.

**Distribution of royalties to News Services**

7.20 Where royalties are owed to news services and specific information has not been provided by a broadcaster as to how the royalties should be distributed, the outstanding sum is split in equal shares among the major news services upon provision of a warranty to the effect that:

(a) the news service provides its services to broadcasters for inclusion in news, current affairs and sport programs;

(b) it owns the relevant right in such footage; and

(c) it acknowledges it has received an equal share of the royalties together with other news services and will not contest its share.

**Unidentified news programs**

7.21 Where royalties are owed in relation to unidentified news programs, this sum is pooled with allocations in the same category from all distribution periods and distributed in equal shares to the 5 Australian broadcasting networks upon warranting that they:

(a) own the relevant rights in news programs; and

(b) acknowledge that this sum has been distributed equally among all broadcasters and will not contest the split.

**Declined royalties due to insufficient or incorrect transmission information**

7.22 A broadcaster will be paid the royalties for all outstanding titles in a series despite not being able to warrant that it holds rights in a specific title due to a lack of episode title or transmission information. The broadcaster must, however, warrant that it holds the relevant rights in a significant proportion of all programs transmitted under that series title.

**Deduction of Past Overpayments for Sound Recordings from Future Allocations**

7.23 Screenrights did not allocate royalties for sound recordings in the 1991 to 1997 distribution periods. This resulted in an overpayment of royalties to film, script and musical works (and underlying literary works) rightsholders. A decision was made to recoup the amount of the overpayment in order to pay the rightsholders in the sound recordings as follows:

(a) The amount of overpayment made to each Screenrights member from the distribution periods 1991 to 1997 is calculated.

(b) When distribution occurs, a check will be made to ascertain if the member due to receive the funds has received an overpayment in the past.

(c) If an overpayment remains to be recovered from the member, the amount of the overpayment will be deducted from the distribution.

(d) The statement sent to the member will set out the amount deducted and an explanation as to why the deduction was required.

(e) Screenrights’ Chief Executive will have the discretion to vary the amount of the deduction to be made if satisfied that recovering a total amount of overpayment from one distribution to a member would result in unreasonable hardship to that member. This will not remove the obligation on the member to repay the overpaid amount.
Distribution of Recovered Amounts to Copyright Owners in Sound Recordings

7.24 Distribution of the recovered amounts will be paid to copyright owners in sound recordings on an annual basis just prior to 30 June, allowing the maximum time for recoupment of funds from members in each Distribution Period.
EXCEPTIONAL PAYMENTS

Ad Hoc Payments

*Educational and Government Collection Services*

8.1 Copying and communication of a program by an educational institution under a sampling agreement which is made outside a sampling period will not be reflected in Screenrights survey data. Copying of a program by a government department under a sampling agreement which is made outside a sampling period will also not be reflected in survey data.

8.2 Where a copyright owner purports to have evidence of copying or communication by an institution/department in these circumstances, Screenrights may make an ‘ad hoc’ payment.

8.3 To make an ad hoc claim the copyright owner must complete a statutory declaration that states:

(a) the title of the program;
(b) the transmission date(s);
(c) the total duration of the program;
(d) that they have evidence the program has been copied or communicated by a specific institution/department;
(e) the name of the institution(s); and
(f) that no permission was given by the claimant to the institution/department to copy or communicate the program.

8.4 The claimant must then forward the statutory declaration and the evidence of copying or communication to Screenrights, who will contact the institution/department to determine that copying or communication occurred.

8.5 Screenrights will meet an ad hoc claim where the evidence reveals one or more copies or communications of a given program were made. On this basis, “substantial” in the distribution policy should be defined as “at least one copy or communication”.

8.6 Screenrights pays an amount based on the relevant sector’s Resource Centre record valuation for the distribution year in which the copying of communication took place. Where an ad hoc claim is made for prior distribution years, Screenrights will pay an amount based on the record-keeping formula for the distribution year in which the copying or communication took place (or in the absence of this information, the most recent year of transmission).

8.7 If the amount calculated for the claim is less than the threshold of $200, Screenrights will retain the amount in trust until the threshold is reached.

8.8 Screenrights will not meet a claim where the program has been reported by an institution/department as copied and communicated under the sampling system for any distribution period;

(a) if it is a series, it extends to any episode of the series being copied or communicated; and
(b) if it is a one-off program, it extends to different transmissions of the program.

8.9 Screenrights will only meet an ad hoc claim from those years where the six year trust period has not expired. The relevant year will be that in which the act of copying or communication took place. If this cannot be established, the year of transmission will be relevant. In the event that the claimant cannot provide the specific transmission year in which copying or communication took effect, Screenrights will rely on the latest broadcast date as proved by the claimant.
8.10 If, in the opinion of the Chief Executive, all of the above factors are met, Screenrights will make the payment on the claim from the IBNR Fund.

Retransmission Collection Services

8.11 Where a retransmitted television program for which Screenrights has collected remuneration is not represented in the Broadcast Sample it will not receive an allocation. Where a copyright owner purports to have evidence of the retransmission of a program in these circumstances, Screenrights may make an ‘ad hoc’ payment.

8.12 To make an ad hoc claim the copyright owner (the ‘claimant’) must complete a statutory declaration that states:

(a) the title of the program;
(b) the broadcast date(s);
(c) the commencement time of the broadcast;
(d) the channel on which it was broadcast;
(e) the total duration of the broadcast;
(f) that they have evidence the program was retransmitted; and
(g) that no permission was given by the claimant to the retransmitter(s) to retransmit the program.

8.13 The claimant must then forward the statutory declaration and the evidence of retransmission to Screenrights, who will determine whether the program was retransmitted and, if so, on how many occasions in the relevant distribution period.

8.14 Screenrights will meet an ad hoc claim where the evidence reveals one or more retransmissions of the program were made and not captured in the Broadcast Sample, provided the matters outlined below have been taken into account:

(a) Screenrights will only meet an ad hoc claim from those distribution years where the six-year trust period has not expired.

(b) Screenrights will not meet a claim where:
   i. the program has been remunerated under the Broadcast Sample in any distribution period;
      a. if it is a series, this extends to any episode of the series retransmitted; and
      b. if it is a one-off program, this extends to any retransmission of the program; or
   ii. the claimant has been remunerated in the relevant distribution period (for any program).

8.15 If, in the opinion of the Chief Executive, all of the above criteria are satisfied, Screenrights will make payment from the IBNR Fund.

8.16 The amount paid will vary depending on whether the program:

(a) received no allocation as a result of the Broadcast Sample approach; or
(b) should have received an allocation under the Broadcast Sample approach, but did not appear in the broadcast data.

8.17 In the first instance, Screenrights will pay an amount equivalent to the allocation the program would have received if a census, rather than a Broadcast Sample, approach had been used to determine the remunerated broadcasts. In the second instance, Screenrights will pay an amount...
equivalent to the allocation the program should have received had it been included in the Broadcast Sample.

**Exceptional Use**

*Classification of exceptional use*

8.18 A claim cannot be made for an ad hoc payment and an exceptional use payment for the same use of copyright.

8.19 In some cases legitimate but atypical use under a Screenrights licence may be identified, either in the data collected by Screenrights or through being reported to Screenrights. The Exceptional Use policy sets out how atypical use may be remunerated.

8.20 The classification of an activity as ‘exceptional use’ under a royalty collection service will be determined by Screenrights at its sole discretion. Screenrights may seek advice from an independent statistical authority to assist it in its determination. Where exceptional use is identified in a survey, Screenrights may decide that the records for this unusual activity under the licence will be excluded from the records that form the basis of the representative sample for distribution purposes.

8.21 An exceptional payment may be made for exceptional use. The valuation and approval process for exceptional payment is set out below.

*Valuation and approval of payments, if any, for exceptional use*

8.22 Payments for exceptional use are made at Screenrights’ absolute discretion. Screenrights will only consider making a payment for exceptional use where there is substantiated evidence for such use.

8.23 Screenrights may in its absolute discretion request supporting documentation to inform its decision regarding the valuation process. A statutory declaration may be required.

8.24 The determination of whether a payment is made and the amount of a payment, if any, for exceptional use will be made on a case-by-case basis.

8.25 Final decisions regarding exceptional payment will be made by the Screenrights Board.
GOVERNANCE

Audit

_Australian and New Zealand educational copying records_

9.1 Independent auditors monitor the data entry and distribution process for the Australian and New Zealand sampling services. A sample of entered records is compared against supplied data by the independent auditors.

_Australian Retransmission broadcast records_

9.2 The Broadcast Sample data is audited for compliance to the sample design.

Access to records and confidentiality

9.3 Generally, information disclosed in records, samples and other documentation is available only to authorised employees of Screenrights, all of whom have signed a confidentiality agreement.

9.4 Screenrights is, however, required to provide members with reasonable access to records of the organisation should any member wish to have such access.
ALLOCATION TO COPYRIGHT OWNERS IN ARTISTIC WORKS

Educational and Government Collection Services

10.1 For the purpose of allocation to the copyright owners in artistic works, the relevant programs for research, identification and payment are copied and communicated programs. Records used will be records reported by record-keeping institutions/ departments and survey records identified by the statistical sample, or where survey records are unavailable, a statistical sample of resource centre records.

**Step 1. International Payment Process**

10.2 Payments to copyright owners in artistic works will be made by way of reciprocal arrangements with international artistic works collecting societies on the basis of the program’s country of production. This excludes programs produced in countries in which no reciprocal arrangement can be accessed. The artistic works allocation made to the relevant programs will be distributed once a valid warranty is received.

10.3 Further artistic works claims against the relevant programs will be directed to the appropriate international artistic works collecting society for remuneration.

10.4 Any amounts returned by international artistic works collecting societies will form part of the Artistic Works Registration Pool referred to in Step 2.

**Step 2. Registration Process**

10.5 The amount remaining after Step 1 will form the Artistic Works Registration Pool against which claims for the remaining programs will be accepted in line with the requirements outlined below.

(a) Screenrights will invite claims by way of registrations from copyright owners in artistic works and their representatives (the ‘registrants’).

(b) A points calculation will be used to determine the value of each registration on a per program (or series) basis, as follows:

i. Works in a program or series;

<table>
<thead>
<tr>
<th>Works</th>
<th>Point Value of Category</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-2 non-featured works</td>
<td>1 point</td>
</tr>
<tr>
<td>3 or more non-featured works</td>
<td>2 points</td>
</tr>
<tr>
<td>1 featured work</td>
<td>2 points</td>
</tr>
<tr>
<td>2 or more featured works</td>
<td>3 points</td>
</tr>
</tbody>
</table>

ii. Copies of a program or series;

<table>
<thead>
<tr>
<th>Number of Copies</th>
<th>Point Value of Category</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 copy</td>
<td>1 point</td>
</tr>
<tr>
<td>2 or more copies</td>
<td>2 points</td>
</tr>
</tbody>
</table>

iii. On this basis that:

a. the minimum number of points per registrant, per program (or series) will be 2 points; and

b. the maximum number of points per registrant, per program (or series) will be 5 points.
(c) Point value will be determined each year by Management once the Artistic Works Pool has been declared. In this determination regard will be had to all relevant factors including:

i. the value of the Artistic Works Pool;
ii. the number of claims likely to be received; and
iii. the minimum and maximum number of claims it is reasonable to remunerate at this rate.

(d) Claims will be calculated and remunerated according to the points system until such time as 1.5% of the total distributable amount attributable to the remaining programs is distributed.

(e) If any claims are received after 1.5% of the total distributable amount attributable to the remaining programs is distributed, they will be remunerated against the remaining percentage of the total distributable amount for artistic works. This allocation will be linked to the remaining percentage of the program value, consistent with other program allocations.

(f) At the beginning of the final year of the 6 year distribution period (in July) where the percentage of the total distributable amount for artistic works remaining exceeds 10%, the point value will be recalculated in the following manner:

i. total points will be calculated;
ii. total value of points will be calculated;
iii. total value of the Artistic Works Registration Pool will be calculated; and
iv. the Artistic Works Registration Pool less 5% will be divided by the total pool points to determine the recalculated point value.

(g) The formula for the recalculation of the point value is:

\[ \sqrt{\frac{x}{y}} \]

Recalculated Point Value = \[ \frac{(\text{Artistic Works Registration Pool} - 5\%)}{\text{Efficient Amount per Day}} \]

(h) Payments made on the basis of the initial point value will be recalculated and allocated a top up amount paid proportionate to the recalculated point value. Any and all additional payments will be made on the basis of the recalculated point value until such time as 1.5% of the total distributable amount attributable to the remaining programs is distributed.

(i) At the completion of the 6 year distribution period the funds remaining in the Artistic Works Registration Pool will be rolled over into general revenue for the following distribution period.

Retransmission Collection Service

10.6 The royalties for the retransmission of artistic works payable to rightsholders in artistic works under the Australian Retransmission Service will be allocated on existing identified use of artistic works in audiovisual works.
10.7 An allocation will be made to records of copying and communication identified under the Australian Educational Service where the program was broadcast on a free-to-air Network or an affiliate AND the program was broadcast in the relevant distribution year.

10.8 An allocation will be made to records from any other identified and confirmed sources of the use of artistic works in audiovisual works, as approved by the Board, to supplement records drawn from the Australian Educational Service.

10.9 The need for statistical weighting, if any, of records drawn from the Australian Educational Service or approved supplementary sources is determined by Management and presented to the Board.

10.10 Royalties are then allocated and distributed in accordance with Step 1 and Step 2 of the artistic works policy for Educational and Government Collection Services.

SCREENRIGHTS INTERNATIONAL

International Collection Services

11.1 The money that Screenrights collects from other societies is distributed to Screenrights according to the relevant society’s distribution policy.

11.2 Screenrights on-distributes the money it collects from other societies to its members according to the policies outlines in this section of the Distribution Policy.

Deducting Expenses

11.3 Royalties collected under the International Services are charged an administration fee which is equivalent to the actual costs incurred in administering the service.

Allocation to IBNR Fund

11.4 There is no allocation to the IBNR Fund made from the money that Screenrights collects from other societies.

Calculating Royalties

11.5 The calculation of royalties payable is determined by the relevant society.
Allocation to Copyright Components

11.6 Screenrights International collects royalties for the film component only.

Special Circumstances

Time Barred Payments

11.7 Periodically Screenrights receives payments from other collection societies with no reference to the works and rightsholders to which they should be allocated. These are known as Time Barred Payments.

11.8 Screenrights allocates royalties for Time Barred Payments:
(a) across all works for which royalties were previously allocated for the territory or year or both to which the Time Barred Payment relates (the Relevant Works); and
(b) in proportion to the existing allocation of royalties to the Relevant Works.

International Errors and Omissions Fund

11.9 Periodically Screenrights receives payments from other collection societies’ General Reserve funds without reference to specific distribution years, territories or rightsholders. These are known as General Reserve Payments.

11.10 Where Screenrights receives General Reserve Payments half of the royalties are allocated to the International Errors and Omissions Fund for the purpose of correcting administrative errors and omissions in the distribution process.

11.11 The status and use of the General Reserve Payments are subject to annual review.