

screenrights

**Report on compliance with the
Code of Conduct for Collecting Societies
for the year 2019-2020**

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INTRODUCTION

This report covers Screenrights' compliance with obligations under the Code of Conduct for Copyright Collecting Societies in 2019-2020. It will be published on Screenrights' corporate website (www.screenrights.org) and the Code of Conduct website (www.copyrightcodeofconduct.org.au). The new version of the Code adopted on 1 July 2019 applies to this report.

Detailed information regarding Screenrights operations will be provided in Screenrights' Annual Report which is published on our website and is tabled in Parliament.

1. OVERVIEW OF SCREENRIGHTS

- 1.1 The Audio-Visual Copyright Society Limited, trading as Screenrights, was established in 1990 to be the declared collecting society for purposes of the statutory licence for the copying and communication of broadcasts by educational and other institutions under the then Part VA (now Part IVA Division 4) of the Copyright Act 1968 (Act). Under this Part, Screenrights also represents the owners of the copyright in sound recordings and cinematograph films (and works included in sound recordings and cinematograph films) for the purposes of the statutory licence in favour of educational institutions.
- 1.2 In addition, Screenrights is the sole collecting society for the collection of equitable remuneration for the retransmission of free-to-air broadcasts under Part VC of the Act.
- 1.3 Finally, Screenrights has also been declared to be the collecting society in respect of television, radio and internet broadcasts under the government copying scheme s183 of the Act (Copyright Agency is also declared for that purpose).
- 1.4 As at 30 June 2020, Screenrights had 4,712 members. Screenrights members are rightsholders in film and television programs, including producers, directors, scriptwriters, artists, production companies, distributors, sales agents, commercial collection agents, broadcasters and other collecting societies.
- 1.5 As at 30 June 2020, Screenrights had 1,485 licensees. Screenrights collects royalty payments from schools, universities, vocational training bodies, government agencies, TAFEs, resource centres, retransmitters and New Zealand schools and tertiary institutions, as shown in the following table:

Type of Entity	Number
Screenrights Members	4,712
Licensees	1,485
<i>Schools -- Government, Catholic Systemic, Independent -- Peak Bodies</i>	51
<i>Higher education including universities</i>	61
<i>Private Vocational Education/Training Organisation (inc ELICOS)</i>	26
<i>Government Agency</i>	432
<i>TAFE (including individual institutions and Departments representing multiple institutions)</i>	12
<i>Resource Centre</i>	9
<i>Retransmitter</i>	5
<i>NZ -- Tertiary</i>	28
<i>NZ – Schools</i>	859
<i>NZ – Resource Centre</i>	2

CODE COMPLIANCE

2 LEGAL FRAMEWORK

Code, Clause 2.1:

- (a) *This Code is one element of a broader legal and regulatory framework within which Collecting Societies operate. This Code sets minimum standards for the conduct of Collecting Societies and complements the following regulatory instruments, which each Collecting Society will comply with:*
- (i) *the Corporations Act 2001 and the Corporations Regulations;*
 - (ii) *the Copyright Act 1968 and the Copyright Regulations;*
 - (iii) *its Constitution;*
 - (iv) *the Attorney-General's Guidelines for Declared Collecting Societies (where applicable);*
 - (v) *its obligations under the Privacy Act 1988, including the Australian Privacy Principles, or any Privacy Code that applies to the Collecting Society;*
 - (vi) *in the case of the declared Collecting Society under that Act, the Resale Royalty Right for Visual Artists Act 2009; and*
 - (vii) *any other applicable legislation, relevant decisions of courts or tribunals (including the Copyright Tribunal), and other binding legal requirements, conditions or guidelines that apply to the Collecting Society.*

- 2.1 In 2019-2020, Screenrights has complied with the legal framework governing its operation as set out in Clause 2.1 of the Code, including the Guidelines for Declaration of Collecting Societies given that Screenrights is a declared society.
- 2.2 At an Extraordinary General Meeting on 25 July 2019, the membership approved the Screenrights Board's proposed amendments to Screenrights' Memorandum and Articles of Association. The major changes are as follows:
- (a) The document was generally modernised, with references to facsimile transmissions removed and the document itself has been re-titled "Constitution".
 - (b) The Board must now include 3 Authorial Directors (a Screenwriter Director, Screen Director and Composer Director) and 1 New Zealand Director and changes were made to the procedure for election of Directors to facilitate the election of these new Directors generally. The first Authorial Director and Screenwriter Director, Kelly Lefever, was elected to the Board at the 2019 Annual General Meeting. The Screen Director and New Zealand Director will be elected at the 2020 AGM, and the Composer Director will be elected at the 2021 AGM.
 - (c) Removal of the requirement in the Constitution that one third of the Directors in office must retire from office at each AGM. This was removed because the effect of this provision was that some Directors may have not served a full three year term before retirement.
 - (d) Introduction of a maximum of three consecutive terms for each Director, with the possibility of submitting for re-election of one further term upon the special request of the Chair

- 2.3 A copy of the updated Constitution can be accessed from Screenrights' website,¹ along with other key governance documents, including the Privacy Policy,² the Corporate Governance Statement and our dispute and complaints management procedures.³
- 2.4 The Screenrights Board is elected by the members in accordance with the Constitution. A list of current directors and the Screenrights executive team is available on the corporate website.⁴
- 2.5 Screenrights' Legal team oversees compliance with the legal framework governing its operation, including training of staff in relevant laws including privacy and workplace behaviour laws.
- 2.6 Screenrights made no material changes to other documents relevant to the legal framework.

3 MEMBERS

Code, Clause 2.2:

- (a) *The membership of a Collecting Society will be open to all eligible creators of copyright material, and to anyone who owns or controls copyright material or the resale royalty right or both, in accordance with the Constitution of the Collecting Society.*
- (b) *Each Collecting Society will treat its Members fairly, honestly, impartially, courteously, and in accordance with its Constitution and any Membership Agreement.*
- (c) *Each Collecting Society will ensure that its dealings with Members are transparent.*
- (d) *Each Collecting Society will provide a copy of its Constitution to a Member at the time that the Member first joins the Collecting Society, or at any time on request. A Collecting Society will also provide a copy of its Constitution to a potential Member on request*

- 3.1 Membership of Screenrights remains free and open to all eligible rightsholders. Membership of Screenrights increased in the 2019 – 2020 year from 4,438 to 4,712 members.
- 3.2 Screenrights adopts policies, processes and practices to ensure that Members are treated fairly, honestly, impartially and courteously in accordance with the Screenrights Constitution and the Membership Agreement. This includes staff training such as a comprehensive induction process and Code of Conduct training.
- 3.3 Screenrights' Member Services team engages in frequent communication with members via phone and email and through our online membership portal MyScreenrights, as well as meeting in person where possible.
- 3.4 Screenrights adopts a continuous improvement approach to information management and information systems in the interests of transparency and efficiency. We undertake numerous initiatives each year to improve the quality of information captured and the ease with which information can be provided to Screenrights by its members. We also undertake initiatives to streamline information processing within our in-house systems to deliver efficiencies to royalty distribution.

¹ <https://www.screenrights.org/wp-content/uploads/2019/08/2019-08-05-Constitution-of-Screenrights.pdf>

² <https://www.screenrights.org/privacy-policy/>

³ <https://www.screenrights.org/about-us/corporate-governance/>

⁴ <https://www.screenrights.org/about-us/our-people/>

3.5 Some of the key initiatives in 2019-2020 include:

- (a) Improvements to MyScreenrights online membership portal:
 - (i) The website underwent a complete rebuild, changing from a Drupal core website to one built within an Angular framework, giving Screenrights more freedom to design and customise the website based on internal requirements and member feedback.
 - (ii) Stricter controls and instructional text implemented to prevent a user from taking over another's account. Username changes now require internal authorisation.
 - (iii) Improvements made to a user's ability to manage notifications. This includes a new notification-type filter, and options to toggle off email delivery of quarterly notifications.
 - (iv) Improvements to search functions. For example, the Competing Claims Advanced Search filters have been updated to consider specific deadlines that impact the user.
- (b) Improvements to in-house systems:
 - (i) Research leads management was improved by way of introducing new functionality to enable the distribution team to more efficiently manage the creation of research leads at a more granular level.
 - (ii) Royalty Generation improvements.
 - (iii) Refinements to the customer relationship management (CRM) system were made to improve the communication with members and prospective members about titles where Screenrights has identified that they may have a claim.

4 LICENSEES

Code, Clause 2.3:

- (a) *Each Collecting Society will treat Licensees fairly, honestly, impartially, courteously, and in accordance with its Constitution and any licence agreement.*
- (b) *Each Collecting Society will ensure that its dealings with Licensees are transparent.*
- (c) *Each Collecting Society will:*
 - (i) *make available to Licensees and potential Licensees information about the licences or licence schemes offered by the Collecting Society, including the terms and conditions applying to them, and about the manner in which the Collecting Society collects remuneration and/or licence fees for the use of copyright material; and*
 - (ii) *to the extent it reasonably can, having regard to the complexity of the questions of fact and law necessarily involved, take steps to ensure that all licences offered by the Collecting Society are drafted so as to be plainly understandable to Licensees, and are accompanied by practical and suitable explanatory material.*
- (d) *Each Collecting Society's policies, procedures and conduct in connection with the setting of licence fees for the use of copyright material will be fair and reasonable. In setting or negotiating such licence fees, a Collecting Society may have regard to the following matters:*
 - (i) *the value of the copyright material;*

- (ii) *the purpose for which, and the context in which, the copyright material is used;*
 - (iii) *the manner or kind of use of the Copyright Material;*
 - (iv) *any relevant decisions of the Copyright Tribunal; and*
 - (v) *any other relevant matters.*
- (e) *The Collecting Societies acknowledge the important role played by relevant industry associations in relation to the formulation of terms and conditions applying to licences or licence schemes offered by some Collecting Societies.*
- (f) *Each Collecting Society will where appropriate consult in good faith with relevant industry associations in relation to the terms and conditions applying to licences or licence schemes offered by the Collecting Society.*
- (g) *Each Collecting Society will, in response to a reasonable request, make available to a Licensee or potential Licensee:*
- (i) *the methodology for calculating the licence fees applicable to that Licensee or potential Licensee; and*
 - (ii) *matters taken into consideration in determining the licence fee to the extent that such information is not commercial-in-confidence and does not otherwise directly affect a commercial negotiation between the Collecting Society and the Licensee or potential Licensee.*
- The Code Compliance Reviewer is able to consider whether a request or a Collecting Society's response to it has been reasonable.*
- (h) *A Collecting Society may not unreasonably refuse a request from a Licensee to engage in an alternative dispute resolution (ADR) process in respect of a licensing dispute. Whether a Collecting Society has acted reasonably in response to a request made pursuant to this clause is a matter for consideration by the Code Compliance Reviewer in their annual report on the Collecting Societies' compliance with the Code.*

- 4.1 Screenrights adopts policies, processes and practices to ensure that licensees are treated fairly, honestly, impartially and courteously in accordance with the Screenrights Constitution and the Membership Agreement.
- 4.2 Screenrights' approach to licensees is built on respect for their needs with the goal of ensuring that they receive fair value while maintaining equitable remuneration for members. Most negotiations of licence agreements are conducted with peak bodies, except in the case of retransmission where the licensees are substantial commercial organisations.
- 4.3 Screenrights' corporate website contains a Screenrights Licences section where we provide information about the licences available, and what uses are covered by the licences.⁵ Further, in relation to the Australian educational statutory licence, information is provided for educators on accessing educational content.
- 4.4 For the educational statutory licence, Screenrights generally negotiates with bodies that represent a group of licensees such as Universities Australia and the Copyright Advisory Group to the COAG Education Council for schools and TAFES.
- 4.5 For the government statutory licence, Screenrights deals with the Department of Infrastructure, Transport, Regional Development and Communications for the Commonwealth and with a collective representative group for the States and Territories. New agreements were executed by the State of Victoria and the Australian Capital Territory. The remaining States and Territories are in the process of being finalised as at

⁵ <https://www.screenrights.org/screen-audiences/screenrights-licences/>

the end of this reporting period. A variation to extend the agreement with the Commonwealth was executed in June 2020.

- 4.6 In relation to retransmission statutory licences, Screenrights largely deals with Foxtel. A new remuneration agreement was in negotiation at the end of the reporting period.
- 4.7 A primary transparency factor in dealings with licensees is the availability of usage data, which forms a key part of licence negotiations. Screenrights provides all relevant usage data to the licensees. This is the same data that Screenrights uses for its distribution purposes.
- 4.8 Detailed usage data for each University is provided to Universities Australia (UA) annually as required under the Universities Agreement established in 2018/19. The usage data determines the amount of equitable remuneration payable and is provided by UA to all Universities for transparency.
- 4.9 A Remuneration Notice is required to be completed by any new licensee under the statutory educational licence. The methodology for calculating the amount of equitable remuneration payable by an educational institution is included in the Remuneration Notice.

5 DISTRIBUTION OF REMUNERATION AND LICENCE FEES

Code, Clause 2.4:

- (a) *Each Collecting Society will maintain, and make available to Members on request, a Distribution Policy that sets out from time to time:*
 - (i) *the basis for calculating entitlements to receive payments from remuneration and/or licence fees collected by the Collecting Society (Revenue);*
 - (ii) *the manner and frequency of payments to Members; and*
 - (iii) *the general nature of amounts that will be deducted from Revenue before distribution.*
- (b) *Each Collecting Society will distribute payments to its Members in accordance with its Constitution and Distribution Policy.*
- (c) *Each Collecting Society will, in response to a reasonable request by a Licensee or their representative, provide more detailed information about particular rights payments made pursuant to a licence. Such information should only be provided to the extent that it is not commercial-in-confidence and does not otherwise directly affect a commercial negotiation between the Collecting Society and the Licensee or potential Licensee. Such information is to be provided:*
 - (i) *on an anonymised basis; and*
 - (ii) *where the Collecting Society can do so at a reasonable cost.*

The Code Compliance Reviewer is able to consider whether a request or a Collecting Society's response to it has been reasonable.
- (d) *Each Collecting Society will:*
 - (i) *consult with Members prior to making any substantive changes to their distribution policy; and*
 - (ii) *publish 'plain English' guidelines on their distribution policy and make them available to Members and Licensees.*

- 5.1 In 2019-2020, Screenrights distributed payments in accordance with its Distribution Policy and Constitution.

- 5.2 No substantive changes were made to the Distribution Policy in 2019-2020. A copy of the Distribution Policy can be accessed from Screenrights' corporate website.⁶
- 5.3 Under the Distribution Policy, royalties relating to the 2014, 2015 and 2016 distribution years were due to expire on 30 June 2020 and any undistributed royalties from those years would have been rolled over. However, in response to the COVID-19 pandemic, Screenrights' Board made the decision to extend that deadline so that members have until 30 April 2021 to submit their claims for those undistributed royalties.
- 5.4 Screenrights has published 'Plain English' guidelines on the Distribution Policy which set out how royalties are calculated in detail. These guidelines are also available on the corporate website.⁷

6 COLLECTING SOCIETY EXPENSES

Code, Clause 2.5:

Each collecting society will deduct from its total revenue:

- (a) *the expenses of managing and operating the collecting society; and*
- (b) *any other amounts authorised by its Constitution. These may include, for example, the costs of promotional activities, educational programs, cultural funds, donations in support of creators and owners of copyright material, membership of industry associations, or other charitable purposes.*

- 6.1 Screenrights' Board approves the annual operating budget, and an updated financial report which compares actuals to budget is reviewed at each Board meeting.
- 6.2 Expenses for the year ended 30 June 2020 were approximately 15.8% of gross revenue subject to audit review. The audited figure will be in Screenrights' Annual Report.
- 6.3 Screenrights' operating costs associated with its licensing schemes are met from revenue. In some cases a fixed percentage is deducted, but otherwise the deductions are generally based on actual costs. Members receive itemised reports about deductions along with payments.
- 6.4 Detailed information on Screenrights' expenses including the expenditure to collections ratio for the financial year 2019/2020 will be found in Screenrights' Annual Report, where a comparison with the years 2017/2018 and 2018/2019 will be depicted. This report will be available in early October 2020.

7 GOVERNANCE AND ACCOUNTABILITY

Code, Clause 2.6:

- (a) *The Board of Directors of a Collecting Society will be accountable to its Members.*
- (b) *Each Collecting Society will at all times maintain proper and complete financial records, including in relation to:*
 - (i) *the collection and distribution of Revenue; and*

⁶ https://www.screenrights.org/wp-content/uploads/2018/12/Dist_Policy_28112018.pdf

⁷ <https://www.screenrights.org/help-centre/how-royalties-are-calculated/>

- (ii) *the payment by the Collecting Society of expenses and other amounts described in clause 2.5.*
- (c) *Each Collecting Society will ensure that its financial records are audited at least annually.*
- (d) *Consistent with its obligations under the Privacy Act 1988 and any applicable duty of confidentiality, a Collecting Society will provide a Member, on request, with reasonable information about that Member's entitlement to receive a payment from Revenue.*
- (e) *Each Collecting Society will include in its Annual Report information about:*
 - (i) *total Revenue during the reporting period;*
 - (ii) *the total sum and general nature of expenses and other amounts described in clause 2.5; and*
 - (iii) *the allocation and distribution of payments to Members in accordance with the Distribution Policy.*
- (f) *Each Collecting Society will provide detailed information in its annual publications, at an anonymised or aggregate level where appropriate, about the accounting and distribution of licence revenue. This information is to be reported in a consistent format year on year. Categories for reporting should include, but are not limited to:*
 - (i) *classes of Licensees from whom licence revenue is received;*
 - (ii) *classes of Members to whom licence revenue is paid;*
 - (iii) *categories of copyright material copied/licensed in respect of which licence revenue is received; and*
 - (iv) *domestic vs international payments of licence revenue.*
- (g) *Each Collecting Society will provide detailed annual reporting of expired undistributed funds, including:*
 - (i) *the reason/s why funds remain undistributed to rightsholders;*
 - (ii) *the steps taken to locate rightsholders and distribute funds to; and*
 - (iii) *detailed information on the allocation and use or proposed use of the funds by the Collecting Society for which funds are to be applied.*

- 7.1 In 2019-2020, Screenrights has complied with the requirements of Clause 2.6. Screenrights' Board acted in accordance with the Constitution and Corporate Governance Statement in being accountable to members. The current directors on the Board are listed on our corporate website.⁸
- 7.2 The Audit and Risk Committee of the Board met 3 times in 2019-2020. Its principal functions are to ensure that accounting records are maintained in accordance with statutory requirements, to ensure that financial controls are sufficient, to review the operational and strategic risk assessments, and to review the financial statements and consult with the external auditors.
- 7.3 Screenrights maintains complete financial records every year. Where requested by a member, Screenrights provides information about their entitlements to receive payment from Screenrights consistent with obligations under privacy law and any applicable duties of confidentiality.
- 7.4 Screenrights' Annual Report for 2019/2020 will be available in early October 2020, including the audited accounts as at 30 June 2020. Each Annual Report of Screenrights contains the matters set out in clause 2.6(e) of the Code including revenue, expenses and

⁸ <https://www.screenrights.org/about-us/our-people/>

distribution of payments to Members. The 2019/2020 Annual Report will also include the matters in 2.6(f) and (g) which were introduced in the new Code of Conduct adopted on 1 July 2019.

- 7.5 Annual Reports are published on our corporate website. A copy is provided to the Minister for Communications and the Arts and is tabled in Parliament.

8 STAFF TRAINING

Code, Clause 2.7:

Each Collecting Society will take reasonable steps to ensure that its employees and agents are aware of, and at all times comply with, this Code. In particular, a Collecting Society will take reasonable steps to ensure that its employees and agents are aware of the procedures for handling complaints and resolving disputes set out in clause 3, and are able to explain those procedures to Members, Licensees and the general public.

- 8.1 Screenrights has taken reasonable steps to ensure that employees and agents are aware of and comply with the Code of Conduct.
- 8.2 Staff training on the Code is conducted annually and was conducted in 2019-2020. Amongst other things, Screenrights' Code of Conduct training session familiarises staff with complaints handling procedures, Screenrights' alternative dispute resolution procedures for disputes between Screenrights and licensees, between Screenrights and members and between members and members. A refresher training on Privacy Law was delivered at the same time as Code training. The importance of compliance with the Code is also emphasised to staff in induction training.
- 8.3 Further, any updates on Code requirements are communicated to staff in regular staff meetings.
- 8.4 The relevant information is also made available on Screenrights' corporate website.
- 8.5 Screenrights is committed to promoting its staff's development and wellbeing and have implemented a voluntary "Skill-Up" internal training program that focuses on developing skills and strategies in the workplace. Screenrights has also partnered with an external provider and implemented an Employee Assistance Program to support the wellbeing of employees and their immediate family members.

9 EDUCATION AND AWARENESS

Code, Clause 2.8:

- (a) *Each Collecting Society will engage in appropriate activities to promote awareness among Members, Licensees and the general public about the following matters:*
- (i) *the importance of copyright;*
 - (ii) *the role and functions of collecting societies in administering copyright generally; and*
 - (iii) *the role and functions of that collecting society in particular;*
- and will make information about these matters available, on reasonable request, to Members, Licensees and the general public.*

- (b) *In deciding what activities are appropriate for the purposes of paragraph (a), a Collecting Society will take into account the following factors:*
 - (i) *its size;*
 - (ii) *the number of Members it has;*
 - (iii) *the number of Licensees it has;*
 - (iv) *the amount of revenue it collects annually; and*
 - (v) *the possibility of undertaking activities jointly with another Collecting Society.*
- (c) *Without limiting paragraph (a) or any other obligation in this Code, each Collecting Society will produce and make available appropriate information about the following:*
 - (i) *the eligibility criteria for membership of the Collecting Society;*
 - (ii) *the benefits of membership of the Collecting Society;*
 - (iii) *the responsibilities of Members under the Constitution of the Collecting Society and any Membership Agreement;*
 - (iv) *any policies and procedures of the Collecting Society that affect Members;*
 - (v) *the benefits to Licensees of obtaining a licence from the Collecting Society;*
 - (vi) *the responsibilities of Licensees under a licence granted by the Collecting Society, and under the Copyright Act 1968 and other applicable laws; and*
 - (vii) *any policies and procedures of the Collecting Society that affect Licensees.*
- (d) *Each Collecting Society will make available plain English guidelines stating how expired undistributed funds will be allocated and spent by the Collecting Society, and how such expenditure will serve the interests of Members.*
- (e) *The Collecting Societies will establish and maintain a consolidated online portal for the public dissemination of governance, financial and data information, including all documents relating to the Collecting Societies' compliance with the Code.*

9.1 In 2019-2020, Screenrights continued to provide information about its services and royalty distribution schemes, policies and procedures via Screenrights' corporate website. Screenrights' governance, financial and data information is also available on the corporate website.⁹

9.2 Screenrights also continued to promote its role and functions as a Copyright Collecting Society by sponsoring and participating either through a speaking engagement, a market stall or providing attendees with hardcopy marketing material about Screenrights at the following events:

- (a) 37South Market at Melbourne International Film Festival, August 2019
- (b) Australian Writers Guild "AWGIES" Awards, August 2019
- (c) Screen Makers Conference, July 2019
- (d) Screen Forever (run by Screen Producers Australia), November 2019
- (e) Screen Production and Development Association Conference, November 2019
- (f) Australian International Documentary Conference, March 2020
- (g) The Business of Producing Seminar (run by Northern Rivers Screenworks), March 2020
- (h) Australian Directors' Guild Awards, May 2020 (postponed until 19 October 2020 due to COVID-19 restrictions)
- (i) Doc Edge Forum, May – June 2020.

⁹ <https://www.screenrights.org/about-us/corporate-governance/>

- 9.3 Screenrights has also continued its Cultural Fund competitive program in 2019 and 2020. By way of background, the Cultural Fund was established in 2018 to support innovative projects that foster the creation and appreciation of screen content in Australia and New Zealand. The Fund awards up to \$50,000 per initiative. Screenrights promotes the Cultural Fund on the corporate website¹⁰ and through direct email mailouts.
- 9.4 Screenrights has published Plain English guidelines on how its undistributed funds are allocated in compliance with Clause 2.8(d) on the Screenrights website.¹¹

10 REPORTING BY DECLARED COLLECTING SOCIETIES

Code, Clause 2.9:

- (a) *The Annual Report of a Declared Collecting Society shall include the following information in relation to each statutory licence for which the society is declared, for the financial year to which the Annual Report pertains:*
- (i) *For each Statutory Licensee Class:*
- A. *total licence fees received;*
 - B. *income on investments of licence fees;*
 - C. *total amount allocated and paid to members;*
 - D. *the total amount of licence fees held in trust; and*
 - E. *total licence fees for which the trust period expired.*
- (ii) *the total expenses of the Declared Collecting Society.*
- (b) *A Declared Collecting Society will, upon request from a representative of a Statutory Licensee Class, provide the following information to the extent that it can do so at a reasonable cost:*
- (i) *proportions to classes of recipients from the distribution of licence fees from the Statutory Licensee Class;*
- (ii) *for each of the total amounts referred to in clause 2.9(a)(i)(E), the proportion not paid to rights holders due to:*
- A. *the entitled member not being located;*
 - B. *the relevant rights holder not being a member;*
 - C. *entitlement disputes;*
 - D. *the amounts being below the distributable threshold; and*
 - E. *other reasons (which reasons the Declared Collecting Society may elect to specify).*

- 10.1 Screenrights' Annual Reports provide the information set out in clause 2.9(a) including in an Annexure to the report.

11 COMPLAINTS AND DISPUTES

Code, Clause 3

- (a) *Each Collecting Society will develop and publicise procedures for:*
- (i) *dealing with complaints from Members and Licensees; and*

¹⁰ <https://www.screenrights.org/cultural-fund/>

¹¹ <https://www.screenrights.org/help-centre/how-royalties-are-calculated/>

- (ii) *resolving disputes between the Collecting Society and:*
 - A. *its Members; and/or*
 - B. *its Licensees.*
- (b) *The procedures developed under paragraph (a) will apply to any complaint about a matter covered by the Code which adequately identifies the nature of the complaint and the identity of the person complaining.*
- (c) *The procedures developed under paragraph (a) will comply with the requirements of Australian Standard ISO 10002 - 2006 – Customer Satisfaction. In developing its procedures, a Collecting Society will have particular regard to the following principles:*
 - (i) *The procedures should define the categories of complaints and disputes they cover and explain the way in which each will be dealt with.*
 - (ii) *Information on how to make complaints should be readily accessible to Members and Licensees.*
 - (iii) *Each Collecting Society should provide reasonable assistance to a Member or Licensee in the formulation and lodgement of a complaint.*
 - (iv) *The procedures should recognise the need to be fair to both the person complaining and the Collecting Society to which the complaint relates.*
 - (v) *The procedures should specify by position who in the first instance will handle complaints on behalf of the Collecting Society.*
 - (vi) *The procedures should indicate time frames for the handling of complaints and disputes.*
 - (vii) *Each Collecting Society should provide a written response to a complaint that is made in writing.*
 - (viii) *Each Collecting Society should establish appropriate alternative dispute resolution procedures.*
 - (ix) *Each Collecting Society will ensure that adequate resources are made available for the purpose of responding to complaints and resolving disputes.*
- (d) *Each Collecting Society will regularly review its complaint handling and dispute resolution procedures to ensure that they continue to comply with the requirements of this Code.*

11.1 Screenrights' procedures with respect to Clause 3 of the Code are available in the Corporate Governance section of our corporate website, including information on complaints handling procedures, procedures for disputes between Screenrights and licensees and disputes between Screenrights and members.¹² Through the yearly Code of Conduct training and in staff inductions, Screenrights ensures that staff are trained to understand that responding to complaints and resolving disputes in a timely manner is a key priority for Screenrights.

11.2 We are pleased to report that no complaints that would be considered complaints for the purposes of the Code were received by Screenrights during the 2019-2020 year.

11.3 Further, as noted in the report for the last review period (2018-2019), the proceedings commenced in the Federal Circuit Court against Screenrights by a member in relation to the outcome of three separate determinations made under Screenrights' alternative dispute resolution procedures have been dismissed as of March 2020.

11.4 In 2019-2020, Screenrights undertook a review of its resolution pathways for disputes between members and members. In September 2019, Screenrights adopted its new

¹² <https://www.screenrights.org/about-us/corporate-governance/>

Competing Claim Resolution Procedures and a list of the proposed changes and their levels of adoption are listed on the corporate website.¹³ In summary, the following changes were adopted in 2019-2020:

- (a) The resolution pathways were simplified by merging the Express Resolution Process (ERP) and Alternative Dispute Resolution (ADR) into one Competing Claims Resolution Procedure (CCRP);
- (b) The ERP was simplified generally;
- (c) Value thresholds for different pathways were removed from the CCRP so that the same complaint resolution pathways are now available to all members regardless of the value of their dispute;
- (d) Presumption 9 of the ERP was removed from the ERP and incorporated into the CCRP as a mechanism for applying earlier decisions as precedents to competing claims arising over the same rights. Presumption 9, which is now known as the “Past Determination Presumption”, provided that where a competing claim has been resolved by an independent expert or otherwise under the ADR procedure for Competing Claims, Screenrights may rely on that decision to resolve future competing claims in relation to the same rights;
- (e) Screenrights will conduct a round of internal determinations under the ADR procedure twice a year. However, in 2019/20, only one round was conducted due to the timing of the implementation of the new CCRP; and
- (f) A panel of independent experts has been established to allow members to nominate preferred experts for the Expert Determination pathway under the CCRP. A list of the independent expert panel is available on Screenrights’ corporate website.¹⁴

11.5 The CCRP is available on the Screenrights corporate website.¹⁵

11.6 In September 2019, Screenrights also added and amended (as applicable) the following forms to be used by members in accordance with the CCRP and which are all available on the Screenrights corporate website:¹⁶

- (a) Mutual Agreement to Share Royalties, to be used by members to notify Screenrights when the parties have mutually agreed on a suitable outcome in relation to currently available royalties;
- (b) Limited Mutual Agreement – Waiver of Claim, to be used by members to notify Screenrights when they wish to waive a claim on a one-off basis for royalties from the CCF year or final year of Distribution;

¹³ <https://www.screenrights.org/screen-industry/competing-claims-resolution/ccrp-proposed-changes-adoption/>

¹⁴ <https://www.screenrights.org/screen-industry/competing-claims-resolution/independent-expert-decisions/expert-panel/>

¹⁵ <https://www.screenrights.org/wp-content/uploads/2019/10/Screenrights-CCRP.pdf>

¹⁶ <https://www.screenrights.org/screen-industry/competing-claims-resolution/competing-claim-resolution-procedures-forms/>

- (c) Express Resolution Process Evidence Submission Form, to be used by members as a cover sheet for their submission to Screenrights to challenge a Presumption applied to their claim under the ERP;
 - (d) Internal Determination Submission Form, to be used by members as a cover sheet for their submission to Screenrights for an Internal Determination;
 - (e) Independent Expert Determination Form, to be used by members who wish to request that an Independent Expert makes a determination; and
 - (f) Past Determination Evidence Submission Form, to be used by members as a cover sheet to challenge the application of the Past Determination Presumption to their competing claim.
- 11.7 In the year ended 30 June 2020, Screenrights had over 1.48 million individual claims and opened competing claims involving 482 series and 1,599 one-off programs. Screenrights members were notified of these competing claims via Screenrights' member portal MyScreenrights.
- 11.8 As at this date, competing claims have been closed for 627 series and 1,612 one-off programs. Under the new CCRP, Screenrights has issued 97 Internal Determinations. No requests were received from members for an Expert Determination.

12 PUBLICITY AND REPORTING

Code, Clause 4:

- (a) *The Collecting Society will:*
 - (i) *take appropriate steps to publicise this Code and the fact that it has agreed to be bound by it; and*
 - (ii) *make copies of the Code available to Members, Licensees and the general public on request.*
 - (b) *Each Collecting Society will include in its Annual Report a statement on its compliance with this Code.*
 - (c) *If the Code Compliance Reviewer reports a finding, in a report prepared under clause 5.1(d), that a Collecting Society has contravened the Code, that Collecting Society will notify its Members and Licensees of the contravention by means such as:*
 - (i) *Notification of the contravention published on the Collecting Society's website;*
 - (ii) *Report of the contravention itemised in the Collecting Society's annual report; and*
 - (iii) *Report on the online portal referred to in Clause 2.8(e).*
- 12.1 Screenrights publicises the Code and our undertaking that we have agreed to be bound by it on Screenrights' corporate website.
- 12.2 In 2019-2020, Screenrights has published our 2018/2019 Annual Compliance Report to the Code Reviewer on our corporate website, in addition to publishing past Code of Conduct Compliance Reports and Triennial Reviews of the Code of Conduct for members and

licensees and other interested stakeholders.¹⁷ We also communicate about the Code via our newsletters.

- 12.3 Our corporate website links to the new Code of Conduct website, where a copy of the Code can be accessed,¹⁸ and also contains the notice for any interested party to make a submission to the Code Reviewer with respect to the Collecting Societies' compliance with the Code of Conduct.¹⁹
- 12.4 Screenrights includes a statement in its Annual Report (under "Governance") that it complies with the Code.

13 ANNUAL COMPLIANCE MONITORING AND REPORTING

Code, Clause 5.2(c)

Each Collecting Society will provide, in its annual report to the Code Compliance Reviewer, information on steps taken to improve the capture and exploitation of data to achieve better business practices.

- 13.1 In 2019-20, Screenrights released a major upgrade to its member portal MyScreenrights. The MyScreenrights portal is the primary channel used by members to keep their contact information and bank account information up-to-date, access their payment statements and submit or vary their claim information. The latest release improves overall site performance and includes new administration functionality for the Screenrights team to provide real-time member support. It also has enhanced error reporting capability to track and resolve usability issues.
- 13.2 Screenrights also increased automation in the application used to ingest and prepare usage events for distribution. This upgrade involves a series of passes over usage events to automatically match the usage events to its broadcast based on predetermined matching criteria. These improvements make the validation of usage events significantly more efficient.

¹⁷ <https://www.screenrights.org/about-us/corporate-governance/>

¹⁸ <https://www.copyrightcodeofconduct.org.au/>

¹⁹ <https://www.screenrights.org/wp-content/uploads/2020/07/Code-Review-Notice-2020.pdf>