

Report of Review of Copyright Collecting Societies' Compliance with their Code of Conduct for the Year 1 July 2006 to 30 June 2007

INTRODUCTION AND SUMMARY CONCLUSIONS

This is the fifth annual report of the Code Reviewer, J. C. S. Burchett, QC, assessing the compliance with their Code of Conduct of the following eight societies: Australasian Performing Right Association Limited ("**APRA**"), Australasian Mechanical Copyright Owners Society Limited ("**AMCOS**"), Phonographic Performance Company of Australia Limited ("**PPCA**"), Copyright Agency Limited ("**CAL**"), Audio-Visual Copyright Society Limited ("**Screenrights**"), Viscopy Limited ("**Viscopy**"), Australian Writers' Guild Authorship Collecting Society Limited ("**AWGACS**") and Australian Screen Directors Authorship Collecting Society Limited ("**ASDACS**"). The practice adopted in previous reports of referring to APRA and AMCOS, which is administered by APRA, where it is unnecessary to distinguish between them, simply as "APRA" will again be followed in this report.

As in the past, the process of review was begun by advertising for submissions from interested persons and organisations, disseminated widely by means of the various society websites and by mail. Both members of the societies and their licensees, and also bodies representative of the interest of licensees, were included in the invitation to make a submission to the Code Reviewer. Further details are contained in the Appendix. In response, a number of letters were received, some merely seeking further information and others making submissions, which were considered by the Code Reviewer. One complex complaint was foreshadowed against both a member of a society and the society itself, but was ultimately not pursued, although the matter may perhaps be raised in the future. Two submissions in the nature of complaints, which were pursued, are discussed in the section of the report dealing with complaints. One from an education office raised general propositions about the conduct to be expected of collecting societies without making any application of those propositions to the operations of any society. If some criticism was intended to be inferred, it related to the same question concerning surveys of educational copying which was examined in the last two reports of the Code Reviewer, raising no new issue.

While widely advertised notice of the review is an important means of ensuring the public has an opportunity to contribute to it, the Code also requires, by cl. 5.2(b), that each society furnish a report to the Code Reviewer concerning:

- (a) the society's staff training in the Code, including in complaint handling procedures;
- (b) the society's promotion of the importance of copyright and of the role and functions of collecting societies generally, including its own role and functions, and including the dissemination of information; and
- (c) the number of complaints received by the society and how they have been resolved.

These reports this year, as in previous years, annexed copies of relevant documents, and their comprehensiveness, and the accuracy of the picture they conveyed, were considered in personal interviews by the Code Reviewer with senior staff of each society. All societies responded to the Code Reviewer's requests for explanation or elaboration of particular matters.

Shortly stated, the Code Reviewer's conclusion upon this material is that, in this year as in the four earlier years, the documents and practices of the societies show, in the words of cl 5.2(c) of the Code, good "compliance generally by Collecting Societies with [the] Code". And no significant breach of the Code by any society was found in the review.

COMPLAINTS

In his four earlier reports, the Code Reviewer has noted the emphasis in the Code itself upon staff training that includes complaint handling procedures, and upon the incidence and resolution of complaints against a society. So stated, the emphasis on complaints wears several significant aspects. First, the training will hopefully tend to remove a possible cause of complaint beforehand, or at least remove it as soon as its effect becomes apparent. Secondly, an important aspect of training with respect to complaints is the inculcation of a work attitude that does not impatiently brush aside a complaint, but treats it as providing an insight into the effects of the practice or behaviour that gave rise to it, thus potentially indicating both the need and

the nature of a remedy. Thirdly, the actual performance of a society, as revealed by the records of the complaints made to it, both in dealing with each complaint and also in learning its lessons for the future, shows how effective the training has been. Finally, the number and character of complaints made to a society provide an insight into the fairness of its operations and the courtesy (and even, perhaps, restraint) shown by its staff.

If the pitcher that went too oft to the well was apt to be broken, so also a society with a great number of transactions must be at greater risk of a cause of complaint arising. Therefore, in considering the conclusion to be drawn from records of complaints, it is relevant to take account of the number of members or licensees or some other measure of the number of transactions out of which the complaints came.

What follows is an analysis, society by society, of the complaints made or current in the year under review.

1. Copyright Agency Limited ("CAL")

CAL has recorded complaints from two members as current in the year from 1 July 2006 to 30 June 2007.

1. The first is a matter that actually arose outside the year, and was referred to in numbered paragraph 8 of the Code Reviewer's discussion of complaints to CAL in last year's Code Review Report. This complaint has two aspects: the complainant alleges her right to privacy was infringed by notice to her publisher of payments to her as an illustrator member of CAL made on the basis she would account to other persons entitled, including the publisher in respect of any entitlement it might have; and secondly, the complainant alleges CAL miscalculated the amount of certain distributions she received. As to the privacy question, CAL takes the view that, where both an author (here, an illustrator) and the publisher are members, transparency demands the giving of clear notice of any distribution which may affect both. The problem, which is particularly related to the practice of distributing to a member (whether author, or if no author is a member, publisher) upon an

undertaking to pay their entitlements to other persons entitled, is to be addressed when a new computer system is installed, enabling CAL to split distributions between those entitled. In addition, CAL has amended its Distribution Rules to clarify that appropriate information about distributions may be given to persons warranting they have a legitimate interest. Responding to the particular complaint in the instant case, CAL has expressed willingness to facilitate a third party determination of the complainant's claim. That would leave the issue of alleged miscalculation of entitlements in respect of illustrations. This is a difficult issue of characterisation of illustrations that are multiple in nature – is there one composite illustration, or are there numerous individual illustrations? – to which different answers may be given in the evaluation of different examples. CAL takes the view that its approach is correct in law, although it has accepted that some mistakes were made in the calculation of particular distributions to the complainant.

2. The other complaint in the period was to the effect that payment of a claimed distribution was not effected promptly. CAL's procedures allowed 8 weeks for this payment, which the complainant regarded as too long. CAL is in fact working to reduce this time delay, as was explained to the complainant member, by successive steps, to 6 weeks and finally to 4 weeks.

In addition to these matters, the Code Reviewer, in response to his advertisement of the review, received two submissions which are in the nature of complaints, as follows:

1. A church organisation expressed concern that it had not been supplied, in connection with a licence from CAL, with a list of the copyright holders represented by CAL in the issuing of the licence, the particular terms of which, as with other Religious Organisation licences, make such a list necessary. The church organisation had been given some less than precise information. CAL accepted, upon the Code Reviewer taking this matter up with it, that the relevant list, by an oversight, had not been updated since 2002, as it should have been. A current list has now been prepared and will be made available with the relevant licences. CAL is also

considering an on-line search facility to provide the same information.

2. A department within the Queensland government made a submission relating to CAL's obligation under the Code in respect of copyright education and awareness. The submission was, in effect, that the government copying right required elucidation. Of course, it needs to be recognised that the scheme covering remuneration for government copying is very recent – the Queensland agreement with CAL for the period 1 July 2002 to 30 June 2006 was only executed retrospectively on 22 January 2007, and a current agreement has not yet been executed. That said, CAL has had a new publication prepared for distribution this year to the appropriate addressees. Hopefully, this will meet much of the need. CAL is also preparing a government portal which is expected to be largely complete by the end of this year. Another department of the Queensland government has written to the Code Reviewer to state it deals with CAL and "is not aware of any non-compliance with the Code by CAL".

Treating the two submissions as complaints, in the period under report three complaints arose and one earlier complaint remained unresolved. Of the four matters, the foregoing brief statements of what was involved in each suggest that only two really raise issues for the Code Reviewer. One is the privacy claim, which draws attention to the problems of a distribution practice. These were referred to in last year's Report of the Code Reviewer; they need no further discussion here – already last year, measures were being taken to remedy the situation, and are proceeding. As to the particular breach of privacy alleged, the dispute is ongoing and may become the subject of a determination; it would be inappropriate for the Code Reviewer (who does not function as an arbitrator in respect of claims, whether against societies or arising between their members) to express a view on its merits. The relevant rule, it is noted, has been amended with a view to avoiding the problem in future. The other matter raising issues for the Code Reviewer is the submission of the church organisation. This reveals that there existed an unsatisfactory state of affairs in respect of a class of church licences, the licensee being unable to obtain precise and up-to-date information relevant to the licence. CAL acknowledges this lapse and has remedied it promptly.

Although the figures are small, they reveal CAL has reduced the number of complaints from 11 in the previous year to just 3 new complaints, which is consistent with the Society's record prior to last year of very few complaints. The figures should also be related to the Society's growing membership. It now has 10,270 members, of whom 6,578 are authors and 3,692 publishers. There are 11,692 licensees.

2. Australasian Performing Right Association Limited ("APRA") and Australasian Mechanical Copyright Owners Society Limited ("AMCOS")

APRA/AMCOS Members' Complaints

During the year under report, six complaints from members were current. But the first of these related to an ongoing dispute (mentioned in last year's Code Review report) between composers concerning the rights to a piece of music put forward as composed under a commission by one of them, but claimed by the other, the complainant, to have involved the wrongful appropriation of a work of his own. APRA offered expert determination, to which the complainant has not agreed. Neither has he brought proceedings for a court determination of his claim. In the circumstances, APRA has exercised a discretionary power to pay distributions to the commissioned composer upon undertakings, and has itself undertaken to the complainant, in the event of an expert determination or a court decision in his favour, to pay him the amount allocated in respect of the work. APRA's decision to act in this way has been the culmination, so far, of a long protracted but inconclusive dispute. Having reviewed the matter again this year, the Code Reviewer finds in it no breach of the Code.

1. The first new member's complaint in the current year arose out of a dispute between a composer member and a radio station. He wished to impose a ban to prevent the radio station playing his music. APRA pointed out that the terms of its blanket licence did not permit such a ban relating to the music of this one member, unless the member (a) availed himself of the "opt-out" provision of membership, or (b) withdrew from membership to administer his own rights. The problem appears to have arisen between the

member and the radio station, not from any breach of the Code by APRA.

2. A second member complained that he had not received royalties for music that was played on a particular television channel. The complaint was promptly investigated, and it was found no payment was due, the amount earned being below an applicable minimum. The member acknowledged the advice with thanks.
3. A third member complained both to APRA and to a government department, but his complaint related to the concept of the collective administration of copyright, not to APRA's application of, or its failure in any way to apply, its Code of Conduct. A further complaint related to the corporate structure of APRA, again without pointing to any breach of the Code. The member finished by seeking the termination of his membership, which was terminated.
4. A fourth member to complain this year also resigned, after less than two weeks of confused emails, apparently concerned both with personal copyright problems and the assignments of copyright taken by APRA. Confused questions are, of course, apt to produce confused replies, but nothing in the emails suggests any breach of the Code. The worst that can be said is that, in this case, APRA's employees seemed to be having some difficulty in perceiving what the complainant was driving at.
5. A fifth member complained about the design of APRA's on-line *Live Performance Return* system. APRA replied the next day, explaining how the difficulty could be overcome, but also advising it was reviewing the system in question. The complainant responded by expressing appreciation of APRA's attention to her complaint.

It will be seen that none of the five new complaints from members involved any breach of the Code, nor has the unresolved dispute over music copyright outstanding from the previous year been shown to have done so.

Complaints, on-line and recording services, and broadcast services

A series of issues was raised by a querist, rather than a complainant, concerning a licence that was under contemplation for a proposed podcasting

service. In the event, the service does not appear to have proceeded. The observance of the Code by APRA is not called into question in this instance.

Complaints, Licensing Services

There were 18 complaints of this kind (including one that was made, as will appear, directly to APRA's Complaints Officer) recorded by APRA, as follows:

1. This was rather an argument than a complaint. A golf club licensee argued that its use of a television set was only to watch sport. No breach of the Code was suggested; it was simply a question whether the use of the set would require a licence.
2. This was a complaint from the Pastor of a community church, which had two aspects. In the first place, although the church had been a licensee for nine years, whatever may in the past have led to its taking out of a licence, it does not now need one as it does not use music outside its worship services. That being shown, APRA has cancelled the licence. The other aspect of the complaint is an allegation that numerous messages were left with APRA by a representative of the church in attempting to cancel the licence, without response. Telephone logs do not disclose any record of these calls, although there is a record of three calls by APRA's finance staff seeking payment of the licence fee, without any reference being made, apparently, to the church's desire to cancel the licence. Perhaps there was a difficulty arising from voluntary church personnel being unfamiliar with a particular business problem. However that may be, APRA apologised in respect of the numerous unanswered calls the church complained of, and the Pastor expressed his appreciation of the "very polite" way APRA's Director of Licensing Services had resolved the matter.

Two comments should be made:

- (a) in the absence of a record of the "numerous messages", there must be some doubt as to why they were so futile. But a system failure is certainly one possibility, and this matter needs to be considered along with others less doubtful in the devising

of a more effective system to deal with telephone messages, a task APRA has undertaken;

(b) dealings with licensees that are small voluntary organisations (such as some churches) should be scrutinised carefully just because those representing them may well be unversed in business (and copyright requirements). In this case, it may be there was a failure to appreciate sufficiently the difficulties of voluntary workers, both when the requirement for a licence was considered in the first place, and when attempts were made to cancel it.

3. A schools' music director complained of invoices referring to the wrong event and date. On investigation, APRA detected a system fault affecting this particular account. The immediate solution was the issue of invoices manually, together with an apology; the ultimate solution will be the introduction of a new data management system in 2008.

4. An application for a licence for an event was sent to APRA by facsimile, but not dealt with for two weeks. A number of reminders failed to reach licensing staff who were all at a conference. A complaint about this was dealt with by a Client Services Representative on the day of receipt by immediate processing of the application and an apology. The complaint, though resolved in that way, revealed two problems:

(a) a breach of the system in the neglect (over a period of two weeks) to issue a licence upon receipt of an application for it; and

(b) the need for a special system to deal with calls during a training conference.

Steps have been taken to obviate any repetition in either of these respects in the future.

5. An anonymous complaint suggested a particular restaurant (under new ownership) might not have a licence for its music. In fact, a licence application was in train.

6. A partial refund in the sum of \$1,900 was sought upon cancellation of a licence. It became due from 31 October 2006 but was not paid till 15 December. Hence the complaint. APRA acknowledges an error occurred, and is extending its tracking database system to refund requests for the future.
7. A dramatic content licence for a musical was the subject of preliminary enquiry made of APRA. A complaint that APRA's response was misleading has been referred to the Society's solicitors, who have considered the matter and do not accept the allegation. The complaint remains outstanding.
8. The recipient of a letter reminding her of her obligation to renew her licence complained that the letter "had an aggressive tone". APRA apologised and promised to review the letter. The licence has since been renewed and the amount due has been paid. Nothing in the form letter in question appears objectively to justify the description "aggressive".
9. A guesthouse proprietor queried whether the music he played was copyright music controlled by APRA, and as to the appropriate licence required. Research showed the bulk of the music in question was in copyright and controlled by APRA. The questions were appropriately and courteously dealt with, a licence was issued, and the fee was paid.
10. The owner of a motel complained about the amount of the licence fees. A licensing representative discussed his requirements with him in detail, and determined he was unnecessarily licensed for two television sets instead of only one. A revised invoice was paid, and there has been no further complaint in this matter.
11. A complaint was made that letters had been sent repeatedly to the former address of a licensee, now occupied by the complainant. Careful enquiry failed to reveal who at APRA had done so. APRA apologised for the error. It has no record of the letters being

returned to it as the sender. The complaint was made in extremely rude language.

12. A representative of a senior citizens' organisation complained (a) that it should be exempt; (b) that the music fees were too high; and (c) that some (unspecified) clubs did not have APRA licences. The position under copyright law was explained by an APRA employee, who also advised the complainant that in some cases Councils subsidised senior citizens' clubs in their area by paying licence fees. There has been no further complaint, and the fees have been paid.
13. A proposed licensee complained of a first reminder telephone call as conveying a heavy-handed demand and (implicitly) threatening legal action. The APRA representative denies making the demand alleged; he says he gave a normal reminder about a licence application form which had not been returned to APRA. APRA responded by telephone, offering an apology (which was accepted), and to accept a letter from the complainant verifying music is no longer used.
14. This was another complaint that an APRA communication, in this case a letter, was heavy-handed. The complainant accepted an apology and a promise to have the letter reviewed, and a licence fee was paid. In fact, upon review, APRA considered the particular letter did not require amendment. The Code Reviewer has also considered the letter, and does not regard it as heavy handed; there is certainly nothing objectionable in it in a case in which a licence fee was admittedly payable. However, had that been in doubt, the criticism could have been offered that the letter asserted a licence application "should be completed to reflect *the* use of music by your business" (emphasis added), an assertion which might have been better worded as referring to "*any* use of copyright music by your business".
15. A licensee complained that, having advised APRA by telephone that the business had ceased to operate, he had continued to receive demands for licence fees. APRA apologised, explaining the

account should have been put on hold, pending formal advice to cancel the licence. In other words, the problem arose from a system failure.

16. This was a complaint from a licensee who suspected credit card information had been sought from her by an APRA employee for an improper purpose. The matter was investigated promptly, to the licensee's satisfaction, and the employee was dismissed. No loss resulted. A full and frank letter from APRA informed the licensee as to the result of the investigation.
17. This was a complaint that an APRA employee had responded with unreasonable aggression to a proposition put by a licensee's Finance Director. The Director of Licensing Services clarified the position to the licensee, who was satisfied, and the APRA employee was required to undertake a client communications course.

Complaints to Complaints Officer

The anonymous complaint already referred to was also sent to the Complaints Officer. In addition, that officer received:

1. A complaint of the rudeness over the telephone of an officer in APRA's Finance Department. The officer had telephoned about what he thought was an outstanding account. On his being told it had been paid by cheque, an acrimonious argument ensued involving inappropriate attitudes on both sides, but particularly, on the part of the APRA employee, an attitude and behaviour that did not assist in achieving a resolution. The Director of Corporate Affairs and Communications dealt with the complaint, counselling the employee and laying down an appropriate procedure to be followed in any such case. A letter of full and careful explanation and apology was then sent to the complainant, in which reference was made to APRA's acceptance of its obligations under the Code of Conduct.

To put in context the complaints recorded by APRA as arising in the year under report, it is noted that, in this year, APRA received from members over 1,300 telephone queries and over 75,000 emails. It sent out to members over 346,000 emails and over 3,350 letters, although many, particularly of the emails, would have been formal notices. There were close to a quarter of a million contacts made by APRA's Licensing Services Department with members of the public and licensees. In the making of this great number of communications, observance of the Code was a constant requirement, and any breach had the potential to give rise to a complaint.

Of the total of five members' complaints recorded as arising in the year, none is considered to have involved a breach of the Code, although No. 5 drew attention to a fault in the design of an on-line system.

The one complaint recorded against the department dealing with on-line and recording services and broadcast services was really in the nature of an inquiry, and again did not involve a breach of the Code.

It is convenient to take together the 17 complaints recorded against the Licensing Services Department and the one additional complaint (relating to the Finance Department) made directly to the Complaints Officer, a total of 18 complaints. These may be analysed as follows:

- (a) 5 raised what amounted to a question as to the liability to pay a royalty, not a complaint of a breach of the Code;
- (b) 4 were complaints which had no substance;
- (c) 1 complaint was not established, but was resolved anyway;
- (d) 2 complaints raised possible system failures or human errors, but were doubtful; however, APRA apologised on the basis it may have erred;
- (e) 4 complaints did reveal a human failure or system error, for which APRA apologised, and in 3 of these cases, it took steps to improve its system;
- (f) 1 complaint related to the apparent personal dishonesty of an APRA employee, who was dismissed after inquiry, of which the complainant was fully informed to her satisfaction; and

- (g) 2 complaints were of rudeness over the telephone, in each instance taken up with the employee concerned by a departmental director of APRA, who also apologised to the complainant.

(These numbers add up to 19, not 18, because one complaint has been assigned to two categories.)

What emerges from an analysis of the total of 24 complaints that were made in the year under report is that very few, in relation to the great number of transactions involved, could be said to have revealed a disregard on the part of any employee of APRA of the obligations imposed by the Code. To the extent such a disregard was revealed, APRA took prompt steps to make an appropriate apology, to provide a remedy, and to endeavour to obviate a repetition. These actions, and its careful recording of the complaints, suggest a commitment to the observance of the Code and to its purposes.

3. Audio-Visual Copyright Society Limited (“Screenrights”)

Screenrights received no complaints during the year under report.

As in previous years, it played a role in facilitating agreement between disputing claimants to rights. This is to say, although there was no claim against Screenrights, there were competing claims to be entitled to royalties. In such cases, Screenrights has a three-stage procedure. Stage one involves putting the parties who have raised conflicting claims in touch with each other. In the year under report about 50 cases of conflicting claims were settled, or appear to be in process of settlement, by this means, only one proceeding to Stage two. In Stage two, mediation is attempted – in the one case which went that far this year, a practical solution being the result. No case this year proceeded to Stage three, which would involve expert determination.

The absence of complaints in respect of Screenrights must be seen in the context that it has 2,653 members and 849 licensees, including universities, schools (government, Catholic, independent, in New Zealand as well as Australia), TAFEs, training organisations, government agencies and New Zealand tertiary institutions.

4. Phonographic Performance Company of Australia Limited (“PPCA”)

PPCA has recorded the receipt of the following complaints in the year under report:

1. A licensee complained that PPCA had not taken heed of her notification a year earlier of a change of address and had then sent debt collection reminders at the end of the year to the old address. However, PPCA had no record of the alleged notification, although it did have a payment slip for the earlier year which did not show an altered address. PPCA wrote apologising and advised it had noted the changed address.
2. A young bar owner complained that PPCA was charging her the wrong tariff for her use of recorded music. PPCA’s Manager – Finance, Operations and Administration wrote a careful explanation, enclosing further relevant material. Although couched as a complaint (and sent to the Minister for Small Business and Tourism), the licensee’s letter had in reality simply reflected a need for the explanation that was furnished.
3. A factually inaccurate complaint, so it seems, was made about the deduction, from a partial refund of a licence fee, of an administrative charge of \$33. The complainant claimed never to have been told about the obligation involved in the first place, but it appears that in fact the licence application was personally signed through the intervention of a solicitor then acting for the complainant. The complaint was rejected in a detailed letter, which also explained the basis of the administration fee.
4. PPCA made an application to the Copyright Tribunal of Australia to establish the appropriate licence fee for recorded music used by fitness clubs. The application did not nominate a particular level of fee, but sought a determination by the Tribunal and proposed a form of economic survey to ascertain what level of fee would be reasonable. One fitness club manager wrote a very strongly

worded protest. PPCA responded appropriately, drawing attention to the complainant's right to approach the Copyright Tribunal, and also pointing out she could contact her industry association, with which PPCA was discussing the application.

The records of these four complaints do not suggest that PPCA was failing to observe its obligations under the Code. They must be seen in the context that PPCA has 631 licensors and 47,356 active public performance licences, and employs a staff, expressing the number in full-time equivalent terms, of 27.

5. Viscopy Limited ("Viscopy")

In the year under report, Viscopy has not registered any complaint from a member or licensee as such in its records. But there was one complaint made orally by a member concerning the application of a distribution policy rule permitting the making of an accelerated payment in circumstances of hardship. The member considered Viscopy's employees had given her conflicting statements about the matter, and that she had been treated inequitably by comparison with others. The Chief Executive of Viscopy looked into the issues raised personally, arranging (a) an urgent part payment, and (b) a review of the drafting of the rule to remove ambiguity. These actions appear to have satisfied the member. Viscopy has also since given employees further training in complaints handling specifically referring to this incident.

Viscopy's membership now stands at 6,916, including 3,318 indigenous members. The Society has four full-time employees (including two aboriginal education officers) and three part-time employees.

6. Australian Writers' Guild Authorship Collecting Society Limited ("AWGACS")

During the period under report AWGACS received no complaints. It has 893 members and no licensees.

7. Australian Screen Directors Authorship Collecting Society Limited ("ASDACS")

During the period under report, ASDACS received no complaints. As in past years, its records include some entertaining correspondence with members who raised questions with the Society in a friendly spirit and received equally friendly responses with which they appeared fully satisfied. Given its membership (331 members), the absence of licensees, and its part-time workforce of three persons, the Society's relations with its members tend to be less formal than is the case in larger societies.

SUBMISSIONS

Apart from the submissions mentioned earlier, the Code Reviewer received a number of responses to the advertisement of the review of the operation of the Code of Conduct, but these did not constitute submissions for the purposes of this report.

GOVERNANCE AND ACCOUNTABILITY

During the year under report, the societies continued to be governed in accordance with organisational structures the nature of which has been explained in previous reports. These structures are designed to ensure the accountability of each society to its members.

STAFF TRAINING

Two of the societies (ASDACS, with 331 members, and AWGACS with 893 members, having in each case no licensees) do not undertake staff training programs of the kind set in place by larger societies. ASDACS employs no full-time staff; it has an Executive Director who works 3 1/2 days per week, a Policy Adviser who works one day per week, and a book-keeper who works 2 to 3 days per week (but the book-keeping work is about to be outsourced). AWGACS employs a Manager who receives part-time assistance as required from the Executive Director.

Viscopy, though not a large society, stands in quite a different position. Its membership, as has been noted, is now 6,916, and it has four full-time and three part-time employees. It organises an annual client service training workshop run by an outside expert. The latest such workshop was held in September 2007.

PPCA has a staff training program which takes in issues of privacy policy, the Code, complaints handling and dispute resolution. At least monthly staff meetings are held, at which the obligations imposed by the Code are inculcated and training is given in the preferred methods of dealing with customers. During the period under report, staff were sent out for external training in (inter alia) customer service and telephone skills. A Code of Conduct presentation in June 2007 emphasised the essential aspects of the Code of Conduct and the duties of employees of the society in dealing with its members (licensors) and licensees. The presentation was the subject of a written report to management.

Screenrights ensures that all new staff receive training concerning its dispute resolution policies, which are included in its website and in a handbook issued to all new member services staff. Staff training in the obligations of Screenrights under the Code and in alternative dispute resolution procedures is carried out regularly, including in June 2007. In addition, at fortnightly staff meetings, specific issues are raised and training is given.

CAL carries out specific Code of Conduct training each year, and also briefs new employees on their first day of employment about the Code and corporate compliance. Copies of the Code and the society's complaints handling and dispute resolution procedures are provided to all staff members and are made available on the staff intranet. In each division, a particular staff member has responsibility in respect of the Code, and in each department that interacts frequently with members or licensees, there are departmental complaints officers. In all, there are seven departmental complaints officers, who are responsible to see that complaints or Code queries are properly dealt with.

APRA's Licensing Services and Member Services departments each hold staff training conferences at least once (usually twice) a year, where the Code of Conduct is discussed, particularly in relation to the identification and resolution of complaints. At regular meetings of senior executives, at least quarterly, compliance with the Code is discussed with the departmental managers. Not only are the departments referred to earlier in the analysis of complaints to APRA required to keep meticulous records of complaints and of the steps taken to ensure compliance with the Code in respect of them, but there is also a Complaints Officer to whom a complaint may be made directly, as two were during the period under report.

EDUCATION AND AWARENESS

Because of the unique role the societies were formed to fulfil of giving effect to the public purposes of copyright law, their promotion and the education of the community concerning their functions and operation are regarded as highly important.

The history of copyright law in Australia shows that, in a number of areas, rights that were recognised by the law were often not recognised in practice, and appropriate measures to implement these rights were lacking. Therefore, when the Collecting Societies' Code of Conduct was drawn up, a specific obligation was accepted by each society, as set out in cl 2.8, to engage in appropriate activities, according to its ability, to promote awareness about the importance of copyright, the role and functions of collecting societies in administering copyright generally and the role and functions of that Collecting Society in particular. In determining what activities are appropriate, the clause permits a society to have regard to such matters as its own size and the possibility of acting jointly with another society.

In the year under report, various activities were undertaken by the societies in performance of their obligation under cl 2.8. Informative websites were maintained and updated, and societies such as CAL pursued relationships with industry bodies of the like of the Australian Publishers Association, the Australian Society of Authors and the Media Entertainment Arts Alliance, with a view to the dissemination of copyright information. CAL organises seminars and forums; in November 2006 and May 2007 it held seminars in

major capital cities attended by over 800 members. Staff also attend other conferences to speak of copyright and CAL's role. CAL also supports copyright awareness through its Cultural Fund. Substantial sums so provided for the benefit of Australia's creative and cultural communities will be found detailed in CAL's annual report. CAL receives constant requests from members, licensees and others about copyright problems, in response to which it provides information, including technical legal information supplied through its Legal and International Department, or refers questioners to appropriate sources of information such as the Australian Copyright Council. CAL communicates information through a range of publications, including its newsletter, information sheets and articles in industry magazines. Just over two years ago, it carried out a full review of its website and publications, recommendations of which it has been implementing over the period since.

Similarly, APRA is regularly involved in seminars and the distribution of materials to the public. Recent materials include "Music in your Business", a handbook, both printed and online, for licensees, "Upbeat", a newsletter for licensees, "Antenna", a regular newsletter to publisher members, "Bytes", an online newsletter to all members issued approximately each 2 months, "Aprap", a substantial magazine-style newsletter for general circulation (3 times a year), and specialist publications "Music Copyright for Schools", "Music Copyright for Churches" and "Music Copyright for Eisteddfods". APRA is also involved in the promotion of the creation of music by Aboriginals and Torres Strait Islanders. It lobbies government in the interests of the music industry and engaged in the debates concerning the inclusion of culture in the Free Trade negotiations, as well as amendments to the Copyright Act. It worked closely with Contemporary Music Working Group in the development of an Industry Action Agenda submission to the Federal Government. APRA works with hotel and nightclubs industry associations to support live performance of music, and facilitates research through the Music Council of Australia with the same objective. APRA sets aside (in accordance with its Rules) 1.25% of distributable revenue to fund projects and organisations promoting the use and recognition of Australian and New Zealand music.

PPCA issues regularly (four times a year) a newsletter for artists and licensors entitled "On the Record", which provides information concerning copyright

and other matters of interest to the music industry. In its newsletter, PPCA gives notice of its adherence to the Code of Conduct, of the review of the Code, and of the opportunity thereby afforded for the making of submissions. PPCA also sends out circulars on specific issues of significance to artists and copyright owners. It sponsors activities such as songwriting awards, Aboriginal and Torres Strait Islander music awards and dance music awards. It provides the Australian Music Prize of \$25,000 and makes grants to assist such bodies as the Arts Law Centre of Australia and The Song Room. During the year under report, PPCA was represented at seminars and gave information to various bodies concerned with music and recording. PPCA held consultations with trade associations throughout the year, attending meetings and conferences and providing information leaflets to a number of organisations.

Screenrights produces information leaflets and has redesigned and updated its website to give more comprehensive information to rightsholders and licensees. It also produces a considerable range of brochures, reports and newsletters. It maintains its impressive enhanceTV service, which has been discussed upon previous Code reviews. As do other societies, it contributes to and supports the Copyright Council's educative role for which specific funding is provided by the Australia Council.

Viscopy conducts Australia-wide a Commonwealth funded Indigenous Copyright Education programme, involving visits to aboriginal communities in regional and remote areas of Australia. In the year under report, visits were made to Alice Springs and Mutugulu in the Northern Territory, Cairns, Yarrabah, Townsville, Brisbane, Fortitude Valley, and the Laura Aboriginal Dance Festival in Queensland, Tweed Heads, Wardell, Bonalbo, Grafton, Redfern, Blacktown, and Nambucca Heads in NSW, Koori Arts Centre, Melbourne and Hobart. A number of seminars were also conducted at various locations in Australia, and Viscopy maintained the production of its newsletter, "Canvas", which contains information about changes to copyright law and various matters of interest and significance for visual artists and those interacting with them.

AWGACS and ASDACS are small societies with limited funds. However, in the year under report, AWGACS has made overtures to the writing

community through articles in the Guild periodical (four issues per annum) "Storyline" and it has maintained an informative website. Members are also advised about copyright questions through personal contact. ASDACS has communicated information about its role and recent legislative changes by email and letter, and has also invited direct contact from its members on copyright issues. It is involved in lobbying in respect of film directors' copyright entitlements. Its small income (limited to receipt of royalties sourced from Switzerland, Germany, France and the Netherlands) restrains its ability to engage in larger educational efforts.

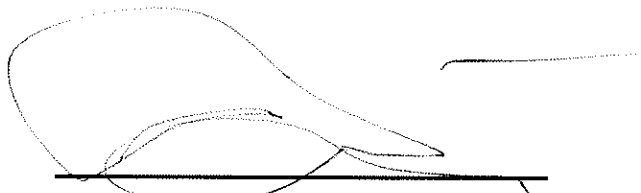
CONCLUDING REMARKS

The survey made in this report has led to the conclusion, stated earlier in the Summary, that the Collecting Societies have complied with their Code of Conduct throughout the period under report.

Very importantly, the Code Reviewer's consultations with executives of the societies, and the records perused by him, have continued to reveal, as in past years, a regular advertence to the Code in the societies' operations so as to demonstrate a commitment to it.

This report is now submitted to the societies and to the Attorney-General's Department of the Commonwealth of Australia.

Dated this 20th day of November 2007.



The Hon J C S Burchett, QC
Code Reviewer