

C©**PYRIGHTAGENCY**

Report to Code Compliance Reviewer on compliance with Collecting Societies Code of Conduct for 2018–19

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INTRODUCTION

This report covers compliance Copyright Agency’s compliance with its obligations under the Code of Conduct for Copyright Collecting Societies during 2018–19.

We are reporting on our compliance with the version of the Code that applied during that period. A significantly revised version of the Code was adopted on 1 July 2019, implementing recommendations from the [review of the Code by the Bureau of Communications and Arts Research in the Department of Communications and the Arts](#).¹

There is now a [dedicated website for the Code](#) with information and links to documents and information relevant to the Code.²

In July 2020, we will report on our compliance with the new Code in 2019–20.

INFORMATION IN OUR ANNUAL REPORTS

As in previous years, we will provide detailed information about our operations for the year, and the external auditor’s report (Directors’ Report and Financial Report), in our Annual Report provided to the Minister for Communications and the Arts, which is tabled in Parliament, and published on our website.³

PUBLICATION OF THIS ANNUAL COMPLIANCE REPORT

This report will be [published on the Code of Conduct website](#).

¹ <https://www.communications.gov.au/departmental-news/review-code-conduct-copyright-collecting-societies-0>

² <https://www.copyrightcodeofconduct.org.au/>

³ Previous annual reports are available at copyright.com.au/about-us/governance/annual-reports/

OVERVIEW OF COPYRIGHT AGENCY

Copyright Agency is a company limited by guarantee. It has more than 37,000 members, who include writers, artists, surveyors, publishers and other collecting societies. Our operations can be broadly categorised as follows:

- in accordance with our appointments by the Australian Government:
 - management of the statutory licences for educational and government use of text, images and print music, including negotiation, collection and distribution of fair compensation for content creators;⁴ and
 - management of the artists' resale royalty scheme;⁵ and
- in accordance with the authority of our members, and with the oversight of the Copyright Tribunal, formulation and management of 'voluntary' licensing arrangements, principally for the business sector.

We report annually to the relevant Minister (currently the [Minister for Communications and the Arts](#)) in accordance with statutory obligations in the [Copyright Act](#) and the [Resale Royalty Right for Visual Artists Act](#) respectively. Annual reports are tabled in Parliament and are [available from the Copyright Agency website](#).

Copyright Agency also operates in accordance with the Australian Government [guidelines for 'declared' collecting societies](#).

⁴ Copyright Agency is 'declared' by the Minister as the collecting society appointed to manage the statutory licences in Part VB of the Copyright Act: the statutory licence for educational use of text, images and print music, and the statutory licences for people with disabilities. Copyright Agency is also declared by the Copyright Tribunal under section 153F of the Copyright Act as the collecting society for Division 2 Part VII in relation to copying of published editions and works (other than those in sound recordings, films and broadcasts). The declarations are available from our website.

⁵ Copyright Agency was engaged by the Minister for the Arts, following an open tender process.

COMPLIANCE WITH THE CODE

LEGAL FRAMEWORK (CLAUSE 2.1)

Each Collecting Society will comply with:

- (a) the Corporations Act 2001 and the Corporations Regulations;**
- (b) the Copyright Act 1968 and the Copyright Regulations;**
- (c) its Constitution;**
- (d) the Attorney-General's Guidelines for Declared Collecting Societies (where applicable);**
- (e) its obligations under the Privacy Act 1988, including the National Privacy Principles, or any Privacy Code that applies to the Collecting Society;**
- (f) in the case of the declared Collecting Society under that Act, the Resale Royalty Right for Visual Artists Act 2009; and**
- (g) 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.**

In 2018–19, we complied with our obligations under the legislation and other regulatory documents set out in Clause 2.1 of the Code.

Governance documents published on our website include: Constitution; Corporate Governance Statement; Customer Service Charter; Privacy Policy; dispute management procedures; and complaints management procedures.⁶

Other documents accessible from the website include: Code of Conduct for Copyright Collecting Societies; Australian Government Guidelines for Declared Collecting Societies; Declaration by Attorney General of Copyright Agency for Part VB of the Copyright Act; and Declaration by Copyright Tribunal of Copyright Agency for Division 2 Part VII of the Copyright Act.⁷

Compliance is overseen by our in-house legal team. Amongst other things, the team monitors relevant legal and regulatory developments, and oversees implementation of any necessary or desirable changes to our policies or practices.

MEMBERS (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.**

⁶ copyright.com.au/about-us/governance/

⁷ copyright.com.au/about-us/governance/

Membership of Copyright Agency is open to owners of copyright in works, and their licensees and agents, and holders of a resale royalty right. Applications for membership are approved by the Senior Management Team, under delegation from the Board, and reported to the Board.

Membership is free. New members can apply for membership online.⁸

We have adopted a range of policies and processes aimed at ensuring that members are treated fairly, honestly, impartially, courteously, and in accordance with our Constitution and membership agreements. These include: a Service Charter, induction training for new staff and periodic updates to staff on requirements under the Code of Conduct.

Our communications with members and potential members regarding membership arrangements, distributions of licence fees and payments include:

- information on our website;
- broadcast and one-on-one communications about changes to membership, distribution or payment arrangements;
- responding to enquiries in accordance with the Service Charter; and
- secure online member accounts that enable members to review their membership, distribution and payment details.

Our Constitution is available to the public [on our website](#). We direct new and potential members to it.

We report information about new members in our annual reports.

LICENSEES (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;

⁸ members.copyright.com.au

- (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.

We have adopted a range of policies and processes aimed at ensuring that our licensees are treated fairly, honestly, impartially, courteously, and in accordance with its Constitution and licence agreements. These include: a Service Charter, induction training for new staff and periodic updates to staff on requirements under the Code of Conduct.

For the statutory licences for education and government, we mostly deal with bodies or departments representing a class of licensees (such as Universities Australia, Copyright Advisory Group to the COAG Education Council for most schools and TAFEs, the Department for Communications and the Arts for the Commonwealth) rather than individual licensees. We also have individual licence agreements with more than 1,000 other education providers, such as registered training organisations.

Many aspects of statutory licences are governed by the legislation and regulations. The major areas of negotiation are the amount of payment, the manner of collecting information about usage of content under the licence, and the processing of that information to estimate the ‘volume’ of usage.

Licensees participating in surveys of usage receive special training.

We publish information about non-statutory (‘voluntary’) licences (‘blanket’ and pay-per-use) on our corporate website and on the RightsPortal website (rightsportal.com.au). Further information is available on request.

We also provide information about our licences via other channels, including seminars, trade shows, trade publications and in response to specific enquiries.

We regularly review the terms of our licence agreements to ensure that they are written in plain language, correspond with our mandate, and reflect feedback from licensees.

New industry licence schemes are usually designed with the input of relevant industry associations.

Information on Copyright Agency’s website

Information on our website about licensing includes:

- plain English guides for different types of businesses;⁹
- pay-per-use plain English guides;¹⁰
- information for media monitoring organisation customers.¹¹

⁹ <https://www.copyright.com.au/licences-permission/commercial-licences/plain-english-guides/>

¹⁰ <https://www.copyright.com.au/licences-permission/commercial-licences/pay-per-use-plain-english-guides/>

¹¹ <https://www.copyright.com.au/licences-permission/commercial-licences/information-mmo-customers/>

Information about data from surveys in schools and universities

We have data access arrangements with CAG and Universities Australia to provide access to data from surveys in schools, universities and TAFEs. The survey records are ‘processed’ by Copyright Agency to extract information relevant to estimating the overall extent of content usage under the statutory licence, which is taken into account (together with other matters) in licence fee negotiations, and data to assist distribution of licence fees.

Tribunal proceedings with licensees

Copyright Agency is currently engaged in the following proceedings in the Copyright Tribunal:

- with the government of New South Wales, regarding arrangements under section 183A of the Copyright Act;
- with three media monitoring companies – Meltwater, Isentia and Stream – regarding licensing arrangements for media monitoring; and
- with Universities Australia, regarding the application of the education statutory licence to universities,

There is some background for these proceedings on Copyright Agency’s website.¹²

New agreements with peak bodies for the education sector

Copyright Agency has recently reached new agreements regarding licensing arrangements for the education sector:

- with the CAG for the school sector: from January 2019 to December 2022;
- with CAG TAFE for the TAFE sector (excluding Victorian TAFEs, which are covered by a separate agreement): from January 2019 to December 2021.

We are currently finalising a new agreement with representatives of the Victorian TAFE sector.

DISTRIBUTION OF REMUNERATION AND LICENCE FEES (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.

We publish on our website:

- our distribution policy;¹³
- our distribution schedule (including past distributions);¹⁴

¹² <https://www.copyright.com.au/2018/07/protecting-members-rights-and-sustaining-publishing-writing-and-journalism> and <https://www.copyright.com.au/2018/11/media-release>.

¹³ <https://www.copyright.com.au/membership/payments/distribution-policy/>

¹⁴ <https://www.copyright.com.au/membership/payments/distribution-schedule/>

- information sheets about distributions;¹⁵ and
- deductions before distribution.¹⁶

We distribute payments in accordance with our Constitution, distribution policy and schemes of allocation approved by the Board or approved by Management under delegation from the Board.

We inform members of proposed and recent changes to distribution policies and processes, using a range of channels including one-one communications, group meetings, the corporate website (including information sheets about each major distribution) and the eNewsletter 'Creative Licence'.

COLLECTING SOCIETY EXPENSES (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.**

Our operating costs associated with managing statutory and voluntary licence schemes are met from our revenue. In a few cases, we deduct a fixed percentage, but in most cases our deductions are based on actual and projected costs.

The Board of Directors approves Copyright Agency's annual operating budget, and reviews the budget at each Board meeting.

Our Constitution allows us to deduct up to 1.5% of revenue for cultural or benevolent purposes. The Board of Directors approves the amount allocated for these purposes. We publicly invites applications for cultural support, and successful applications are approved by the Board following a recommendation process by a committee of the Board.¹⁷

We publish information about deductions in our Distribution Policy and on our website.¹⁸ Members also receive itemised information about deductions with each payment.

We publish information about expenses, including expense to revenue ratio for the financial year, in each year's Annual Report.

GOVERNANCE AND ACCOUNTABILITY (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**

¹⁵ <https://www.copyright.com.au/membership/payments/distribution-schedule/previous-distribution-schedules/>

¹⁶ <https://www.copyright.com.au/membership/administration-fees/>

¹⁷ There is information about Cultural Fund grants at www.copyright.com.au/cultural-fund.

¹⁸ www.copyright.com.au/admin-fees

(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.

In accordance with our Constitution, our Board includes directors elected by author, artist and publisher members respectively, and directors appointed by the Australian Society of Authors and Australian Publishers Association. The current directors, and the capacity in which they were elected or appointed, are [listed on Copyright Agency's website](#).¹⁹

Copyright Agency's financial records are audited annually.

Information about revenue, expenses and distribution of licence fees is included in each year's Annual Report.

Annual Reports, including the auditors' reports, are published on our corporate website, made available to members, provided to the Minister for Communications and the Arts, and tabled in Parliament.²⁰

We provide, on request, information to members about entitlement to payment, taking into account privacy and confidentiality obligations.

STAFF TRAINING (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.

Our procedures for staff awareness of the Code include:

- induction training for new staff on the Code requirements;
- policy documents implementing Code requirements on the company's intranet; and
- periodic updates to staff on Code requirements.

In addition, our policies and procedures regarding management of complaints and disputes are available from our corporate website.

¹⁹ <https://www.copyright.com.au/about-us/our-people/our-board/>

²⁰ www.copyright.com.au/annual-reports

EDUCATION AND AWARENESS (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.**

Education and awareness activities for our members, licensees and other stakeholders include:

- information on the new [Code of Conduct website](#), and communications to members, licensees and other stakeholders about that website;
- information on our corporate website and other websites;²¹
- eNewsletter to members and other stakeholders ('Creative Licence');
- Canvas eNews to visual arts stakeholders;
- social media channels, including Copyright Agency's Facebook pages²² and Twitter account;
- presentations at Copyright Agency events and other events;²³

²¹ Including rightsportal.com.au and resaleroyalty.org.au

²² facebook.com/CopyrightAgencyLimited; facebook.com/ResaleRoyalty; facebook.com/CulturalFund; twitter.com/CopyrightAgency

²³ Copyright and other events are listed on our website: www.copyright.com.au/events

- training for licensees participating in surveys of usage;
- engagement with industry and professional associations who represent members and licensees; and
- mainstream and specialist media (such as industry magazines and newsletters).

Copyright Agency also uses the above channels to provide information about:

- matters relating to membership, including eligibility, benefits, responsibilities, policies and procedures; and
- matters relating to licensing, including benefits, responsibilities, obligations under copyright law, policies and procedures.

Information on the website relating to membership includes:

- membership terms and conditions;²⁴ and
- information about distributions, including distribution policy, information about each distribution (such as the data used), and forthcoming distributions.

Information on the website relating to licensing includes:

- licences available for various sectors (e.g. business, not-for-profit, education);
- pay-per-use licences;
- plain English guides; and
- works excluded from voluntary licences.

We have also provided funding to other organisations to conduct copyright education and awareness activities, including to:

- Australian Copyright Council;
- National Association for the Visual Arts; and
- Australian Society of Authors.

REPORTING BY DECLARED COLLECTING SOCIETIES (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:

²⁴ www.copyright.com.au/membership-terms

(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).**

(c) In this clause 2.9:

Declared Collecting Society means a Collecting Society that has been declared under ss. 135P, 135ZZB or 153F of the Copyright Act 1968;

Statutory Licensee Class means:

- (i) the Commonwealth Government;**
- (ii) the State and Territory Governments;**
- (iii) schools;**
- (iv) universities;**
- (v) Technical and Further Education institutions; and**
- (vi) other educational institutions.**

Our Annual Reports provide the information set out in clause 2.9(a).

The Annual Reports also provide information regarding:

- classes of recipients of licence fees received from the schools, universities and government sectors respectively;
- allocations unpaid after four years from the education sector and government sector respectively, the reasons the allocations were unpaid, and the proportion of unpaid allocations attributable to each reason.

COMPLAINTS AND DISPUTES (CLAUSE 3)

(a) Each collecting society will develop and publicise procedures for:

- (i) dealing with complaints from Members and Licensees; and**
- (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.**

We have developed procedures for management of complaints and disputes that meet the requirements of Clause 3 of the Code. There is information about those procedures on our website.²⁵

We also have a client service charter, which is published on our website.²⁶

PUBLICITY AND REPORTING (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.

The Code is available on the new [Code of Conduct website](#), as is information about the annual review of compliance with the Code, the Code Reviewer's reports, and the triennial review of the Code.²⁷ Our website has a [webpage about the Code](#), with a link to the Code of Conduct website.

²⁵ copyright.com.au/client-service-standards

²⁶ copyright.com.au/service-charter

²⁷ www.copyright.com.au/code-of-conduct

We alert members and other stakeholders to the Code, the annual reviews of compliance and the triennial reviews of the Code text, in a number of ways including on our website,²⁸ and monthly eNewsletter ‘Creative Licence’.²⁹

We reference to our compliance with the Code in our Annual Reports.

²⁸ www.copyright.com.au/code-review-2013

²⁹ www.copyright.com.au/enews-june-2013

COMPLAINTS SUMMARY

Below is an anonymised summary of matters that may be regarded as complaints for the purposes of the Code:

an allegation that a collecting society's conduct has fallen short of a standard of conduct required of it by the Code

We have provided documentation regarding each matter in the annexure to this report, provided on a confidential basis to the Code Reviewer to assist him to make an assessment about our compliance with the Code.

COMPLAINTS IN 2018–19

Matter	Date	Issue	Status
#1	3/10/2018	Absence of payments to Member resulting from perceived deficiencies in surveys in schools and universities.	21/12/2018: letter from General Counsel addressing concerns raised by member. There has been no further communication.
#2	24/6/2019	The member's belief (also communicated in previous years) that his material is copied by schools before the start of term 1, when schools are not participating in surveys of usage.	26/6/2019: emails from Copyright Agency to Member responding to Member's questions, and referring him to the section of the Distribution Policy regarding discretionary payments. There has been no further communication.
#3	21/6/2019	<ul style="list-style-type: none"> withholding tax deduction made by Copyright Agency authorisation to include member's works in non-statutory licences 	18/7/2019: <ul style="list-style-type: none"> emails from Copyright Agency to Member responding to Member's questions additional information about scope of non-statutory licences managed by Copyright Agency
#4	5/6/2019	Review of Copyright Agency's distribution policies and processes for printed workbooks sold with a photocopying licence ('blackline masters').	9/7/2019: meeting with Member's Managing Director, explaining the reasons for the review and the member consultation process.
#5	24/6/2019	Reduction in payments to Member for illustrations in school textbooks.	27/6/2019: emails following by phone call with Member's husband explaining the reasons for the reduction.
#6	25/2/2019	Prospective licensee contacted the Office of the NSW Small Business Commissioner about aspects of the licence offered by Copyright Agency and settlement for past infringements. The Office contacted Copyright Agency.	22/3/2019: phone call between Copyright Agency and Office of NSW Small Business Commissioner, followed by email from prospective licensee confirming that it did not want to proceed with a licence.
#7	17/7/2019	Complaint from art market professional about artists' resale royalty payments that have not yet been passed on to artists, and that	19/7/2019: email and phone call to explain that some of the royalties in the report he was viewing had actually been paid (we have a systems upgrade

Matter	Date	Issue	Status
		Copyright Agency has not sought information from him to assist us to identify and locate those artists (as we have done in the past).	underway that is delaying reporting), and that some payments were taking longer than usual because of the systems upgrade. We also obtained information from him to identify some of the artists, and arranged to meet with him in August 2019.
#8	14/6/2019	Concern about reduction in payments from the school sector in 2019, following a concern raised previously about reduction in payment in 2018 compared to previous years.	23/7/2019: email addressing Member's questions and concerns. There has been no further communication.

FOLLOW UP TO 2017–18 REPORT

In his report on compliance with the Code for 2017–18, the Code Reviewer required Copyright Agency to provide follow up reports regarding five of the reported complaints.

Matter	Code Reviewer's request for follow up	Follow up
#1	I will take up with Copyright Agency developments between the time of its report to me and the date of this Report.	In January 2019, we reported to the Code Reviewer that we had emailed the Member's CEO to draw his attention to the Code Reviewer's report on compliance in 2017–18, and to ask if he would like to meet with Copyright Agency's CEO when he is next in Sydney. In July 2019, the Member's CEO met with Copyright Agency senior staff at Copyright Agency's offices to discuss a different matter that is covered in the report for 2018–19. Copyright Agency understands that the matter raised in 2017–18 has now been resolved.
#2	–	
#3	Although the result seems to have been satisfactory, the reporting of the complaint to the Code Reviewer was unclear. I will take up this issue with Copyright Agency.	We provided additional information to the Code Reviewer in December 2018, and acknowledged that this information should have been included in the original report.
#4	It is difficult to be unequivocal, but I do have some sympathy for the complainant. No doubt, Copyright Agency was correct as a matter of law (although I have not seen the contract) in asserting that a termination would take effect only on the following 31 December. By 13 March 2018 it was plain that the complainant did not wish to continue with the licence. It seems harsh that the contract would only allow a three-month written notice of termination which would take effect the following 31 December. It should be asked, What legitimate interest of Copyright Agency was that provision intended to protect? This is a question that Copyright Agency and its legal advisers should explore.	We advised the Code Reviewer in January 2019 that we were reviewing the termination arrangements in licence agreements, and would likely change those arrangements as a result of the review. We have since amended the agreements for individually licensed education institutions (that are copying and sharing content under the education statutory licence). The agreements now provide for a three-month notice period to terminate a licence agreement. This aligns with the three-month period for revocation of a remuneration notice for the education statutory licence, set out in the Copyright Act. The licensing staff also developed a communications plan, with the communications team, to ensure that licensees are aware that if they wish to terminate a rolling licence agreement, they should do so by 30 September.
#5	–	
#6	I will take up with Copyright Agency developments that may have occurred between the date of its report to me and the date of this Report.	We informed the Code Reviewer in January 2019 that there had been no further communication from the complainant. There has been no communication since then.

<p>#7</p>	<p>This complaint raises again the reasonableness of a lengthy cancellation period. In this case, however, the context of the settlement of litigation in which, apparently, the complainant was legally represented, is a distinguishing feature. Nonetheless, the reasonableness of the contract should be carefully considered by Copyright Agency and its legal advisers.</p>	<p>We advised the Code Reviewer in January 2019 that we were reviewing the termination arrangements in licence agreements, and would likely change those arrangements as a result of the review.</p> <p>The arrangements are now as follows:</p> <ul style="list-style-type: none">• Where a client on a six month cancellation notice clause terminates their agreement:<ul style="list-style-type: none">○ If they have paid for the Licence Year, we will provide a pro-rata refund past the termination point○ As it's a term in the existing agreement, our first position is that the six month notice period stands. We do consider this on a case by case basis and where the situation requires it, we will reduce the notice period to three months.• We have amended the licence templates:<ul style="list-style-type: none">○ all new licensees now have to provide three months notice rather than six○ all licensees who sign a new version of the licence agreement will have the three months notice period as a standard clause• We are also considering whether to further decrease the notice period for small licensees (such as sole traders, eisteddfod and religious organisations) to thirty days when those licence agreements will available for purchase via the RightsPortal.
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