

C©**PYRIGHTAGENCY**

Report to Code Compliance Reviewer on compliance with Collecting Societies Code of Conduct for 2020–21

t: 02 9394 7600

f: 02 9394 7601

Level 12, 66 Goulburn Street
Sydney NSW 2000

e: info@copyright.com.au

www.copyright.com.au

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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 2020–21.

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

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. It is provided to the Minister for Communications, Cybersecurity and the Arts, tabled in Parliament, and published on our website.¹

¹ 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. We have more than 38,000 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;² and
 - management of the artists' resale royalty scheme;³ 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](#).

² 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.

³ Copyright Agency was appointed by the Minister for the Arts, following an open tender process.

COMPLIANCE WITH THE CODE

LEGAL FRAMEWORK (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.**
- (b) **The Code does not apply to matters that are covered by the jurisdiction of the Copyright Tribunal of Australia, such as the determination of licence fees payable.**

In 2020–21, 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.⁴

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.⁵

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.**

⁴ copyright.com.au/about-us/governance/

⁵ copyright.com.au/about-us/governance/

- (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.**

Paragraph (a): eligibility for membership

Eligibility for membership is set out in Clause 2 of the Constitution. Creators and owners of copyright in Works and Published Editions (as defined in the Copyright Act) are eligible.

Membership is free. New members can apply for membership online.⁶

Applications for membership are approved by the Senior Management Team, under delegation from the Board, and reported to the Board.

Paragraph (b): treatment of members

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.

Paragraph (c): transparency of dealings with members

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

- information on our website;
- updates in our regular monthly member communications;
- social media posts;
- broadcast and one-on-one communications about changes to membership, distribution or payment arrangements;
- responding to enquiries in accordance with the Service Charter;
- secure online member accounts that enable members to review their membership, distribution and payment details; and
- information in our annual reports, which are published on our website.

Paragraph (d): availability of Constitution

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

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:**

⁶ members.copyright.com.au

- (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.

Paragraph (a): treatment of licensees

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 our 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.

Paragraph (b) transparency of dealings with licensees

Information on our website about licensing includes:

- plain English guides for different types of businesses;⁷
- plain English guides on our pay-per-use licences;⁸
- information for media monitoring organisation customers;⁹
- data processing protocols for schools, universities TAFE;¹⁰ and
- information in annual reports to the Minister.

We have data access arrangements with the Copyright Advisory Group to the Education Council (CAG) and Universities Australia (UA) 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, in accordance with data processing protocols agreed with CAG and UA. This information is taken into account (together with other matters) in licence fee negotiations.¹¹

Paragraph (c) Information about licences and licence schemes

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.

Paragraph (d): setting of licence fees

Our policies, procedures and conduct in connection with the setting of licence fees are fair and reasonable.

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 Education Council for most schools and TAFEs, and the Department of Infrastructure, Transport, Regional Development and Communications for the Commonwealth) rather than individual licensees.

We have individual licence agreements with more than 1,000 other education providers, such as registered training organisations, and with licensees for our voluntary licences.

We are awaiting determinations from the Copyright Tribunal regarding:

⁷ <https://www.copyright.com.au/licences-permission/commercial-licences/plain-english-guides/>

⁸ <https://www.copyright.com.au/licences-permission/commercial-licences/pay-per-use-plain-english-guides/>

⁹ <https://www.copyright.com.au/licences-permission/commercial-licences/information-mmo-customers/>

¹⁰ Surveys in schools have been ‘paused’ since March 2020, by agreement between Copyright Agency and Copyright Advisory Group to the Education Council. Future data collection arrangements from schools is currently before the Copyright Tribunal.

¹¹ Surveys in schools have been ‘paused’ since March 2020, by agreement between Copyright Agency and Copyright Advisory Group to the Education Council. Future data collection arrangements from schools is currently before the Copyright Tribunal.

- data collection arrangements and equitable remuneration relating to the 39 members of Universities Australia; and
- licence fees payable by two media monitoring companies – Meltwater and Isentia.¹²

Paragraph (e): acknowledgement of industry associations

We acknowledge the role of industry associations. These include Public Relations Institute of Australia, Australian Local Government Association, Association of Corporate Counsel, Early Childhood Australia and Independent Tertiary Education Council Australia.

Paragraph (f): consultation with industry associations

There were no new relevant terms and conditions for consultation with industry associations in 2020–21.

Paragraph (g): response to requests for licence fee methodology or factors

Where licensees requested further information in connection with negotiation of licence fees, we provided the information.

Paragraph (h): request for ADR

We did not receive any requests in 2020–21.

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.**
- (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**

¹² We reached a settlement agreement with a third media monitoring company, Stream.

- (ii) **publish ‘plain English’ guidelines on their distribution policy and make them available to Members and Licensees.**

Paragraph (a): distribution policy

We publish on our website:

- our distribution policy;¹³
- distribution schedule;¹⁴
- payment timetable (when payments are made to members’ bank accounts following processes such as their confirmation of entitlement to an allocation, or approval of a new member application);¹⁵
- information sheets about individual distributions;¹⁶ and
- deductions before distribution.¹⁷

Paragraph (b): distribution in accordance with distribution policy and Constitution

We distribute payments in accordance with our Constitution and distribution policy.

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’.

Paragraph (c): licensee requests regarding rights payments

In 2020–21, we did not receive any such requests, apart from any requests associated with legal proceedings in the Copyright Tribunal.

Paragraph (d): consultation with members and Plain English guidelines

In 2020–21, we consulted with author and publisher representatives, and informed members, about proposed changes to our methodology for distributing licence fees from schools in June 2021. This was partly related to the ‘pause’ of surveys in schools in March 2020, that we also informed members about. Communications included:

- July 2020 article in Creative Licence: “Supporting teachers and students during COVID-19 ([here](#))
- February 2021 article in Creative Licence: ‘Update on schools survey’ ([here](#))
- March 2021 article in Creative Licence: ‘An update on member payments’ ([here](#))
- Infosheet on 2021 distribution of licence fees from schools ([here](#))

Our distribution policy, and information sheets about individual distributions, are in Plain English.

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

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

¹⁵ <https://www.copyright.com.au/membership/payments/payment-timetable/>

¹⁶ <https://www.copyright.com.au/membership/payments/distribution-schedule/previous-distribution-schedules/>

¹⁷ <https://www.copyright.com.au/membership/administration-fees/>

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.**

Paragraph (a): expenses of managing and operating the society

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 methodology for deduction from licence fees for anticipated operating costs is described on the Fees webpage on our website.¹⁸ Members also receive itemised information about deductions with each payment.

The Board of Directors approves our annual operating budget, and reviews the budget at each Board meeting.

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

Paragraph (b): other amounts

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 invite applications for cultural support, and successful applications are approved by the Board following a recommendation process by a committee of the Board.¹⁹

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**
 - (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**

¹⁸ <https://www.copyright.com.au/membership/administration-fees/>

¹⁹ There is information about Cultural Fund grants at www.copyright.com.au/cultural-fund.

Paragraph (d): information to members

We provide reasonable information to members, at their request, about their entitlement to receive a payment.

Paragraph (e): information in annual report

Our annual reports provide information about:

- total revenue for the period;
- total amount, and nature of, expenses; and
- total amounts allocated and paid to members, including breakdowns by licence sectors.

Paragraph (f): information in annual publications

Our annual reports include information about the accounting and distribution of licence revenue, including:

- classes of Licensees from whom licence revenue was received;
- classes of Members to whom licence revenue was paid;
- categories of copyright material for which licence revenue was received; and
- domestic vs international payments of licence revenue.

Paragraph (g): information about expired undistributed funds

Our annual reports include information about expired undistributed funds, including:

- the reason/s why funds remain undistributed to rightsholders;
- the steps taken to locate rightsholders and distribute funds; and
- information on the allocation and use or proposed use of the funds.

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.

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.
- (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.

Paragraph (a): activities to promote awareness

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

- information on the [Code of Conduct website](#), and communications to members, licensees and other stakeholders about that website;
- information on our corporate website and other websites;²²
- eNewsletter to members and other stakeholders ('Creative Licence');
- Canvas eNews to visual arts stakeholders;
- social media channels, including Copyright Agency's Facebook pages²³ and Twitter account;
- presentations at Copyright Agency events and other events;²⁴
- training for licensees participating in surveys of usage;

²² Including rightsportal.com.au and resaleroyalty.org.au

²³ facebook.com/CopyrightAgencyLimited; facebook.com/ResaleRoyalty; facebook.com/CulturalFund; twitter.com/CopyrightAgency

²⁴ Copyright and other events are listed on our website: www.copyright.com.au/events

- 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 relating to membership on our website includes:

- membership terms and conditions;²⁵ 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.

We also create awareness of Copyright Agency and its role through sponsorship and publicity associated with grants from the Cultural Fund.²⁶ For example, in 2019–20, we supported the Educational Publishing Awards Australia (EPAAs)²⁷ and the Australian Reading Hour with (among others) the Australian Publishers Association and the Australian Library and Information Association.²⁸

Paragraph (b): factors affecting activities to promote awareness

Our activities to promote awareness are proportionate to the number of members and licensees we have, and our revenue.

We liaise with other Collecting Societies and some activities are done jointly from time to time. The Collecting Societies jointly support the services provided by the Australian Copyright Council, including information, advice and training on a large range of copyright issues.

²⁵ www.copyright.com.au/membership-terms

²⁶ <https://www.copyright.com.au/culturalfund/>

²⁷ <http://edpubawards.com/>

²⁸ <https://www.alia.org.au/ideas-campaigns-and-events-your-library/australian-reading-hour>

Paragraph (c): particular information about membership and licensing

Membership:

- our website includes a ‘Join Us’ webpage, with information about eligibility, benefits of membership and how to join;²⁹
- our membership terms are available on our website;³⁰
- policies and procedures affecting members are published on our website, including those relating to distributions and disputes.

Licensing:

- benefits of obtaining a licence are set out on our website, including a video for individually licensed education institutions³¹ and a webpage for businesses;³²
- information for licensees about their responsibilities is provided in training sessions, and is also available on our website, such as guidelines for online teaching;³³
- policies and procedures affecting licensees are published on our website, including those relating to applying for a licence (including where this can be done online).³⁴

Paragraph (d): guidelines about expired undistributed funds

There is a webpage about unpaid allocations on our website.³⁵

Paragraph (e): online portal for Code

With other collecting societies, we launched a website for the Code in July 2019:

<https://www.copyrightcodeofconduct.org.au/>. The site is jointly maintained by the societies.

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:**
- total licence fees received;**
 - income on investments of licence fees;**
 - total amount allocated and paid to Members;**
 - the total amount of licence fees held in trust; and**
 - total licence fees for which the trust period expired.**
- (ii) **the total expenses of the Declared Collecting Society.**
- (a) **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:**

²⁹ <https://www.copyright.com.au/membership/join-us/>

³⁰ <https://www.copyright.com.au/membership/join-us/terms-conditions-new-members/>

³¹ <https://www.copyright.com.au/licences-permission/educational-licences/independent-colleges/>

³² <https://www.copyright.com.au/faq-why-need-copyright-licence/>

³³ <https://www.copyright.com.au/licences-permission/educational-licences/online-teaching/>

³⁴ For example, link to online application on <https://www.copyright.com.au/licences-permission/educational-licences/independent-colleges/>.

³⁵ <https://www.copyright.com.au/membership/payments/unpaid-allocations/>

- (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).

Paragraph (a): information in annual reports

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

Paragraph (b): information about licensee classes and expired unpaid allocations

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 *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.

Paragraph (a): procedures for complaints and disputes

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.³⁶

We also have a client service charter, which is published on our website.³⁷

Paragraph (b): application of procedure to complaints

We apply the procedures to complaints.

Paragraph (c): procedures comply with ISO 10002

Our procedures comply with the requirements of Australian Standard ISO 10002 *Customer Satisfaction*.

Paragraph (d): review of procedures

We periodically review our procedures.

PUBLICITY AND REPORTING (CLAUSE 4)

(a) Each 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 about 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

³⁶ copyright.com.au/client-service-standards

³⁷ copyright.com.au/service-charter

(iii) **Report on the online portal referred to in Clause 2.8(e).**

Paragraph (a): publicising the 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.³⁸ Our website has a [webpage about the Code](#), with a link to the Code of Conduct website.

We alert members, licensees 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,³⁹ monthly eNewsletter ‘Creative Licence’, and specific email alerts.⁴⁰

In 2020–21, our notifications included:

- Item in Creative Licence newsletter, sent 30 June.
- Item in Education Plus newsletter, sent 15 July.
- Email to visual arts Arts licensees, sent 19 July.
- Item in Licence Plus newsletter, sent 22 July.

Paragraph (b): statement about Code compliance in annual reports

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

Paragraph (c): notification of contraventions

There have not yet been any findings of contravention.

³⁸ www.copyright.com.au/code-of-conduct

³⁹ www.copyright.com.au/code-review-2013

⁴⁰ 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.

Matter	Date	Issue	Status
#1	19/5/2021	Author member concerned about implications of distribution policy changes for authors	Author's formal complaint withdrawn following explanation of new policies and processes, and payment of moneys allocated to him.
#2	18/9/2021	Ongoing concern of artist member regarding cultural institutions not paying copyright fees to artists.	Artist felt his concerns were properly acknowledged in a phone call to him from the Visual Arts Manager.
#3	11/8/2021	Concern by an association of art market professionals about payment of resale royalties to artists via their agent.	We explained that we pay artists via their agent if they ask us to do that; otherwise we pay them directly.

FOLLOW UP ON CODE REVIEWER COMMENTS IN LAST REPORT

Matter	Issue	Code Reviewer's comments	Status update
#1	Resale royalties not passed on to artists in time.	The complaint seems to have been handled efficiently and courteously. Perhaps, however, the system could be improved if, at the first sign of a problem in identifying or locating the artist entitled, the gallery could be contacted for such assistance as it may be able to provide.	We are now regularly reviewing relevant artists with the art market professional.
#2	Unsuccessful applicant for Cultural Fund grant; uses of images by public galleries		The member's concerns about cultural institutions not paying copyright fees to artists were raised again in 2020-21: see #2 above for status.
#3	Incorrect details on invoice to art	Copyright Agency informs me that it has received no	We attempted to contact the art market professional on several occasions to

Matter	Issue	Code Reviewer's comments	Status update
	market professional	response to its attempts to contact the complainant.	confirm the details are now correct. We understand that it may have ceased trading in 2020.
#4	Payments from artist-owned images distribution	Copyright Agency informs me that there have been subsequent communications and that the matter is close to resolution.	The matter has now been resolved.
#5	Licence renewal	Copyright Agency reports that since there was no response to its email, the licence was cancelled in October 2020.	There have been no further developments.