

screenrights

**Report on compliance with the
Code of Conduct for Collecting Societies
for the year 2020-21**

ABN: 76 003 912 310
Level 1, 140 Myrtle St
Chippendale, NSW 2008
T: 02 8038 1300 | screenrights.org
info@screenrights.org

INTRODUCTION

This report covers Screenrights' compliance with obligations under the Code of Conduct for Copyright Collecting Societies in 2020-2021. It will be published on Screenrights' corporate website (www.screenrights.org) and the Code of Conduct website (www.copyrightcodeofconduct.org.au).

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

1. OVERVIEW OF SCREENRIGHTS

- 1.1 The Audio-Visual Copyright Society Limited, trading as Screenrights, was established in 1990 to be the declared collecting society for purposes of the statutory licence for the copying and communication of broadcasts by educational and other institutions under the then Part VA (now Part IVA Division 4) of the Copyright Act 1968 (Act). Under this Part, Screenrights also represents the owners of the copyright in sound recordings and cinematograph films (and works included in sound recordings and cinematograph films) for the purposes of the statutory licence in favour of educational institutions.
- 1.2 In addition, Screenrights is the sole collecting society for the collection of equitable remuneration for the retransmission of free-to-air broadcasts under Part VC of the Act.
- 1.3 Finally, Screenrights has also been declared to be the collecting society in respect of television, radio and internet broadcasts under the government copying scheme s183 of the Act (Copyright Agency is also declared for that purpose).
- 1.4 As at 30 June 2021, Screenrights had 4,897 members. Screenrights members are rightsholders in film and television programs, including producers, directors, scriptwriters, artists, production companies, distributors, sales agents, commercial collection agents, broadcasters and other collecting societies.
- 1.5 As at 30 June 2021, Screenrights had 1,530 licensees. Screenrights collects royalty payments from schools, universities, vocational training bodies, government agencies, TAFEs, resource centres, retransmitters and New Zealand schools and tertiary institutions, as shown in the following table:

Type of Entity	Number
Screenrights Members	4,897
Licensees	1,530
<i>Schools -- Government, Catholic Systemic, Independent -- Peak Bodies</i>	40
<i>Higher education including universities</i>	66
<i>Private Vocational Education/Training Organisation (inc ELICOS)</i>	26
<i>Government Agency</i>	424
<i>TAFE (including individual institutions and Departments representing multiple institutions)</i>	12
<i>Resource Centre</i>	6
<i>Retransmitter</i>	3
<i>NZ -- Tertiary</i>	30
<i>NZ – Schools</i>	921
<i>NZ – Resource Centre</i>	2

CODE COMPLIANCE

2 LEGAL FRAMEWORK

Code, Clause 2.1:

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

- 2.1 In 2020-2021, Screenrights has complied with the legal framework governing its operation as set out in Clause 2.1 of the Code, including the Guidelines for Declaration of Collecting Societies given that Screenrights is a declared society.
- 2.2 At a Meeting of Directors on 23 September 2020, the Board approved an amendment to the Corporate Governance Statement. A Diversity Statement was added as a new clause 12.2.
- 2.3 A copy of the updated Corporate Governance Statement can be accessed from Screenrights' website, along with other key governance documents, including the Constitution,¹ Privacy Policy,² and our dispute and complaints management procedures.³
- 2.4 The Screenrights Board is elected by the members in accordance with the Constitution. A list of current directors and the Screenrights executive team is available on the corporate website.⁴
- 2.5 Screenrights' Legal team oversees compliance with the legal framework governing its operation, including training of staff in relevant laws including privacy and workplace behaviour laws.
- 2.6 Screenrights made no material changes to any other documents relevant to the legal framework in 2020-2021.

3 MEMBERS

Code, Clause 2.2:

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

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

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

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

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

- 3.1 Membership of Screenrights remains free and open to all eligible rightsholders. Membership of Screenrights increased in the 2020 – 2021 year from 4,669 to 4,897 members.
- 3.2 Screenrights adopts policies, processes and practices to ensure that Members are treated fairly, honestly, impartially and courteously in accordance with the Screenrights Constitution and the Membership Agreement. This includes staff training such as a comprehensive induction process and Code of Conduct training.
- 3.3 Screenrights' Member Services team engages in frequent communication with members via phone and email and a HubSpot Live Chat feature on our online membership portal MyScreenrights, as well as meeting in person where possible.
- 3.4 Screenrights adopts a continuous improvement approach to information management and information systems in the interests of transparency and efficiency. We undertake numerous initiatives each year to improve the quality of information captured and the ease with which information can be provided to Screenrights by its members. We also undertake initiatives to streamline information processing within our in-house systems to deliver efficiencies to royalty distribution.
- 3.5 Some of the key initiatives in 2020-2021 include:
- (a) Improvements to MyScreenrights online membership portal. After a system rebuild last year, Screenrights was able to continue to customise the website based on internal requirements and member feedback.
 - (b) Improvements to in-house systems, by way of an upgrade of Screenrights' in-house application used to collect, store and manage member claims to royalties. The new application includes a range of new features to support the efficient management of information.
 - (c) The leveraging of AI, as Screenrights integrated a third-party machine learning platform that enables early identification of competing claims to royalties. This allows members more time to resolve claims before the expiration of royalties.

4 LICENSEES

Code, Clause 2.3:

- (a) *Each Collecting Society will treat Licensees fairly, honestly, impartially, courteously, and in accordance with its Constitution and any licence agreement.*
- (b) *Each Collecting Society will ensure that its dealings with Licensees are transparent.*
- (c) *Each Collecting Society will:*

- (i) *make available to Licensees and potential Licensees information about the licences or licence schemes offered by the Collecting Society, including the terms and conditions applying to them, and about the manner in which the Collecting Society collects remuneration and/or licence fees for the use of copyright material; and*
- (ii) *to the extent it reasonably can, having regard to the complexity of the questions of fact and law necessarily involved, take steps to ensure that all licences offered by the Collecting Society are drafted so as to be plainly understandable to Licensees, and are accompanied by practical and suitable explanatory material.*
- (d) *Each Collecting Society's policies, procedures and conduct in connection with the setting of licence fees for the use of copyright material will be fair and reasonable. In setting or negotiating such licence fees, a Collecting Society may have regard to the following matters:*
 - (i) *the value of the copyright material;*
 - (ii) *the purpose for which, and the context in which, the copyright material is used;*
 - (iii) *the manner or kind of use of the Copyright Material;*
 - (iv) *any relevant decisions of the Copyright Tribunal; and*
 - (v) *any other relevant matters.*
- (e) *The Collecting Societies acknowledge the important role played by relevant industry associations in relation to the formulation of terms and conditions applying to licences or licence schemes offered by some Collecting Societies.*
- (f) *Each Collecting Society will where appropriate consult in good faith with relevant industry associations in relation to the terms and conditions applying to licences or licence schemes offered by the Collecting Society.*
- (g) *Each Collecting Society will, in response to a reasonable request, make available to a Licensee or potential Licensee:*
 - (i) *the methodology for calculating the licence fees applicable to that Licensee or potential Licensee; and*
 - (ii) *matters taken into consideration in determining the licence fee to the extent that such information is not commercial-in-confidence and does not otherwise directly affect a commercial negotiation between the Collecting Society and the Licensee or potential Licensee.*

The Code Compliance Reviewer is able to consider whether a request or a Collecting Society's response to it has been reasonable.
- (h) *A Collecting Society may not unreasonably refuse a request from a Licensee to engage in an alternative dispute resolution (ADR) process in respect of a licensing dispute. Whether a Collecting Society has acted reasonably in response to a request made pursuant to this clause is a matter for consideration by the Code Compliance Reviewer in their annual report on the Collecting Societies' compliance with the Code.*

- 4.1 Screenrights adopts policies, processes and practices to ensure that licensees are treated fairly, honestly, impartially and courteously in accordance with the Screenrights Constitution and the Membership Agreement.
- 4.2 Screenrights' approach to licensees is built on respect for their needs with the goal of ensuring that they receive fair value while maintaining equitable remuneration for members. Most negotiations of licence agreements are conducted with peak bodies, except in the case of retransmission where the licensees are substantial commercial organisations.
- 4.3 Screenrights' corporate website contains a Screenrights Licences section where we provide information about the licences available, and what uses are covered by the

licences.⁵ Further, in relation to the Australian educational statutory licence, information is provided for educators on accessing educational content.

- 4.4 For the educational statutory licence, Screenrights generally negotiates with bodies that represent a group of licensees such as Universities Australia and the Copyright Advisory Group to the COAG Education Council for schools and TAFES.
- 4.5 The educational scheme agreement covering 98% of Australian schools expired on 31 December 2020. While the terms of a new agreement to 31 December 2024 have been largely agreed in principle, and the Agreement is anticipated to be executed in the third quarter of 2021.
- 4.6 For the government statutory licence, Screenrights deals with the Department of Infrastructure, Transport, Regional Development and Communications for the Commonwealth and with a collective representative group for the States and Territories. New Government Copying agreements to include internet copying have been executed by the State of Victoria and the Australian Capital Territory and Tasmania. The remaining States and Territories are in the process of being finalised as at the end of this reporting period. A variation to extend the agreement with the Commonwealth was executed in June 2020.
- 4.7 In relation to retransmission statutory licences, Screenrights largely deals with Foxtel. The remuneration agreement with Foxtel expired on 31 December 2019, and the parties have not been able to reach an agreement on the amount of equitable remuneration payable for the retransmission of free to air broadcasts under a new agreement. Accordingly, on 22 July 2020, Screenrights filed an application in the Copyright Tribunal for a determination of the equitable remuneration payable by Foxtel. The litigation has been ongoing and it is expected that the final hearing will take place in or around March 2022. An agreement for an interim payment was reached on 6 October 2020. More information can be provided upon request.
- 4.8 A primary transparency factor in dealings with licensees is the availability of usage data, which forms a key part of licence negotiations. Screenrights provides all relevant usage data to the licensees. This is the same data that Screenrights uses for its distribution purposes.
- 4.9 Detailed usage data for each University is provided to Universities Australia (UA) annually as required under the Universities Agreement established in 2018/19. The usage data determines the amount of equitable remuneration payable and is provided by UA to all Universities for transparency.
- 4.10 A Remuneration Notice is required to be completed by any new licensee under the statutory educational licence. The methodology for calculating the amount of equitable remuneration payable by an educational institution is included in the Remuneration Notice.

5 DISTRIBUTION OF REMUNERATION AND LICENCE FEES

Code, Clause 2.4:

- (a) *Each Collecting Society will maintain, and make available to Members on request, a Distribution Policy that sets out from time to time:*

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

- (i) *the basis for calculating entitlements to receive payments from remuneration and/or licence fees collected by the Collecting Society (Revenue);*
 - (ii) *the manner and frequency of payments to Members; and*
 - (iii) *the general nature of amounts that will be deducted from Revenue before distribution.*
- (b) *Each Collecting Society will distribute payments to its Members in accordance with its Constitution and Distribution Policy.*
- (c) *Each Collecting Society will, in response to a reasonable request by a Licensee or their representative, provide more detailed information about particular rights payments made pursuant to a licence. Such information should only be provided to the extent that it is not commercial-in-confidence and does not otherwise directly affect a commercial negotiation between the Collecting Society and the Licensee or potential Licensee. Such information is to be provided:*
- (i) *on an anonymised basis; and*
 - (ii) *where the Collecting Society can do so at a reasonable cost.*
- The Code Compliance Reviewer is able to consider whether a request or a Collecting Society's response to it has been reasonable.*
- (d) *Each Collecting Society will:*
- (i) *consult with Members prior to making any substantive changes to their distribution policy; and*
 - (ii) *publish 'plain English' guidelines on their distribution policy and make them available to Members and Licensees.*

- 5.1 In 2020-2021, Screenrights distributed payments in accordance with its Distribution Policy and Constitution.
- 5.2 No substantive changes were made to the Distribution Policy in 2020-2021. A copy of the Distribution Policy can be accessed from Screenrights' corporate website.⁶
- 5.3 Under the Distribution Policy, royalties relating to the 2015, 2016 and 2017 distribution years expired on 30 June 2021. This signified Screenrights' change from a six-year distribution period to a four-year distribution period.
- 5.4 All undistributed royalties from the 2015, 2016 and 2017 years have been rolled over to the 2021 distribution year. Any royalties still in dispute from the aforementioned years have moved into the Competing Claims Fund year (CCF), which allows members an additional 12 months to resolve their competing claims to the royalties.
- 5.5 Screenrights has published 'Plain English' guidelines on the Distribution Policy which set out how royalties are calculated in detail. These guidelines are also available on the corporate website.⁷

6 COLLECTING SOCIETY EXPENSES

Code, Clause 2.5:

Each collecting society will deduct from its total revenue:

- (a) *the expenses of managing and operating the collecting society; and*

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

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

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

- 6.1 Screenrights' Board approves the annual operating Budget, and an updated financial report which compares actuals to Budget is reviewed at each Board meeting.
- 6.2 Expenses for the year ended 30 June 2021 were approximately 15.87% of gross revenue subject to audit review. The audited figure will be in Screenrights' Annual Report.
- 6.3 Screenrights' operating costs associated with its licensing schemes are met from revenue. In some cases a fixed percentage is deducted, but otherwise the deductions are generally based on actual costs. Members receive itemised reports about deductions along with payments.
- 6.4 Detailed information on Screenrights' expenses including the expenditure to collections ratio for the financial year 2020/2021 will be found in Screenrights' Annual Report, where a comparison with the years 2018/2019 and 2019/2020 will be depicted. This report will be available in early October 2021.

7 GOVERNANCE AND ACCOUNTABILITY

Code, Clause 2.6:

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

- (g) *Each Collecting Society will provide detailed annual reporting of expired undistributed funds, including:*
- (i) *the reason/s why funds remain undistributed to rightsholders;*
 - (ii) *the steps taken to locate rightsholders and distribute funds to; and*
 - (iii) *detailed information on the allocation and use or proposed use of the funds by the Collecting Society for which funds are to be applied.*

- 7.1 In 2020-2021, Screenrights has complied with the requirements of Clause 2.6. Screenrights' Board acted in accordance with the Constitution and Corporate Governance Statement in being accountable to members. The current directors on the Board are listed on our corporate website.⁸
- 7.2 The Audit and Risk Committee of the Board met 3 times in 2020-2021. Its principal functions are to ensure that accounting records are maintained in accordance with statutory requirements, to ensure that financial controls are sufficient, to review the operational and strategic risk assessments, and to review the financial statements and consult with the external auditors.
- 7.3 Screenrights maintains complete financial records every year. Where requested by a member, Screenrights provides information about their entitlements to receive payment from Screenrights consistent with obligations under privacy law and any applicable duties of confidentiality.
- 7.4 Screenrights' Annual Report for 2020/2021 will be available in early October 2021, including the audited accounts as at 30 June 2021. Each Annual Report of Screenrights contains the matters set out in clause 2.6(e) – (g) of the Code including revenue, expenses and distribution of payments to Members.
- 7.5 Annual Reports are published on our corporate website. A copy is provided to the Minister for Communications and the Arts and is tabled in Parliament.

8 STAFF TRAINING

Code, Clause 2.7:

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

- 8.1 Screenrights has taken reasonable steps to ensure that employees and agents are aware of and comply with the Code of Conduct.
- 8.2 Staff training on the Code is conducted annually. Amongst other things, Screenrights' Code of Conduct training session familiarises staff with complaints handling procedures, Screenrights' alternative dispute resolution procedures for disputes between Screenrights and licensees, between Screenrights and members and between members and members. A refresher training on Privacy Law was delivered at the same time as Code training. The importance of compliance with the Code is also emphasised to staff in induction training. A

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

copy of the 2020-2021 Code training materials for staff is attached for the Code Reviewer's consideration as **Appendix A**.

- 8.3 Further, any updates on Code requirements are communicated to staff in regular staff meetings.
- 8.4 The relevant information is also made available on Screenrights' corporate website.

9 EDUCATION AND AWARENESS

Code, Clause 2.8:

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

- 9.1 In 2020-2021, Screenrights continued to provide information about its services and royalty distribution schemes, policies and procedures via Screenrights' corporate website. Screenrights created animated explainer videos to support the communication of this information during this period. Screenrights' governance, financial and data information is also available on the corporate website.⁹
- 9.2 Screenrights also continued to promote its role and functions as a Copyright Collecting Society by sponsoring and participating either through a speaking engagement, digital/online representation, or providing attendees with communications material about Screenrights at the following events:
- (a) Australian Directors' Guild (ADG) Awards, October 2020
 - (b) Australian Writers Guild "AWGIES" Awards, December 2020
 - (c) Screen Production and Development Association (SPADA) Screen Industry Awards, October 2020
 - (d) Screen Forever (run by Screen Producers Australia), February 2021
 - (e) Australian International Documentary Conference, February/March 2021
 - (f) Doc Edge Forum, May 2021
 - (g) The Regional to Global Screen Forum (run by Northern Rivers Screenworks), March 2021
- 9.3 Screenrights has also continued its Cultural Fund competitive grant program in 2020 and 2021. The Cultural Fund was established in 2018 to support innovative projects that foster the creation and appreciation of screen content in Australia and New Zealand, and awards up to \$50,000 per initiative. Screenrights promotes the Cultural Fund on the corporate website¹⁰ and through a dedicated marketing and communications campaign.
- 9.4 Screenrights has published Plain English guidelines on how its undistributed funds are allocated in compliance with Clause 2.8(d) on the Screenrights website.¹¹

10 REPORTING BY DECLARED COLLECTING SOCIETIES

Code, Clause 2.9:

- (a) *The Annual Report of a Declared Collecting Society shall include the following information in relation to each statutory licence for which the society is declared, for the financial year to which the Annual Report pertains:*
- (i) *For each Statutory Licensee Class:*
 - A. *total licence fees received;*
 - B. *income on investments of licence fees;*
 - C. *total amount allocated and paid to members;*
 - D. *the total amount of licence fees held in trust; and*
 - E. *total licence fees for which the trust period expired.*
 - (ii) *the total expenses of the Declared Collecting Society.*
- (b) *A Declared Collecting Society will, upon request from a representative of a Statutory Licensee Class, provide the following information to the extent that it can do so at a reasonable cost:*

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

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

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

- (i) *proportions to classes of recipients from the distribution of licence fees from the Statutory Licensee Class;*
- (ii) *for each of the total amounts referred to in clause 2.9(a)(i)(E), the proportion not paid to rights holders due to:*
 - A. *the entitled member not being located;*
 - B. *the relevant rights holder not being a member;*
 - C. *entitlement disputes;*
 - D. *the amounts being below the distributable threshold; and*
 - E. *other reasons (which reasons the Declared Collecting Society may elect to specify).*

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

11 COMPLAINTS AND DISPUTES

Code, Clause 3

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

- (d) *Each Collecting Society will regularly review its complaint handling and dispute resolution procedures to ensure that they continue to comply with the requirements of this Code.*

- 11.1 Screenrights' procedures with respect to Clause 3 of the Code are available in the Corporate Governance section of our corporate website, including information on complaints handling procedures, procedures for disputes between Screenrights and licensees and disputes between Screenrights and members.¹² Through the yearly Code of Conduct training and in staff inductions, Screenrights ensures that staff are trained to understand that responding to complaints and resolving disputes in a timely manner is a key priority for Screenrights.
- 11.2 Screenrights received one formal complaint from a member in the 2020-2021 period, in addition to one informal complaint. More information about these complaints are set out in the Complaints Summary below.
- 11.3 In 2020-2021, Screenrights made no substantive changes to its Competing Claims Resolution Procedures (CCRP). The CCRP is available on the Screenrights corporate website.¹³
- 11.4 In the year ended 30 June 2021, Screenrights received over 137,000 claims to royalties, bringing total member claims to over 1.6 million. Over the same period, Screenrights opened competing claims involving 497 series and 1,894 one-off programs, and notified members of these competing claims via the MyScreenrights portal.
- 11.5 As at this date, competing claims have been closed for 228 series and 645 one-off programs. No requests were received from members for an Expert Determination.

12 PUBLICITY AND REPORTING

Code, Clause 4:

- (a) *The Collecting Society will:*
- (i) *take appropriate steps to publicise this Code and the fact that it has agreed to be bound by it; and*
 - (ii) *make copies of the Code available to Members, Licensees and the general public on request.*
- (b) *Each Collecting Society will include in its Annual Report a statement on its compliance with this Code.*
- (c) *If the Code Compliance Reviewer reports a finding, in a report prepared under clause 5.1(d), that a Collecting Society has contravened the Code, that Collecting Society will notify its Members and Licensees of the contravention by means such as:*
- (i) *Notification of the contravention published on the Collecting Society's website;*
 - (ii) *Report of the contravention itemised in the Collecting Society's annual report; and*
 - (iii) *Report on the online portal referred to in Clause 2.8(e).*

- 12.1 Screenrights publicises the Code and our undertaking that we have agreed to be bound by it on Screenrights' corporate website.

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

¹³ <https://www.screenrights.org/wp-content/uploads/2019/10/Screenrights-CCRP.pdf>

- 12.2 In the reporting period, Screenrights published our 2019/2020 Annual Compliance Report to the Code Reviewer on our corporate website. Past Code of Conduct Compliance Reports and Triennial Reviews of the Code of Conduct are also published on the corporate website for members and licensees and other interested stakeholders.¹⁴ We also communicate about the Code via our newsletters.
- 12.3 Our corporate website links to the new Code of Conduct website, where a copy of the Code can be accessed,¹⁵ and also contains the notice for any interested party to make a submission to the Code Reviewer with respect to the Collecting Societies' compliance with the Code of Conduct.¹⁶
- 12.4 Screenrights includes a statement in its Annual Report (under "Governance") that it complies with the Code.

13 ANNUAL COMPLIANCE MONITORING AND REPORTING

Code, Clause 5.2(c)

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

- 13.1 In 2020-21 Screenrights upgraded its in-house application used to collect, store and manage claims to royalties for film and television titles. The new application includes a range of new features for the efficient management of claim information.
- 13.2 Screenrights also integrated a third-party machine learning platform to leverage AI in the identification of competing claims. The use of AI in data processing pipelines means members will be notified sooner about their competing claims and will have more time to resolve the competing claim before royalties are due to expire.

¹⁴ <https://www.screenrights.org/about-us/corporate-governance/>

¹⁵ <https://www.copyrightcodeofconduct.org.au/>

¹⁶ <https://www.screenrights.org/wp-content/uploads/2021/06/Notice-of-Code-Review-2021.pdf>

COMPLAINTS SUMMARY

Set out below is a summary of matters that occurred in 2020-2021 may be considered complaints made against Screenrights for the purposes of the Code. The summary is anonymised for the purposes of the publication of this report, but we provide further detail in **Appendix B** on a confidential basis to the Code Reviewer to assist in assessing whether Screenrights has complied with the Code.

ID No	Date of Complaint	Issue of Complaint	Status of complaint
C1	21 March 2021	A member commenced proceedings against Screenrights in the Federal Court in relation to alleged uses of films that the member had registered with Screenrights.	The proceedings were discontinued by way of a Notice of Discontinuance. There has been no further contact.
C2	19 April 2021	A delay in making a payment to a member in relation to a resolved competing claim.	The issue was resolved by way of payment being released at an earlier date, and the member was satisfied with the outcome.

No other Code-related complaints were received by Screenrights during the 2020-2021 year.

APPENDIX A

CODE OF CONDUCT

STAFF TRAINING 2021



BACKGROUND

- Screenrights (and other copyright collecting societies) agreed to a Code of Conduct following key recommendations in the [1999 Review of Australian Copyright Collecting Societies](#) conducted by Shane Simpson.
- The Code came into effect in 2002.
- Purpose is to facilitate efficient and fair outcomes for members and licensees of Copyright Collecting Societies.

OBJECTIVES OF THE CODE

Educate

- About Copyright
- Function of Collecting Society

Represent

- Interests of Members
- Interests of Licensees

Assist

- Remuneration of copyright
- Fair and low cost resolution procedures

MAIN OBLIGATIONS



OBLIGATIONS

Screenrights' Constitution

Copyright Act 1968

The Code is one element
of a broader legal and
regulatory framework

Privacy Act 1988

Attorney-General's
Guidelines for Declared
Collecting Societies

MEMBER SERVICES

- Ensure **membership is open to all eligible creators** of copyright material or anyone who owns rights to the copyright material
- **Provide a copy** of the Constitution to a member upon membership, or at any time on request.
- **Consult with members** prior to making any substantive changes to our distribution policy

LICENSING

- Fair and reasonable licence fees, having regard to the value of copyright material and its use.
- Make available to a Licensee matters and methodology in determining licence fees upon request

DISTRIBUTION

- Publish **Distribution Policy** to outline basis for calculating entitlements and deduction of fees
- If a Licensee makes a reasonable request, must provide **detailed and anonymised information** about rights payments
- Publish **plain English guidelines** on our distribution policy for Members
- Report on steps taken to improve **capture and exploitation of data**

MANAGEMENT

- Maintain proper and complete **financial records** and reports
- Provide annual reporting of **expired undistributed funds**
- Provide **detailed and anonymised information in annual reports** about the distribution of licence revenue

COMPLAINTS



DEFINITION

“A complaint means an allegation that a Collecting Society’s conduct has fallen short of a standard of conduct required of it by the Code”

E.g. Collecting Society has not responded within a reasonable time to correspondence

E,g. Collecting Society has been rude in dealing with a complainant

WHAT THE CODE SAYS ABOUT COMPLAINTS HANDLING PROCEDURES:

Complaints Handling Procedure

```
graph TD; A[Complaints Handling Procedure] --> B[Have one]; B --> C[Publicise it]; C --> D[Help people use it]; D --> E[Have the resources to administer it];
```

Have one

Publicise it

Help people use it

Have the resources to administer it

WHAT IT LOOKS LIKE:

Complaints Handling Procedure

Screenrights has developed a Complaints Handling Procedure to ensure that complaints are handled in an efficient, fair and clear manner.

How do I make a complaint?

If you have a complaint about any aspect of Screenrights' business or operations you should put your complaint to Screenrights in writing, stating the name and address of the person or organisation making the complaint.

What information should a complaint contain?

To enable Screenrights to respond efficiently, fairly and clearly to a complaint, a written complaint must clearly state the following:

- the name and address of the person or organisation making the complaint;
- the nature of the practice complained of, which may include matters such as:
 - distribution policies;
 - licence fees;
 - the standard of service provided; or
 - the transparency of Screenrights operations;
- the reason for the complaint;
- the outcome sought by the complainant;
- and must include any supporting material which may assist in dealing with the complaint.

Who should complaints be addressed to?

Who can make a complaint?

Any person or organisation who has dealings with Screenrights can make a complaint. This includes, members, licensees, or other stakeholders. Screenrights will not respond to anonymous complaints.

Can Screenrights assist me in making a complaint?

Yes, Screenrights will provide assistance with formulating and lodging a complaint if required.

Dealing with complaints

The following sets out Screenrights' Complaints Handling Procedure:

- Screenrights will acknowledge receipt of the complaint within 7 days of receipt;
- Screenrights will respond to the complaint in writing within 14 days of acknowledging receipt; and
- Screenrights will maintain a register of complaints made and the responses given by Screenrights to those complaints.

What if I am unhappy with Screenrights' response?

Screenrights always endeavours to act fairly and transparently in addressing complaints. If however you are unhappy with the response you have received and wish to take the matter further, you will have a further 21 days from the receipt of Screenrights' response to request

SCREENRIGHTS INFO SHEET

WHERE IT LIVES:

CORPORATE & GOVERNANCE

Home » About Us » Corporate & Governance

Policies & Guidelines

Guidelines for Collecting Societies

- Declaration of Collecting Societies – Guidelines

Articles of Association

- Memorandum & Articles of Association

Distribution Policy

- Distribution Policy

Competing Claim Resolution Procedures

- Express Resolution Process
- Alternative Dispute Resolution (ADR) Procedure for Competing Claims
- Member Request for Independent Expert Decision
- Screenrights Initiated Expert Decision

Complaints Procedure

- Complaints Handling Procedure

THIS IS HOW IT WORKS

WHO

- Any person or organisation who has dealings with Screenrights

HOW

- Complaint in writing
- Screenrights to acknowledge receipt within 7 days
- Screenrights to respond within 14 days of acknowledging receipt

WHAT

- Complainant name and address
- Nature of practice complained of (distribution/licensing etc)
- Reason for complaint
- Outcome sought
- Screenrights must maintain a register of complaints

DISPUTES



TYPES OF DISPUTES

SR v Licensee

Disputes
between
Screenrights
and its
Licensees

SR v Member

Disputes
between
Screenrights
and its
Members

Member v Member

Disputes
between
Member
(Competing
Claims)

SCREENRIGHTS V LICENSEES

A Licensee may request ADR where there is a dispute over the terms of an existing licence agreement.

Screenrights may not unreasonably refuse a request from a Licensee to engage in Alternative Dispute Resolution

MEDIATION

- Screenrights pays costs of mediator
- Licensee pays its own costs of the mediation
- Disputes over the amount of the amount of equitable remuneration is dealt with by the Copyright Tribunal

Alternative Dispute Resolution Procedure Disputes Between Screenrights And Its Licensees

Note: This policy does not cover matters of the quantum of equitable remuneration payable by a licensee.

Background

The establishment of appropriate alternative dispute resolution procedure is a requirement under paragraph 3 (c) (viii) of the Code of Conduct for Copyright Collecting Societies.

From time to time, disputes may arise between Screenrights and its licensees. Screenrights recognises the right of licensees to apply to the Copyright Tribunal for the resolution of disputes that involve rates of remuneration, and also in respect of the sampling systems used to monitor copying by licensees.

Screenrights recognises that it is also open for licensees to bring an action in either the Federal or Supreme Court should they wish to do so. Screenrights has established the following mediation procedure in order to resolve disputes with licensees. The mediation process will be cost effective and faster for both parties than resorting to litigation. Screenrights is committed to this process and undertakes to provide the necessary resources so that the process is an efficient and effective means by which disputes can be resolved.

The mediation procedure is available only to Screenrights licensees, not prospective licensees. Disputes in relation to or in connection with any negotiations between Screenrights and a prospective licensee are strictly excluded from these mediation procedures. Mediation is not available to resolve disputes on any matters of the quantum of equitable remuneration payable by a licensee.

The mediation procedure may be invoked where there is a dispute over the terms of an existing licence agreement; for example with regard to the manner in which licensees are invoiced, or the provisions in respect of enrolment details to be provided by licensees. Such disputes may arise out of confusion over the terms of the agreement between Screenrights and the licensee.

Mediation sessions will be chaired by an independent expert ("the Mediator") with skills and experience in mediation techniques. This Mediator will be selected by an independent body and paid for by Screenrights. Mediation will take place at a venue and time suitable to all parties: Screenrights, the licensee and the Mediator.

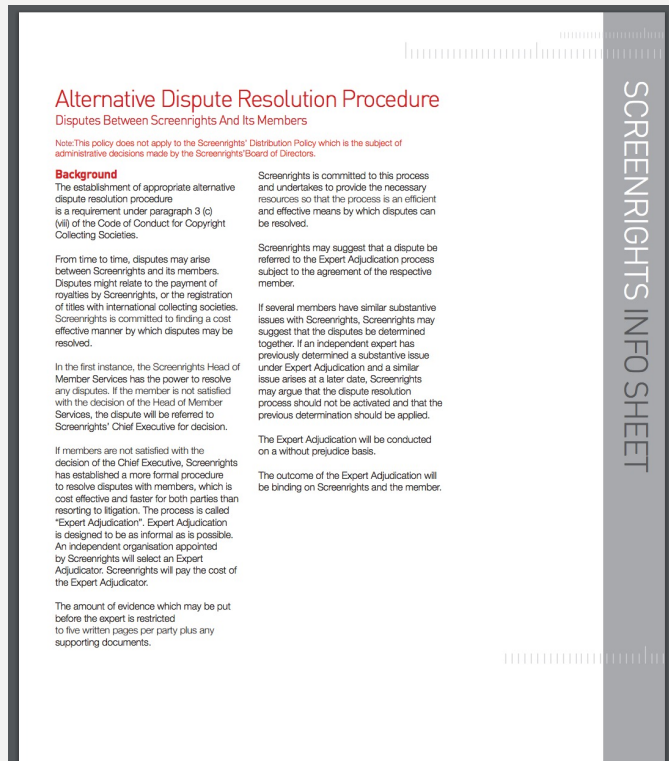
The aim of the mediation will be to facilitate negotiations between the parties. The Mediator will remain independent at all times. The mediation will be conducted on a without prejudice basis.

At any time during the mediation either party may elect to withdraw from the process.

If several licensees have similar substantive issues with Screenrights, Screenrights may suggest that the disputes be mediated together, however licensees are not obliged to accept mediation on this basis.


If neither party opts to withdraw from the process and the mediation is carried to a conclusion, Screenrights undertakes that the outcome of the mediation will be binding on it and an agreement will be entered into between the parties reflecting the decision reached, resulting from the mediation.

SCREENRIGHTS V MEMBER



- Where there is a dispute between Screenrights and a member, it can be resolved by **Head of Member Services**
- If not, referred to CEO
- If this is not suitable, dispute is referred to Independent Expert for Expert Adjudication
- Doesn't cover disputes over Screenrights' Distribution Policy

MEMBER V MEMBER



Effective Date: 1 September 2019

Screenrights' Competing Claim Resolution Procedures (CCRP)

Overview

Set out below are options for resolution of Competing Claims in order of application, if required.

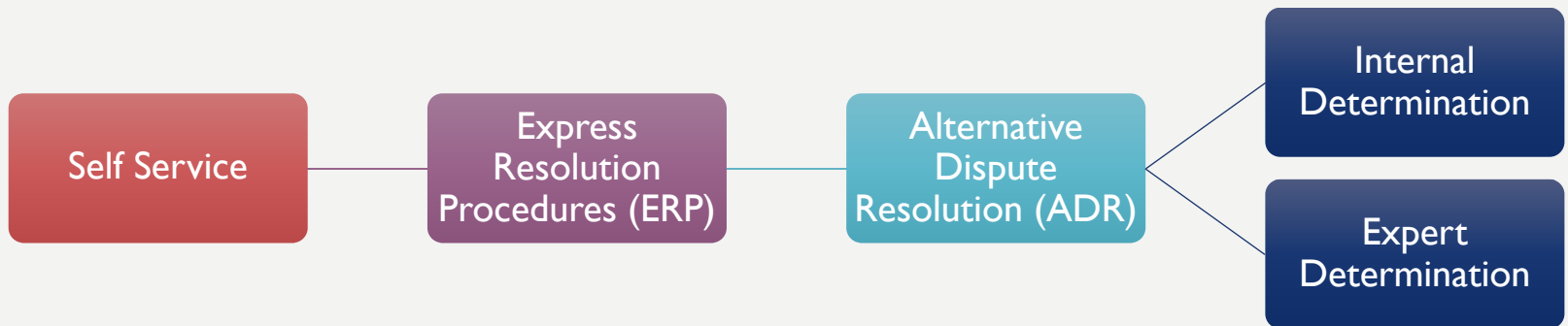
Self Service
Informal approaches to resolution by the parties, including temporary resolution.
see page 3.

Express Resolution Process (ERP)
A framework for the timely resolution of non-complex Competing Claims utilising a simple set of Presumptions.
see pages 4-7.

Alternative Dispute Resolution (ADR) Procedure
Internal Determination and Expert Determination pathways where a Competing Claim has not been resolved between the parties using a Self Service option or via the ERP where applicable.
see pages 8-14.

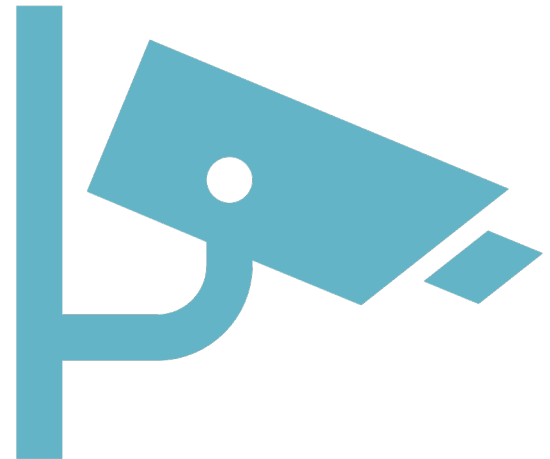
- Screenrights encourages members to resolve the competing claim **between themselves**
- If the parties cannot resolve themselves, Screenrights offers **various pathways** to members to assist them to resolve the competing claim

CURRENT COMPETING CLAIMS RESOLUTION PATHWAYS



PRIVACY

AUSTRALIAN PRIVACY LAW
TRAINING 2021



PRIVACY LAW

Schedule I of the *Privacy Act 1988* contains the

Australian Privacy Principles (APPs)

Administered by the Office of the Australian Information Commissioner (OAIC)

APPs apply to Australian government agencies, private sector, some small businesses...

And not-for-profit organisations with annual turnover more than \$3 million (which means **Screenrights!**)

AUSTRALIAN PRIVACY PRINCIPLES (APP)

Consideration of personal information privacy

1. Open and transparent **management** of personal information
2. **Anonymity** and **pseudonymity**

Collection of personal information

3. **Collection** of solicited personal information
4. Dealing with **unsolicited** personal information
5. **Notification** of the collection of personal information

Dealing with personal information

6. **Use** or **disclosure** of personal information
7. Direct **marketing**
8. **Cross-border** disclosure of personal information
9. Adoption, use or disclosure of **government related identifiers**

Integrity of personal information

10. **Quality** of personal information
11. **Security** of personal information

Access to and correction of personal information

12. **Access** to personal information
13. **Correction** of personal information

PERSONAL INFORMATION

Personal information means **information** or an **opinion** about an **identified** individual or an individual who is **reasonably identifiable**...

...whether the information or opinion is true or not

...whether the information or opinion is recorded in a material form or not

WHAT IS PERSONAL INFORMATION?

Name	Health	Political Opinions	Telephone Number	Signature
Sexual Orientation	Bank Details	Address	Race/Ethnicity	Date of Birth
Criminal Record	Employment Details	Email	Comment/Opinion About Person	Religious Beliefs

WHAT IS SENSITIVE PERSONAL INFORMATION?

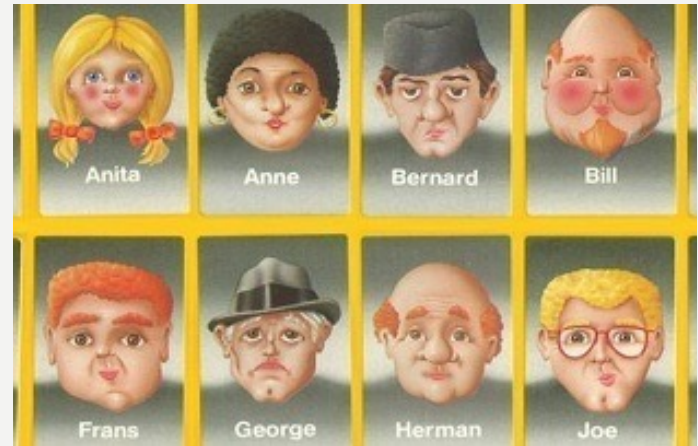
Name	Health	Political Opinions	Telephone Number	Signature
Sexual Orientation	Bank Details	Address	Race/Ethnicity	Date of Birth
Criminal Record	Employment Details	Email	Comment/Opinion About Person	Religious Beliefs

'REASONABLY IDENTIFIABLE'

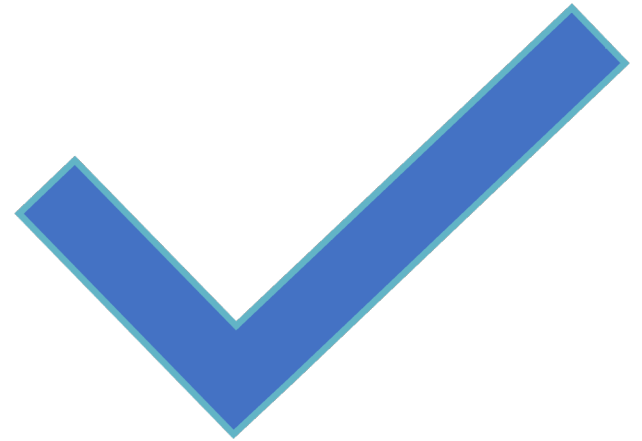
Objective test with practical regard to context in which the issue arises.

Whether an individual is reasonably identifiable from information will depend on considerations such as:

- The nature and amount of information
- The circumstances of its receipt
- Who will have access to the information
- Other information held by the APP entity who holds the information; and
- Whether it is possible for the APP entity to identify the individual using available resources



QUIZ!



QUESTION 5

Bob receives a phone call from a prospective member. The individual tells Bob that her name is Jane and that she is an employee of Cool Film Productions Pty Ltd. When Bob asks for a contact number, Jane gives him the general contact number for Cool Film Productions Pty Ltd.

After the call, Bob makes a note of the conversation he had with Jane and records her **full name, her place of employment and the telephone number given.**

What may be considered **Jane's personal information** in the file note?

- (A) Nothing in the file note is Jane's personal information
- (B) Jane's full name only - the phone number and company name are details of a company, so they are not considered Jane's personal information
- (C) Jane's full name and place of employment only - the phone number is the phone number of a company so it is not considered Jane's personal information
- (D) All the information in the file note could be considered Jane's personal information because Jane is **reasonably identifiable** - Screenrights could link all the information it holds from the file note to Jane's identity.

QUESTION 5

Bob receives a phone call from a prospective member. The individual tells Bob that her name is Jane and that she is an employee of Cool Film Productions Pty Ltd. When Bob asks for a contact number, Jane gives him the general contact number for Cool Film Productions Pty Ltd.

After the call, Bob makes a note of the conversation he had with Jane and records her **full name, her place of employment and the telephone number given.**

What may be considered **Jane's personal information** in the file note?

- (A) Nothing in the file note is Jane's personal information
- (B) Jane's full name only - the phone number and company name are details of a company, so they are not considered Jane's personal information
- (C) Jane's full name and place of employment only - the phone number is the phone number of a company so it is not considered Jane's personal information
- (D) All the information in the file note could be considered Jane's personal information because Jane is **reasonably identifiable** - Screenrights could link all the information it holds from the file note to Jane's identity.

Even though the phone number is not Jane's personal mobile number, the provided phone number will be linked by Screenrights to her full name and workplace, so that she is **reasonably identifiable**.

APP 1 – OPEN AND TRANSPARENT MANAGEMENT OF INFORMATION

A clearly expressed and up-to-date Privacy Policy about the management of PI covering matters such as:

- The kinds of personal information collected and held by Screenrights
- How Screenrights stores and secures personal information
- How to make complaints and how Screenrights will deal with complaints
- Whether personal information is likely to be disclosed to overseas recipients
- How an individual can gain access to or seek correction of personal information that Screenrights holds
- Details of Privacy Officer: Luke Asprey
- How we respond to requests for a copy of the Privacy Policy



Contact Us | [Privacy Policy](#) | Terms of Use | Site Map

APP 2 – ANONYMITY AND PSEUDONYMITY

We must always give an option to not identify themselves or to use a pseudonym **unless:**

- It is **impracticable** for Screenrights to deal with individuals who have not identified themselves/used a pseudonym; or
- Screenrights is **required / authorised** by Australian law / court / tribunal order to deal with individuals who have identified themselves



APP 3 – COLLECTION OF SOLICITED PI

Screenrights:

- Must not collect PI unless it is **reasonably necessary** for one or more of Screenrights' functions or activities
- Must collect PI only by lawful and fair means
- Must collect PI about an individual only from the individual unless it is unreasonable or impracticable to do so

There is a higher standard for “**sensitive information**”. Do not collect unless:

- The individual **consents** to the collection of the info and the info is **reasonably necessary for Screenrights' functions or activities**; or
- Some exceptions apply

WHAT IS SENSITIVE PERSONAL INFORMATION?

Name	Health	Political Opinions	Telephone Number	Signature
Sexual Orientation	Bank Details	Address	Race/Ethnicity	Date of Birth
Criminal Record	Employment Details	Email	Comment/Opinion About Person	Religious Beliefs

APP 4 – DEALINGS WITH UNSOLICITED PI

If a company receives unsolicited PI it must, within a reasonable period, determine whether or not it could *have collected the information in the course of business...*

Remembering that: under APP 3, we can only collect PI that is *reasonably necessary* for one or more of our functions or activities

QUESTION 6

Jane wants to sign up as a Screenrights member. Bob asks her to return to him a Membership Form with her name, email, signature and bank details.

Jane sends an email attaching the Membership Form. However, she inadvertently attaches a medical certificate from her doctor to the email.

What is the most **reasonable** and **practicable** thing for Bob to do in this situation?

- (A) Bob can keep the doctors' certificate on Jane's file because personal information about an individual's health is not **sensitive information**
- (B) Bob can keep the doctors' certificate on Jane's file because she is a Screenrights' member, and Screenrights is entitled to retain all personal information sent to it by Members even if it is **unsolicited**
- (C) Bob must destroy the medical certificate attachment because it was **unsolicited** and is not the type of personal information Screenrights would collect in the normal course of business. However, he may keep the email and personal information contained in the Membership Form because that contains **solicited** personal information, and it is **practicable** to separate the solicited and unsolicited information in this situation
- (D) Bob must immediately destroy the email, medical certificate AND Membership Form and ask Jane to re-send the Membership Form. The medical certificate was **unsolicited**, and it is not the type of personal information that Screenrights would collect in the normal course of business.

APP 5 – NOTIFICATION OF COLLECTION

At or before the time or, if that is not practicable, as soon as practicable after, the company collects PI about an individual the company must take reasonable steps to notify the individual of such matters:

- Contact details (of company)
- Fact and circumstances of collection where from 3rd party / without individual's awareness
- Fact collection was required / authorised by law / court / tribunal order if relevant
- Purpose of collection
- Main consequences (if any) if all / some PI is not collected
- To whom the company usually discloses PI of kind collected
- That the Privacy Policy contains info on PI access and correction
- That the Privacy Policy contains info on making complaints about APP breaches and how the company will deal with such a complaint
- Location of overseas recipients if practicable in notice or otherwise make individual aware

15. Privacy

15.1 Screenrights respects your privacy. Screenrights will deal with any personal information it holds about an individual in accordance with its Privacy Policy available at my.screenrights.org/privacy and as required by law, including the Australian Privacy Principles (APP) under the *Privacy Act 1988* (Cth). The Privacy Policy contains information about how an individual may access the personal information held by Screenrights about the individual, may seek correction of such information and may complain about a breach of the APP or a registered APP code (if any), as well as how Screenrights will deal with such a complaint.

Register

Email *

Password *

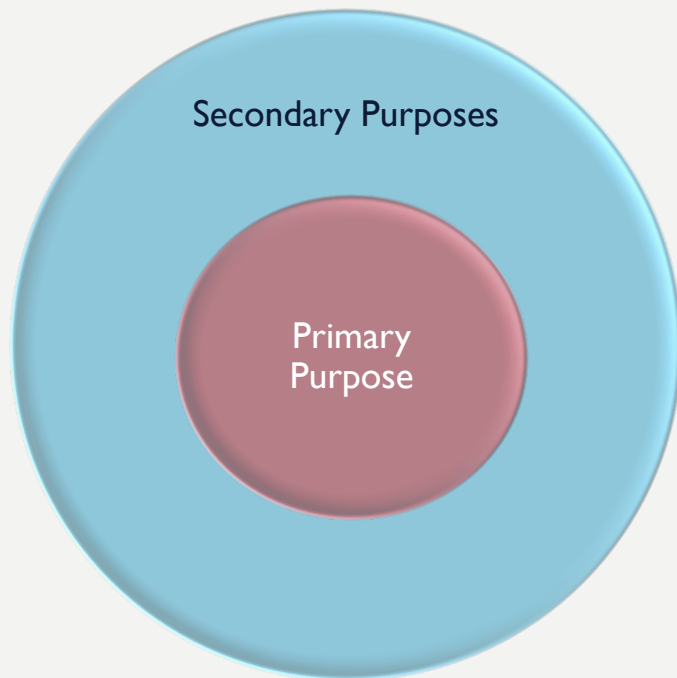
Re-enter password *

I Agree to the **Terms of Use** and **Privacy Policy**

Register

22. The Promoter respects your privacy and your information will be dealt with in accordance with the Promoter's [Privacy Policy](#). Each entrant's personal information will be collected to enable the Promoter to administer and promote this Competition and communicate with and announce the Prize winners. The personal information of Prize winners may be provided to others assisting the Promoter in this regard, including Prize suppliers and deliverers, and to authorities that regulate this Competition, if any. By submitting an entry to the Competition (unless otherwise advised by the entrant), each entrant consents to the information that the entrant submitted with their entry (including personal information) being entered into a database and to the use by the Promoter or its affiliates of this information in any media in accordance with the Promoter's [Privacy Policy](#) without further reference or payment or other compensation to the entrant. All personal information of entrants will be stored at the Promoter's Office. A request to access, update or correct any personal information should be directed to the Promoter's Office in accordance with the Promoter's [Privacy Policy](#). The database information or any part of it may be provided to the Promoter's affiliates in Australia.

APP 6 – USE OR DISCLOSURE OF PI



- We must not use or disclose PI for a **secondary purpose** unless these exceptions apply:
 - Individual has consented
 - Individual has given **implied consent** – i.e they would **reasonably expect** Screenrights to use or disclose the information for the secondary purpose and the secondary purpose is:
 - Directly related to the primary purpose if sensitive information; or
 - Related to the primary purpose if not sensitive information
 - Required / authorised by law / court / tribunal order or a permitted general situation or permitted health situation exists or reasonably necessary for enforcement related activities

QUESTION 7

The Screenrights Industry team has collected email addresses from producers who have used an enquiry form for the Disbursements Service on the Screenrights website.

Before providing their email address, producers are informed that Screenrights will use their provided email for the **purpose** of disseminating information about the Screenrights' Disbursement Service.

The Screenrights Industry team has launched a new Residuals Service, which is a related service to the Disbursements Service. The Screenrights Industry team would like to use the collected email addresses to contact producers and inform them of Screenrights' new service.

Can Screenrights' Industry team **use** the collected email addresses in this way?

- (A) Yes - the individual has consented to receiving **all** communications from Screenrights by providing their email address via the enquiry form
- (B) Yes - an individual providing their email address for the **primary purpose** of receiving more information about a service could **reasonably expect** to receive information for a **related** purpose
- (C) No - given that Screenrights collected the email addresses for the **primary purpose** of sending information about the Disbursements Service, it cannot use them to send information about a different service

QUESTION 7

The Screenrights Industry team has collected email addresses from producers who have used an enquiry form for the Disbursements Service on the Screenrights website.

Before providing their email address, producers are informed that Screenrights will use their provided email for the **purpose** of disseminating information about the Screenrights' Disbursement Service.

The Screenrights Industry team has launched a new Residuals Service, which is a related service to the Disbursements Service. The Screenrights Industry team would like to use the collected email addresses to contact producers and inform them of Screenrights' new service.

Can Screenrights' Industry team **use** the collected email addresses in this way?

- (A) Yes - the individual has consented to receiving **all** communications from Screenrights by providing their email address via the enquiry form
- (B) Yes - an individual providing their email address for the **primary purpose** of receiving more information about a service could **reasonably expect** to receive information for a **related purpose**
- (C) No - given that Screenrights collected the email addresses for the **primary purpose** of sending information about the Disbursements Service, it cannot use them to send information about a different service

APP 7 – DIRECT MARKETING

Screenrights is restricted from use/disclosure of PI for direct marketing **unless:**

1. PI is directly collected from individual
2. The individual could reasonably expect to receive marketing materials; and
3. There is a simple means for the individual to request not to receive further marketing material

Opt out: Screenrights must allow an individual to “opt out” of direct marketing and comply with that request within a reasonable period of time and for free.

Want to change how you receive these emails?
You can [update your preferences](#) or [unsubscribe from this list](#).

APP 8 – CROSS-BORDER DISCLOSURE

What steps must a company take to protect PI before it is disclosed overseas?

- Take reasonable **steps to ensure that the overseas recipient does not breach** the APPs; or
- The company must **expressly inform the individual** that if she/he consents to the disclosure of the information, that such reasonable steps won't be taken and then after being to informed, the individual consents to the disclosure; or
- The company must reasonably believe that the overseas recipient is subject to a substantially similar privacy law / binding scheme and there are mechanisms that the individual can access to take action to enforce that protection of the law / binding scheme

5. International transfers

Screenrights may disclose your Personal Information to third parties located overseas, specifically in the United States and Luxembourg, who provide online survey and email management services to us. Further, in order to provide Services to you, Screenrights sometimes works with other collecting societies, copyright owners and their agents and licensees located globally. It may be necessary to transfer Personal Information we collect from you internationally in order to provide those Services. In such case, Personal Information will only be disclosed by

APP 9 – GOVERNMENT RELATED IDENTIFIERS

Government related identifiers can only be used in specific exceptions.

1. It is reasonably necessary for Screenrights to verify the identity of an individual for the purpose of Screenrights' activities or functions.
2. If it is authorised by a Court order or law;
3. If it is reasonably necessary to fulfil our obligations to a State authority;
4. If we reasonably believe it will prevent a serious threat to safety or if it is used to take appropriate action in relation to an unlawful activity.



APP 10 – QUALITY OF PI

What are Screenrights' obligations in relation to the quality of the personal information it collects?

- Screenrights must take **reasonable steps** to ensure that:
 - PI it collects is accurate, up to date and complete, and
 - PI it uses and discloses is accurate, up to date, complete and relevant, having regard to the purpose of the use or disclosure

13.2 The Member agrees to immediately notify Screenrights in writing of any changes to information supplied in this Agreement or otherwise in relation to the Registered Programs.

APP 11 – SECURITY OF PI

Screenrights must take reasonable steps to **protect** PI:

- From misuse, interference and loss; and
- From unauthorised access, modification or disclosure

Screenrights must take reasonable steps to **destroy** or **de-identify** PI where it no longer needs the information for the intended use or purpose.

NOTIFIABLE DATA BREACH

Privacy Amendment (Notifiable Data Breaches) Act 2017 was passed, establishing a Notifiable Data Breaches (NDB) scheme.

A **Notifiable Data Breach** arises where all the following **three** things have happened:

1. There is a data breach involving personal information
2. This is likely to result in serious harm to one or more individuals
3. The entity has not been able to prevent the likely risk of serious harm with remedial action

APP 12 – ACCESS TO PI

What are Screenrights' obligations when an individual requests access to their PI?

Screenrights must give the individual access to the information **within a reasonable period** after request is made and **in the manner requested** (if reasonable and practicable to do so).

Exceptions:

- Giving access would have an unreasonable impact on the **privacy of other individuals**;
- The request for access is **frivolous** or **vexatious**;
- The information relates to existing or anticipated **legal proceedings** between the entity and the individual, and would not be accessible by way of discovery;
- Giving access would reveal evaluative information generated within the entity in connection with a **commercially sensitive** decision-making process.

QUESTION 9

Sally from Member Services receives a phone call from a disgruntled individual who is unhappy that their application was not selected for a Cultural Fund Grant.

The individual says that they suspect the judging process was rigged and they are **considering taking legal action**.

The individual requests a record of all personal information held by Screenrights in relation to their Cultural Fund Grant application.

Sally knows that individuals are entitled to receive a record of their personal information that Screenrights has on file. However, on what grounds could she refuse this request?

(A) None. It is illegal for a company to refuse such a request under the Privacy Act at any time.

(B) It may be refused because the information relates to an anticipated legal proceeding between Screenrights and the individual

(C) It may be refused because the individual is not a Screenrights Member so they are not covered under the Privacy Act

APP 13 – CORRECTION OF PI

Screenrights must take reasonable steps to correct PI where:

- An **individual requests** Screenrights corrects the PI; or
- Screenrights is satisfied the PI is inaccurate, out-of-date, incomplete, irrelevant or misleading **having regard to a purpose** for which it is held

Minimal procedural requirements for correcting PI include:

- If correction is **refused**, give notice to the individual which includes reasons and available complaint mechanisms
- Take **reasonable steps** to notify other APP entities of a correction (where information was previously disclosed and individual has requested)
- **Do not charge** an individual for making a request, correcting PI
- Make changes within a **reasonable time**

See legal if you have such a request

WHY IS THIS IMPORTANT?



- OAIC has powers under the Privacy Act:
 - Investigate matters following a complaint or on the OAIC's own initiative
 - Enforceable undertakings
 - Determinations
 - Injunctions
 - Apply to a Court for Civil Penalties
- Potential civil penalty for serious or repeated interference with privacy is the greater of:
 - \$10 million; OR
 - 3x the value of any benefit obtained through the misuse of information; OR
 - 10% of annual domestic turnover

CASE STUDY: FACEBOOK

- On 9 March 2020, the OAIC launched its first civil penalty action against Facebook, Inc in the Federal Court of Australia
 - The OAIC alleges that:
 - Facebook breached [APP 6](#) by disclosing PI for purposes other than those for which it was collected
 - Facebook breached [APP 11](#) by failing to take reasonable steps to protect individuals' personal information
 - OAIC is seeking a civil penalty for each act of disclosure of PI by Facebook to the operator of the *This Is Your Digital Life* application
 - Still ongoing but outcome will have major implications

