

Alternative Dispute Resolution Procedure

Disputes Between Screenrights And Its Members

screenrights

The Audio-Visual Copyright Society

Note: This policy does not apply to the Screenrights' Distribution Policy which is the subject of administrative decisions made by the Screenrights' Board of Directors.

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 members. Disputes might relate to the payment of royalties by Screenrights, or the registration of titles with international collecting societies. Screenrights is committed to finding a cost effective manner by which disputes may be resolved.

In the first instance, either the Screenrights Member Services Executive or International Relations Executive has the power to resolve any disputes. If the member is not satisfied with the decision of the Member Services Executive or International Relations Executive, the dispute will be referred to Screenrights' Chief Executive for decision.

If members are not satisfied with the decision of the Chief Executive, Screenrights has established a more formal procedure to resolve disputes with members, which is cost effective and faster for both parties than resorting to litigation. The process is called "Expert Adjudication". Expert Adjudication is designed to be as informal as is possible. An independent organisation appointed by Screenrights will select an Expert Adjudicator. Screenrights will pay the cost of the Expert Adjudicator.

The amount of evidence which may be put before the expert is restricted to five written pages per party plus any supporting documents.

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.

Screenrights may suggest that a dispute be referred to the Expert Adjudication process subject to the agreement of the respective member.

If several members have similar substantive issues with Screenrights, Screenrights may suggest that the disputes be determined together. If an independent expert has previously determined a substantive issue under Expert Adjudication and a similar issue arises at a later date, Screenrights may argue that the dispute resolution process should not be activated and that the previous determination should be applied.

The Expert Adjudication will be conducted on a without prejudice basis. The outcome of the Expert Adjudication will be binding on Screenrights and the member.

Expert Adjudication of Disputes Between Screenrights And Its Members

1. In the first instance, the Screenrights' Member Services Executive or International Relations Executive has the power to resolve disputes that arise between Screenrights and its members. Within 21 days of receipt of the documentation comprising the member's dispute the Member Services Executive or International Relations Executive will make their adjudication based on a written application supplied by the member which sets out the nature of the dispute and any other information the member feels should be brought to their attention. The written application must not exceed five pages plus any supporting documentation. The Member Services Executive or International Relations Executive will inform the member of their decision in writing within seven working days from the date of the decision.
2. If the member is not satisfied with the decision of the Member Services Executive, or International Relations Executive, the dispute may be referred to Screenrights' Chief Executive for decision. Within 21 days of Screenrights being notified that the member is not satisfied with the decision of the Member Services Executive, or International Relations Executive, the Chief Executive will make their determination based on the written application supplied by the member to the Member Services Executive or International Relations Executive and will involve the consideration of the decision made by the Member Services Executive or International Relations Executive. The Chief Executive's determination may also include any new information supplied by the member subsequent to the initial decision of the Member Services Executive or International Relations Executive. Any new information must not exceed five pages plus any supporting documentation. The Chief Executive will inform the member of their decision in writing within seven working days from the date of the decision.
3. If the member is not satisfied with the decision of the Chief Executive, Screenrights may suggest that the dispute be referred for Expert Adjudication. Both parties must agree to the referral. At law certain disputes cannot be dealt with by means of Expert Adjudication. These disputes may be resolved by an application to the appropriate Court.
4. Once the parties have agreed that the dispute is to be referred to Expert Adjudication, Screenrights' ADR liaison officer will contact the member within 21 days of the date that all parties agreed to the referral to make arrangements for the Expert Adjudication. Screenrights current ADR liaison officer is the Corporate Counsel, who can be contacted at Screenrights or on email at gillian@screen.org.
5. Disputes will be determined by an independent expert ("the Expert Adjudicator") appointed by an independent organisation which will be selected for this purpose by Screenrights. The Expert Adjudicator must have no conflict of interest. If a strong objection is raised to the appointment of a particular Expert Adjudicator, Screenrights or the member may exercise the right to have an alternative Expert Adjudicator appointed by the independent organisation.
6. A date which is convenient to the member, Screenrights and the Expert Adjudicator will be agreed.

7. At least seven working days before the date which has been set down for dealing with the dispute, the member and Screenrights may submit written statements or other documents which support their arguments relating to the dispute. These statements must be limited to five pages in length (excluding supporting documentation). They should include all of the documents previously supplied to the Chief Executive, and may include any additional relevant material. Should it be required, the Screenrights' ADR liaison officer will forward material to the Expert Adjudicator on the member's behalf. Parties will not be allowed to submit statements over five pages in length unless the Expert Adjudicator agrees to this.
8. The Expert Adjudicator will assess the written material supplied by the parties. It is expected that Expert Adjudications will be resolved on the basis of the written material submitted by the parties, however, the Expert Adjudicator may wish to meet the parties. They may do so in their absolute discretion.
9. The Expert Adjudicator will then make a determination of the dispute and communicate their decision to the parties. The decision of the Expert Adjudicator will be binding on Screenrights and the member.
10. Screenrights will pay for the costs of the Expert Adjudicator. The member must pay any legal and associated costs the member may incur in relation to the determination.
11. As far as the law allows the adjudication will be conducted on a confidential and without prejudice basis. However, if the matter subsequently comes before the Courts, the Court may exercise its authority to request evidence of the Expert Adjudication.
12. In the interests of transparency and case history, Screenrights will make the decision of the Expert Adjudicator available via its website. If requested by the member, the opportunity will be given to remove details which may be considered commercial in confidence.

If you would like any details about the process, please contact Screenrights' Chief Executive, Simon Lake on (02) 9904 0133 or by email at simon@screen.org.

Screenrights

Level 3, 156 Military Road
Neutral Bay NSW Australia
Post Office Box 1248
Neutral Bay NSW 2089
Australia

Australia
Ph: +61 2 9904 0133
Fax: +61 2 9904 0498

New Zealand
Freephone: 0800 44 2348
Freefax: 0800 44 7006

info@screen.org
www.screen.org