

# Off the air

screenrights

The Audio-Visual Copyright Society

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## ATOM announces award winners

Screenrights would like to congratulate Sherine Salama and Habibi Films for *A Wedding in Ramallah*, the winner of the Screenrights sponsored Best General Documentary, Social and Political Issues, ATOM Award.

The ATOM Awards, which were held in Melbourne on June 7, showcase the best in documentary, multimedia, student, independent and other productions for the education market.

For a full list of winners, visit [www.metromagazine.com.au](http://www.metromagazine.com.au) ■



*Glenys Rowe, General Manager SBSI and Kath South with her Award for Best Documentary Human Story.*



*Jonathon Schiff and friends celebrating his award for best children's television series*

*Scared Weird Little Guys, hosts of the Awards*



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# Scream Rights - and let the matter settle

In drafting its new dispute resolution policy (see page 4), Screenrights had extensive discussions with LEADR (a national not-for-profit mediation organisation). As a result, LEADR has had input into the areas of the policy dealing with adjudication and mediation.

We interview the CEO of LEADR, Scott Pettersson, about LEADR and some of the current activity in dispute resolution.

**OTA: Can you tell us about LEADR - who you are, when you were set up and the services that you offer?**

SP: LEADR was started in 1989 by a group of lawyers who saw an opportunity to settle matters for their clients without the cost and delay of litigation. Initially it was a membership requirement to be a lawyer. This was amended as mediation moved outside the legal sector and became more broadly used in Australia. Although the organisation's membership is still predominantly in Australia, it now has over 300 members in New Zealand and members in many other countries in our region.

As a not-for-profit organisation, LEADR is involved in various community based programs that support consensual dispute resolution. LEADR is also a significant provider of training services for mediators, regularly conducting training in most states of Australia, in New Zealand and occasionally overseas. LEADR also offers services to the public, such as a no cost referral to accredited mediators, and guidance on some dispute issues, and can provide experts in almost any matter related to a dispute.

**OTA: Can you tell us about the range of areas in which ADR is being used?**

SP: In short, almost everywhere! ADR of course stands for Alternative Dispute Resolution, but it is not really an alternative any more, having well and truly moved into the mainstream. By way of example, if you take a dispute to a court, it is likely that you will either be asked if you have attempted mediation, or you may be directed to mediation by the judicial officer. For an example of how it is used in intellectual property, a dispute resolution model has been settled on for the resolution of domain name disputes. LEADR provides adjudicators for this service. Internationally, the World Intellectual Property Organisation (WIPO) has an active mediation scheme and many LEADR members are also panelists for WIPO. Dispute resolution is also embedded into many government schemes now, with, for example, the NSW Workers Compensation Commission using a dispute model that starts with mediation and moves to arbitration if the parties do not look like settling.

LEADR is also active in the education sector. We have established a scheme to address the requirements of the overseas student education scheme (CRICOS) and we provide judges and prizes for the SCRAM (Schools Conflict Resolution and Mediation) competition.



**OTA: I understand you helped Screenrights in drafting its ADR procedures - what did this involve?**

SP: I am pleased to say it was based around a few coffees and a chat, at least initially. Screenrights had undertaken a fair amount of work before I met with Simon (Simon Lake, CEO) and Carl (Carl Baitup, Legal Officer) and they wanted to talk through the draft. They wanted to establish a scheme that delivered consensual resolution wherever

“The use of internal dispute resolvers can often advance matters very quickly, however it can be valuable for an external or disinterested party to be used. This removes questions of bias and the possibility of parties selecting ‘their own umpire’.”

possible, did not impose undue cost on participants and also did not delay the resolution of the dispute. Following our discussions, we worked through a few more drafts ensuring that we added flexibility and maintained the principles of consensus, cost effectiveness and timeliness.

The policy now looks fairly clear, utilises mediation and determination and is transparent to members. Hopefully it will be reviewed in a year or two and any necessary changes implemented.

**OTA: You suggested heading this interview with the words: ‘Scream Rights’, what did you mean ?**

SP: In negotiation, which is a key skill in most ADR processes, one of the concepts is moving people to an interest based negotiation. Participants in many disputes scream about their rights, but their interests may be vastly different. It is only when the parties know these interests that they can move to a resolution that meets these interests, as opposed to just their rights.

**OTA: What considerations are important in putting an ADR policy into place?**

SP: There are many factors that should be considered in designing a dispute

or grievance system and, because of the unique needs of each organisation, systems are best developed individually. Some of the factors of particular relevance may be:

**Essential desired outcomes** – Issues that need to be considered include whether matters can only be resolved by consent or whether the organisation has the power to determine an outcome failing agreement.

**Locality issues** – Can, practically, disputants meet face to face or are they better served by use of a medium that reduces or removes the need to travel?

**Statutory requirements** – In some industries there are statutory requirements that should be built into the system.

**Use of independent experts** – The use of internal dispute resolvers can often advance matters very quickly, however it can be valuable for an external or disinterested party to be used. This removes questions of bias and the possibility of parties selecting ‘their own umpire’.

**Guaranteed communication.** Complaints are valuable to a business as they show what clients are concerned about. Good systems have undertakings regarding time frames for returning calls.

#### **Different options.**

Dispute resolution has many faces and processes. It is useful to have a system that has some flexibility about matching processes to the type of relationship or problem.

This is an almost random selection but it is indicative of some of the considerations undertaken by Screenrights in developing their policy.

**OTA: Are there any common mistakes that people make in implementing dispute resolution policies?**

SP: There are three that are most common. The first is to simply copy another organisation’s dispute resolution policy. It is extremely rare that they are a good fit, and a bad policy invariably results in even bigger problems than you started with.

The second is reading a book and deciding to design your own system, or even worse, looking at the list I just gave you and thinking that this is enough.

The third and absolutely fatal mistake is not following the policy scrupulously once you have it in place. If a policy like this is applied inconsistently the participants soon discern this, and it can shatter relationships. ■

# Writers hit **middle-age**

Screenrights would like to wish a happy 40th to the two industry bodies for Australian writers, the Australian Writers' Guild and the Australian Society of Authors. The AWG celebrated the event with a cocktail party and the ASA held a dinner for its birthday.



*Top Right: At the AWG 40th: Lynn Gailey, Posie Graeme-Evans, Tom Jeffreys and Virginia Gordon from Screenrights.*

*Bottom Right: At the ASA dinner: ASA medal winner Tim Winton and Allen & Unwin's Patrick Gallagher*

*Above: At the ASA dinner: ASA medal winners Anita Heiss and Tim Winton with Tom Kenneally*



## Alternative dispute resolution procedure

Screenrights has established an alternative dispute resolution procedure to provide members and licensees with a cost effective and quick means of settling certain disputes.

The establishment of the procedure is required under the Code of Conduct for Copyright Collecting Societies adopted by Screenrights.

Procedures have been put in place for the resolution of disputes between:

- Screenrights and its licensees (excluding disputes concerning the amount of equitable remuneration to be paid by a licensee);
- Screenrights and its members (excluding disputes concerning Screenrights' Distribution Policy, which is the subject of administrative decisions made by Screenrights' Board of Directors); and
- Members with multiple claims to royalties (this policy is not available in the case of multiple disputes where the sum in dispute is less than \$1500).

Full details of the policy can be obtained at Screenrights' website: [www.screen.org](http://www.screen.org) ■

# ScreenSound Australia and AFC integrate

The Australian Film Commission and ScreenSound Australia will be integrated from 1 July 2003, following a government review of cultural agencies. The integration will see the AFC Chief Executive, Kim Dalton, becoming the CEO of the amalgamated organisation, with the position of Director of the Archive to be retained in the new organisation.

Membership of the Commission is also expected to expand to provide representation from the archiving constituencies.

A working party with equal representation from the AFC and ScreenSound Australia senior management will be established to ensure that the new arrangements take place smoothly. ■

## Digital agenda review

Law firm Phillips Fox will analyse key aspects of the Digital Agenda copyright reforms as part of the Government's broader review of amendments to the Copyright Act that came into effect in March 2001.

The Digital Agenda Amendments were introduced to meet the challenges posed to copyright law by the Internet and other new communications technologies.

At the time of their introduction, the Government acknowledged that the rapid pace of technological change would necessitate a review of the legislation within three years of its commencement.

As part of this review, Phillips Fox will analyse the most controversial aspects of

the reforms from legal, economic and technical points of view.

These include the operation of exceptions for libraries and archives and provisions dealing with devices designed to bypass copyright protection measures.

For more information about the review, email: [digitalagendareview@ag.gov.au](mailto:digitalagendareview@ag.gov.au) ■



Screenrights' link to the education sector, [www.enhancetv.com.au](http://www.enhancetv.com.au), is calling for audio-visual content and accompanying resources to include in the site's general database, and in its upcoming packaged features for educators.

The site lets you promote your programs to Australian schools, TAFEs and universities for free. Educators can search the database for audio-visual content, study guides and other resources relevant to their learning area. If you would like to promote your programs, email [jamie@enhancetv.com.au](mailto:jamie@enhancetv.com.au) for more information. Content details can be accompanied by resource material including study guides, press notes, stills, electronic press kits and other publicity material.

The upcoming packaged "features" bring together information about programs and accompanying resource material on set topics. The enhancetv editorial group (which comprises media and education experts from around Australia) has set the following as feature topics:

✍ **July:** Media Studies ✍ **August:** National Science Week

✍ **September:** National Literacy and Numeracy Week ✍ **October:** Refugee Week

If you believe your content is suitable for any of these features and would like to find out more, email [jamie@enhancetv.com.au](mailto:jamie@enhancetv.com.au). You can also visit the site to check out some of our previous features and to subscribe to a free online television guide relevant to your areas of interest. ■

# Georgie Girl



*Georgina Beyer*

Annie Goldson has been producing and directing award winning documentaries for 15 years. She speaks to *Off the air* about *Georgie Girl*, her phenomenally successful bio pic of Georgina Beyer, a Maori transsexual and former sex worker, who was elected to the New Zealand government by a largely white rural electorate. The film, which was released in December 2001, has appeared in festivals around the world. It has also been aired across the globe, and has recently been bought by PBS (the Public Broadcasting System) in the US to be shown in its prime-time documentary slot.

***OTA: Can you tell us how the idea to make *Georgie Girl* came about?***

AG: I was watching the election results on TV in 1999 and it cut to the Returned Servicemen's Association Hall in Carterton, a small Wairarapa town.

I was amazed to see what I considered conservative rural folk toasting a Maori transgendered person with shandies and beers as their new representative. It made me both reflect on Georgina's qualities of leadership but also on the nature and character of rural communities.



“...she is funny,  
compassionate,  
honest,  
dramatic;”



**OTA: What were the challenges you faced in raising funding for the idea?**

AG: To be honest, it was not that difficult. Given Georgina’s profile, her colourful life, the broadcasters seemed quite convinced by the story. I suppose for a relatively commercial state broadcaster, it combined a seriousness of purpose aligned with a raciness they thought would make it rate well.

**OTA: Were there hard decisions you had to make in terms of selecting and shaping the material?**

AG: Again Georgina has had a dramatic life, which is in some ways follows a mythic trajectory – infamy to fame – so it gave the documentary a classic narrative shape. Intercutting the “day in the life” sequence came to me while I was trying to schedule shoots in her very busy life. I was sent her schedule by her assistant and was struck by how complicated her public life was, ranging through so many diverse activities, from opening country fairs to attending marae for official ceremonies, to heading the HERO (gay, lesbian and transgendered) parade. On a practical and creative level, it made sense to include elements of her daily life, as one had the sense of the contemporary juxtaposed with a history. There are always hard decisions that involve ruthlessly editing out good material you are fond of as the structure presents itself.

**OTA: Why do you think the film has been so successful?**

AG: I think Georgina is a wonderful documentary subject, she is funny, compassionate, honest, dramatic, but also as I said above, the documentary has a classic mythic shape that does appeal. And it is reasonably upbeat which I think audiences respond well to, American audiences in particular are staggered by the study.

**OTA: Has the film been used in education?**

AG: I have sold a small number of copies to educational outlets in New Zealand, but given the size of the country, I have not yet done a huge drive. In fact, I need to find an Australasian distributor. Women Make Movies, who I would consider to be the best educational distributor, are selling in world wide outside Australasia and have made good inroads into the Canadian and American tertiary sector.

**OTA: How would you like to see the film being used with students?**

AG: I think it could cross over various departments: documentary studies (in film and tv studies) both production and theory; political studies; gender studies; Maori studies. I think it could be used in various ways depending on the discipline because it is an accessible way of tackling some complex issues.

**OTA: What do you see as the greatest strengths of the NZ film industry at the moment?**

AG: There has always been a strong and skilled technical sector which is very willing to work on a range of projects. Institutions have finally recognized the need to improve writing, which tended to be the weak link, and there has been investment in training. Obviously, the *Lord of the Rings* trilogy is an enormous boost and the economic implications have certainly not been lost on the Government so there is a drive, replicated in other countries of course, towards a knowledge economy. There are still many problems, but I do think at least film is being taken seriously these days.

**OTA: What are your plans for your next project?**

I have a few things in development. I am currently completing my PhD and attempting to write a book on human rights and documentary that I need to deliver to a publisher soon. But I hope to go into production on one documentary later this year. ■

# Update on the proposed Free Trade Agreement

With Australia currently negotiating a Free Trade Agreement (FTA) with the United States, the Australian Film Commission has set up an online trade bulletin to keep members of the film industry up to date with the latest information. To subscribe, visit the AFC website: [www.afc.gov.au](http://www.afc.gov.au)

The prospect of an FTA has seen representative organisations from all sectors of the film industry joining with other arts organisations to lobby for Government support for local culture.

The Australian Coalition for Cultural Diversity (ACCD), formed by a number of Australia's peak cultural bodies, is arguing for a broad exemption for the cultural industries from the trade discussions, so as to allow for the continued growth of local culture.

Current members of the ACCD include: the Arts Law Centre of Australia, the Australasian Performing Right Association (APRA), Ausdance, the Australian Guild of Screen Composers, the Australian Interactive Multimedia Industry Association, the Australian Library and Information Association (ALIA), the Australasian Mechanical Copyright Owners Society (AMCOS), the Australian Publishers' Association, the Australian Screen Directors' Association (ASDA), the Australian Society of Authors, the Australian Writers' Guild, the Copyright Agency Ltd, CREATE Australia, the Media Entertainment and Arts Alliance, Museums Australia, the Music Council of Australia, the National Association for the Visual Arts and the Screen Producers' Association of Australia (SPAA).

Further information about the ACCD can be found on the websites of many of these organisations. See for example [www.spaa.org.au](http://www.spaa.org.au) ■

## Payment methods change

As part of our continuing commitment to benefiting all our members with the lowest possible administrative costs, Screenrights has recently looked at options for reducing expenses associated with various payment methods.

Following this review, we have decided to make all international payments by way of domestic cheque (in Australian dollars). Payment by Telegraphic Transfer and payment in the form of an International Cheque will be discontinued due to significantly higher bank charges now applicable to those transactions.

This change will significantly reduce the costs associated with making royalty payments, reducing Screenrights' expenses. As a non-profit organisation, Screenrights only deducts its expenses from the royalties that it collects for distribution. By reducing our expenses, Screenrights effectively increases the royalties available for all members.

This change will come into effect as of 1 July 2003. If you have any questions or would like further information, please do not hesitate to contact Member Services on +61 2 9904 0133 or by email:

[memberservices@screen.org](mailto:memberservices@screen.org) ■

## Update on copyright for film directors

In 2001, the Federal Government made a commitment to:

- consult key stakeholders on proposals to amend the Copyright Act to grant new rights to film directors;
- extend the term of protection for copyright in photographs in line with that enjoyed by other creators; and
- develop workable performers' rights legislation.

These commitments were made as part of the government's arts election policy statement and were concerned to ensure that Australia's copyright law remains consistent with the standard of protection under international copyright treaties.

The new term of protection provided under the World Intellectual Property Organisations' (WIPO's) *WIPO Copyright Treaty (WCT)* of 1996 in relation to photographs, and the scope of protection granted to performers under the *WIPO Performances and Phonograms Treaty (WPPT)* of 1996 have provided benchmarks in developing a legislative model to give effect to these commitments.

The amendments proposed in the Copyright Amendment (New Rights) Bill are intended to enable Australia to accede to both treaties.

Development of the proposed New Rights Bill is well advanced and it is hoped that the legislation will be introduced into Parliament in the middle of this year.

Stakeholders will have a further opportunity for comment as the legislation is finalised.

For more information, email [chris.cresswell@ag.gov.au](mailto:chris.cresswell@ag.gov.au) ■



# Battling the pirates

There is no doubt that the film industry is now facing piracy battles similar to the ones that have plagued the music industry since the advent of the Internet and the Compact Disc. Until recently the industry could take comfort in the difficulties in copying DVDs. But experts warn that new inexpensive technology is altering the picture. Fast broadband connections to the Internet make it possible to download big movie files much faster, and almost every new PC comes with a DVD burner. So, what are the solutions? *Off the air* surveys the scene...

## **Encryption**

One possible solution is the encryption of a product in an attempt to make it impossible to copy, or use, the work without authorisation. Encryption can also be used to identify and track certain authorised uses of the product, using a Digital Rights Management (DRM) system. Large companies, such as Intel and Microsoft are allocating considerable resources towards developing such systems. However, to date, hackers have had little difficulty in breaking the codes. More powerful encryption programs are being developed - but each time you launch a new encryption protection technology, current DVD players can't play the disk.

## **The legal battles**

In another attempt to battle piracy, Hollywood studios have recently taken a maker of software that allows users to copy DVDs to court. Similar cases have also been run by the music industry.

The software maker, St Louis based 321 Studios, argues that its software is designed to protect DVD owners by allowing them to make back-up copies in case their DVDs are damaged or lost. The studios have been arguing that this is not the case and that the software does more than just allow for a "fair use" of copyright material.

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On May 15, the San Francisco judge hearing the case said she was "substantially persuaded" by previous rulings upholding the rights of copyright owners, but she held back from making a decision.

would-be pirates that copying and swapping movies costs jobs.

The ads featured a wide range of industry workers, from costume makers to directors such as George Lucas, who warned the public that continued

owners by a non-profit copyright collecting society.

In Australia, Screenrights, the Australasian Performing Right Association (APRA) and key players in the audio-visual industries have joined

"...continued downloading of product for free would signal the end for the movie industry"



### **Cheap downloads**

Certain sections of the industry believe the answer lies in making downloaded movies inexpensive. The belief is that the studios and producers are already losing through piracy and therefore have nothing to lose by dropping prices to bargain basement levels.

### **The ad campaign**

Earlier this year, US film studios and theatre owners launched an ad campaign intended to convince

downloading of product for free would signal the end for the movie industry.

### **Home copying levies**

Many countries in the world (including the United States and most European nations) have introduced schemes into their copyright legislation to compensate rightsholders for home copying .

This usually involves the consumer paying a levy on the sale of blank recordable media, with the money collected and distributed to copyright

forces to lobby for the introduction of such a scheme into our own copyright legislation. To date, the government has not yet indicated whether it will amend our copyright laws in this way.

### **More information?**

An excellent update on piracy and ways in which the industry is attempting to tackle the problem can be found at the Motion Picture Association of America's website: [www.copyright.org](http://www.copyright.org) ■

## **Oz arts stats show cinema's popularity**

Australians continue to spend more time at the cinema than at any other arts and cultural venue, according to *Some Australian Arts Statistics*, a report released by the Australia Council.

The report shows an increase in the total number of people attending cultural activities and venues from 11.670 million (when the report was last published in 1996) to 12.616 million.

According to the report, a 4.9 per cent increase in cinema attendance was one of the major contributing factors to this overall increase.

The report also notes that arts and related industry groups contribute about \$8 billion to the Australian economy, with radio, TV and film being the major contributors to the overall growth in the sector.

For a copy of the report, visit [www.ozco.gov.au/publications/artstats.html](http://www.ozco.gov.au/publications/artstats.html) ■

# International update

Not sure how to maximise your international returns?

If you are a producer in Sydney or Melbourne and would like to find out more about how Screenrights International can work for you, we are arranging industry meetings throughout July and August.

Registration with Screenrights International is simple and straightforward. International Relations Coordinator Vivien Pailas is happy to come and explain our registration requirements to you.

Once you send us your title details, we can then ensure that you meet the various deadlines set by other societies allowing you to collect any royalties they may be holding for the private copying or retransmission of your titles.

The next registrations will be in September and will be for private copying royalties.

If you would like to organise a meeting with Vivien, please contact her on 02 9904 0133, or email [vivien@screen.org](mailto:vivien@screen.org)



## Turning off the television

Want to find out about tomorrow's broadcasting?

*Turning off the Television*, a new book by one-time Screenrights board member Jock Given traces the shifts in technologies, business models and social uses of television and radio from the dot com crash to the uncertain future of digital broadcasting.

As well as having served as Screenrights Deputy Chair, Given was also Director of the Communications Law Centre and Policy Advisor at the Australian Film Commission. He is currently senior researcher at the Institute for Social Research at Swinburne University of Technology.

Anyone who is interested in the future of media in Australia can buy copies of *Turning off the Television* from University of NSW Press: [www.unswpress.com.au](http://www.unswpress.com.au) ■

## Code of Conduct: call for submissions

Screenrights and other copyright collecting societies have agreed to a Code of Conduct following key recommendations in the 1999 Review of Australian Copyright Collecting Societies, conducted by Mr Shane Simpson. A full copy of the Code can be viewed at [www.screen.org](http://www.screen.org)

The Code provides for licensees and members to make submissions directly to the Code Reviewer, Mr Burchett, concerning the collecting societies' compliance with the code. Submissions should be in writing and received at the following address by the 25th of July 2003:

The Code Reviewer  
Suite 704 / 4 Young Street  
Neutral Bay NSW 2089  
email: [codereviewer@screen.org](mailto:codereviewer@screen.org) ■

# Help us to help you...

**Fax to Screenrights on +61 2 9904 0498**

Screenrights is updating its database and needs your contact details, in particular we want to ensure that we have all our members' email addresses. If you have not provided us with your latest address details, please complete the following form and fax it back to us.

Name

Position

Company

ABN

Address

Phone [       ]

Fax [       ]

Email

Website address

If you have not yet supplied us with details of your bank account and would like to have your royalties paid directly into your account, please complete the following:

Bank

Branch

Account name

BSB

Account number



**screenrights**

The Audio-Visual Copyright Society

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