

## August 2004

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### **Screenrights lobbies for centralised New Zealand licence**

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### **Discussions on proposed changes to fair dealing provisions**

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### **Screenrights International sets administration fee**

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### **Members meetings in Europe**

Screenrights International Relations Executive Cate Hemmings is meeting with members in MIPCOM in Cannes.

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### **Enhancetv**

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### Performers rights are to be expanded.

The majority of the FTA copyright reforms relate to performers rights. The FTA requires Australia to ratify or accede to the 1996 WIPO Performances and Phonograms Treaty ('WPPT'). Australia is currently a signatory to the Rome Convention and the WPPT imposes higher standards.

In summary the resulting reforms are:

- Performers are deemed to be co-maker and co-owner of sound recordings made of their performances, with retrospective operation;
- Performers are to be granted rights where educational institutions audio-copy their live performances;
- Part VA is to be amended to take account of the above copying activity, so that it falls within the statutory licence;
- Performers are to be granted moral rights of 'performership', subject to broad reasonableness exceptions.



Screenrights Consultant, Dr David Brennan

### Copyright term is to be extended to life of the author plus 70 years for works, and to 70 years from the date of publication for films and sound recordings.

Under the reform, the copyright term in Australia will be now consistent with that in both the United States and the European Union. There is no retrospective operation in relation to works and other subject matter for which the copyright term has expired. The extension only applies to copyright subject matter subsisting on the day of commencement.

### The definition of 'electronic rights management information' is to be expanded and the rights of protection in relation to such information strengthened.

The FTA requires Australia to enact provisions that provide particular legal protection for rights management information. The *Copyright Act 1968* already has certain provisions to this effect. The FTA provides a higher level of protection, reflected in the reforms by inserting broader protection for electronic rights management information.

The FTA also includes an obligation to make unlawful the actual circumvention of technological protection measures (digital locks, encryption etc) which Australia's current law does not do. The FTA allows Australia two years from the date of the agreement to implement this reform. Ad hoc exceptions to this liability can also be created.

### Strengthened protection is to be granted to prevent the decoding of encrypted broadcasts (cable, terrestrial and satellite), and to prevent the accessing or communication of an illegally decoded signal.

The FTA requires that Australia enacts provisions that impose criminal and civil liability on those who facilitate the decoding of an 'encrypted programme-carrying satellite signal', and on those who access or communicate an illegally decoded signal. The *Copyright Act 1968* already makes unlawful the distribution of broadcast decoding devices. The FTA reform creates liability in relation to all encrypted broadcasts (cable, terrestrial and satellite) on those who knowingly either communicate a decoded broadcast or receive a decoded broadcast.

Limited copyright liability of internet service providers is to be conditional upon them submitting to certain compulsory 'take-down' procedures.

The obligations in the FTA are specified in part through an Exchange of Letters between the US and Australia, which outlines a model take-down notice and counter notice.

If you would like more information about any copyright reforms visit [www.ag.gov.au/copyright](http://www.ag.gov.au/copyright)

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## **Screenrights lobbies for centralised New Zealand licence**

Screenrights has recently joined forces with other copyright collecting societies to lobby the New Zealand government for changes to the way in which schools license the use of copyright material.

Unlike the situation in Australia, New Zealand schools must enter individual agreements with Screenrights to cover their television and radio copying. Screenrights has joined forces with the print and music copyright collecting societies to try and develop a single copyright licence covering print, music and AV material, to be taken out by the government on behalf of all public schools. This would not only ease the administrative burden on schools, it would also mean that every institution would be able to take advantage of the provisions in the New Zealand Copyright Act giving them access to copyright material.

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## **Discussions on proposed changes to fair dealing provisions**

Screenrights has recently been involved in discussions concerning proposed changes to our fair dealing provisions in the context of copyright amendments resulting from the recently concluded Free Trade Agreement with the United States (see feature).

The fair dealing provisions allow for free use of copyright material for certain specified purposes.

Screenrights is concerned that broadening these provisions will impact on our members' ability to earn royalties for the use of their work. We see no need for extending these provisions and have made these views known to government.

If you would like further information about the proposed changes and Screenrights' response, email [info@screen.org](mailto:info@screen.org)

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## **Screenrights International sets administration fee**

Screenrights International has set its administration fee for the 2004/05 financial year.

The fee, which is 13.4% of royalties collected from 1 July 2004 to 30 June 2005, is one of the most competitive in international collections. It is also the lowest fee charged for any of Screenrights services.

The fee is determined by calculating the actual expenses to collections ratio for the previous financial year. This enables us to distribute international royalties as they are received, without having to wait until the end of the financial year.

If you have any queries about the fee or our International Collections Service, please email [international@screen.org](mailto:international@screen.org)

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## **Members meetings in Europe**

Screenrights International Relations Executive Cate Hemmings is meeting with members in MIPCOM in Cannes.

Cate will be talking to members about our International Collections Service and other ways in which we can assist copyright owners to maximise their returns.

She will be in Cannes from 4 to 8 October. She will also be in Geneva, London and Paris around this time.

If you would like to arrange a meeting please email [cate@screen.org](mailto:cate@screen.org)

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