

Alternative Dispute Resolution Procedure

Screenrights' Policy To Resolve Multiple Claims

Background

A multiple claim arises when Screenrights receives multiple registrations claiming a single royalty (a "Multiple Claim"). Most of these Multiple Claims arise out of confusion over the particular right or territory for which Screenrights collects royalties, or even out of confusion over programs with identical or substantially similar titles. In these cases, Multiple Claims can be settled easily by a written or verbal explanation to the parties making the Multiple Claim.

The onus in resolving Multiple Claims is on the parties to the claim. Accordingly, Screenrights will notify the parties asking them to resolve the Multiple Claim and to then advise Screenrights of the correct claimant.

Screenrights has a limit of six years to distribute royalties from the time such royalties are collected in a distribution period, with the deadline for distribution falling on 30 June in the year in question ("Deadline"). A royalty to which a Deadline applies in the current calendar year (a "Deadline Royalty") that is still subject to an unresolved Multiple Claim on 15 June in the calendar year of the Deadline (as outlined in Table 1) will be forfeited by the parties and rolled over into the following distribution year. It is therefore in the parties' interests to resolve the Multiple Claim prior to the Deadline.

Policy To Resolve Multiple Claims

Where Screenrights identifies that two or more parties have asserted a claim to the same royalties, the Multiple Claim will be notified to the members in question via the MyScreenrights web portal. If you receive such a notification, please contact the other party/parties to resolve the Multiple Claim being mindful of the deadlines in Table 1. Upon request, Screenrights will supply all parties with relevant information, such as information about the programs and rights in dispute, however as this is a dispute between the parties as to their respective rights, Screenrights expects the parties to resolve the dispute between themselves before Screenrights will have any further involvement.

If a Multiple Claim is resolved between the parties, all of the parties must advise Screenrights in writing by no later than 15 June in the calendar year of the Deadline that the matter has been resolved and that they all agree with the outcome or the royalties will be forfeited by the parties and rolled over into the following distribution year. The Multiple Claim may be resolved either by reaching agreement as to the proper rightsholder of the royalties or mutually agreeing to a suitable outcome in relation to the royalties in question. The royalties will then be paid to the stated rightsholder.

In order to facilitate the resolution of such Multiple Claims before the Deadline, Screenrights offers an Alternative Dispute Resolution Procedure for Multiple Claims as follows:

Low Value Multiple Claim (less than AU\$1,000)

If by 15 June in the calendar year of the Deadline applicable to a Low Value Multiple Claim, Screenrights has not been advised in writing by all of the parties to the Multiple Claim that the matter has been resolved and that all parties agree with the outcome, the royalties will be forfeited by the parties and rolled over into the following distribution year, subject only to the circumstances set out below.

In the event that one party to a Low Value Multiple Claim does not substantively respond to three (3) successive attempts to resolve a Multiple Claim in relation to a Deadline Royalty, Screenrights may in its discretion pay the royalties in question in favour of the solution-seeking party/parties as further described below:

1. The solution-seeking party must provide Screenrights with sufficient evidence demonstrating that it has tried without success to contact another party in order to settle a Low Value Multiple Claim. This evidence must at a minimum include three (3) written letters or emails from the solution-seeking party (each a

Screenrights

Level 1, 140 Myrtle Street
Chippendale NSW 2008

PO Box 853 Broadway
NSW 2007 Australia

Australia

Phone +61 2 9904 0133
Fax +61 2 9904 0498

New Zealand

Freephone 0800 44 2348
Freefax 0800 44 7006

Email info@screenrights.org

screenrights.org

Continued... Alternative Dispute Resolution Procedure

“Communication”) the contents of which reasonably and in good faith propose to the other party to resolve the Low Value Multiple Claim.

Further, there must be:

- a. at least two weeks between each Communication;
 - b. not more than 3 months between the first and the last Communication with all such Communications occurring within 12 months of the Deadline for the Deadline Royalty in question;
 - c. no evidence of any substantive response to the offer from the other party. Communications that merely indicate that a response will be forthcoming will not be considered a substantive response by Screenrights; and
 - d. a statutory declaration signed by the solution-seeking party confirming that the party followed the procedure set out in this policy and it could not reach the other rightsholder and/or that the other conflicting rightsholder did not reply with a substantive response.
2. Following receipt of such evidence (provided that it fully complies with the requirements above to the satisfaction of Screenrights), Screenrights will attempt to contact the other party/parties in writing (which may include email) requesting a response within seven (7) days. On the basis of the response or lack thereof, Screenrights may in its absolute discretion, considering any material available to it, pay the Deadline Royalty or a portion thereof to the solution-seeking party. Upon request, Screenrights will provide reasons for the payment or partial payment to any party to the Low Value Multiple Claim.

Medium Value Multiple Claim (AU\$1,000 – AU\$9,999): Resolved by Internal Determination

In the event that the parties cannot reach an agreement or if one party claims in writing that the other party is not responding to its requests to resolve a Medium Value Multiple Claim, a party to the Multiple Claim may request in writing that the Chief Executive of Screenrights make a determination on the Multiple Claim (“Internal Determination”), provided that in relation to a Deadline Royalty, the request is received by 30 April in the calendar year of the Deadline as outlined in Table 1. If the request for Internal Determination in relation to a Deadline Royalty is not received by that date and all the parties to the Multiple Claim have not advised Screenrights in writing (which may include email) by 15 June that they have resolved the Multiple Claim and that they all agree with the outcome, then the royalties will be forfeited by the parties and rolled over into the following distribution year.

Within 5 days following an in time request for Internal Determination, all parties will be sent a written notice (which may include email) from Screenrights to submit a written application for this purpose for the Chief Executive to consider. The written application must not exceed five pages plus any supporting documentation and must be attached to a fully completed Multiple Claim Application Form (available on the Screenrights website). The Chief Executive will make the Internal Determination based on all written applications and Multiple Claim Application Forms received and such other material available to the Chief Executive that in the Chief Executive’s view is relevant to the dispute. If Screenrights does not receive a written application and a fully completed Multiple Claim Application Form from a party within 30 days of Screenrights’ notice, the Chief Executive may make a determination in favour of the other party/parties without further reference to that party. As between Screenrights and the parties to the Multiple Claim, the decision of the Chief Executive will be final in relation to the payment of royalties comprised in the Multiple Claim and Screenrights will pay those royalties in dispute in accordance with the determination in the next available royalty payment run.

High Value Multiple Claim (AU\$10,000 and above): Options

In the event that any of the following occurs:

- (a) Any or all of the claimants to a High Value Multiple Claim indicate on a fully completed Multiple Claim Application Form (available on the Screenrights website) that they do not wish to contact each other but wish to resolve the Multiple Claim; or
- (b) The High Value Multiple Claim is a Deadline Royalty in a given calendar year; or
- (c) All claimants request via separate fully completed Multiple Claim Application Forms (available on the Screenrights website) that Screenrights assist in resolving the High Value Multiple Claim by Mediation or Expert Adjudication as further described below,

then Screenrights may by notice in writing (which may include email) offer to set up a mediation process between the parties (“Mediation”) or an expert adjudication process (“Expert Adjudication”), each as set out further below. Screenrights will use reasonable endeavours to try to assist the parties to reach agreement on the process to be used, however if all parties can not agree as to the process within 30 days of Screenrights’ notice to the parties, Screenrights has the absolute discretion to resolve a dispute in relation to a Deadline Royalty by Internal Determination in accordance with the Medium Value Multiple Claim process set out above.

Continued... Alternative Dispute Resolution Procedure

The procedures for a Mediation or Expert Adjudication are set out below:

a) Mediation

The Mediation will proceed as follows:

1. Screenrights will arrange a meeting between the parties where a Screenrights' representative will act as a facilitator, or if the parties prefer and agree to pay the cost, Screenrights will offer to set up a process of mediation between the parties using an independent mediator ("the Mediator") appointed by Screenrights. The full cost of the Mediator must be paid by the parties in equal shares.
2. The Mediator must have no conflict of interest. If a strong objection is raised to the appointment of a particular Mediator, Screenrights or the claimants may exercise the right to have an alternative mediator appointed by Screenrights.
3. The Mediation (whether conducted by Screenrights or a Mediator) will take place at a date and time that is convenient to the parties to the Multiple Claim (except that in relation to a Deadline Royalty the date must be before 30 March in the calendar year of the Deadline), Screenrights and the Mediator. This and any other requirements of the Mediation will be agreed at a preliminary conference at which the parties will be required to sign an agreement to enter into Mediation and in the case of the independent Mediator, to pay the costs of the Mediator in advance. The members must bear their own legal and other associated costs of the Mediation.
4. The Mediation will be conducted on a without prejudice basis. At any time during the Mediation either party may elect to withdraw from the Mediation. If the Mediation is carried to a conclusion, all parties will be bound by the outcome of the Mediation and Screenrights will pay the royalties comprised in the Multiple Claim in accordance with the Mediation outcome in the next available royalty payment run. If for whatever reason the Mediation is not carried to a conclusion, the parties may proceed to Expert Adjudication unless it is a Deadline Royalty in which case Screenrights has the absolute discretion to resolve the Multiple Claim by Internal Determination in accordance with the Medium Value Multiple Claim process set out above.
5. In any event, in relation to a Deadline Royalty, if the High Value Multiple Claim is not resolved by Mediation, Internal Determination or Expert Adjudication by the timelines outlined in Table 1 and all of the parties have not advised Screenrights in writing (which may include email) by 15 June that they have resolved the Multiple Claim and that they

all agree with the outcome, then the royalties will be forfeited by the parties and rolled over into the following distribution year.

b) Expert Adjudication

Prior to the commencement of any Expert Adjudication, an estimate of the cost of the Expert Adjudication will be provided to the parties to the Multiple Claim by Screenrights. Where the estimated costs of the Expert Adjudication will exceed the total amount of the Multiple Claim, the Chief Executive of Screenrights will have the discretion to use Internal Determination as set out above to resolve the dispute. By way of initial guidance, in our experience an Expert Adjudication can cost in the range of AU\$8,000 to AU\$12,000. Screenrights will pay up to AU\$2,000 to cover the cost of the Expert Adjudication. Any costs in excess of AU\$2,000 will be deducted from the royalties in dispute. The parties to the Multiple Claim must pay their own legal and associated costs incurred in relation to the Expert Adjudication.

The Expert Adjudication will proceed as follows:

1. An Expert Adjudicator will be appointed 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 any of the parties may exercise the right to have an alternative adjudicator appointed.
2. The Expert Adjudication will be conducted on a confidential and without prejudice basis however, if the matter subsequently comes before the courts, a court may request evidence of the Expert Adjudication.
3. The Expert Adjudicator will provide an opinion on the Multiple Claim using all available material. In relation to a Deadline Royalty, the Expert Adjudicator will be under no obligation to consider any materials submitted by the parties less than one month from 15 June in the Deadline year, 15 June being the final day by which Multiple Claims subject to Expert Adjudication must be concluded, as outlined in Table 1.
4. The decision of the Expert Adjudicator will be communicated to the parties. As between Screenrights and the parties to the Multiple Claim, the decision of the Expert Adjudicator will be final in relation to the payment of royalties comprised in the Multiple Claim and Screenrights is entitled to rely on that decision and pay those royalties in accordance with the Expert Adjudicator's decision in the next available royalty payment run following the notification of such decision, subject to any deductions for the cost of the Expert Adjudicator.

**Continued...
Alternative Dispute Resolution Procedure**

- 5. Screenrights acknowledges that distance may be a factor and will also assist with Internet dispute resolution or telephone conferencing where necessary. If a party wishes to be represented by a lawyer or some other representative at an Expert Adjudication, the cost of the representation will be borne by the party.
- 6. In the interests of transparency and case history, Screenrights will make the decision of the Expert Adjudicator available via its website, subject to a member's request to remove details that may be considered commercial in confidence.

Late Identification of Medium Value and High Value Multiple Claims: Resolved by Expedited Internal Determination

In the event that a Medium Value or High Value Multiple Claim in relation to a Deadline Royalty is identified by the parties after 30 April in the calendar year of the Deadline, if the parties cannot reach an agreement or if one party claims in writing that the other party is not responding to its requests to resolve the Multiple Claim, a party to the Multiple Claim may request in writing on that the Chief Executive of Screenrights make an expedited determination ("Expedited Internal Determination"), provided that the request is received by 30 May in the calendar year of the Deadline as outlined in Table 1. If the request for Expedited Internal Determination is not received by that date and all of the parties to the Multiple Claim have not advised Screenrights in writing (which may include email) by 15 June that they have resolved the Multiple Claim and that they all agree with the outcome, then the royalties will be forfeited by the parties and rolled over into the following distribution year.

Within 2 working days following a request for Expedited Internal Determination, all parties will be sent a written notice (which may include email) from Screenrights to submit a written application for this purpose for the Chief Executive to consider. The written application must not exceed five pages plus any supporting documentation and must be attached to a fully completed Multiple Claim Application Form (available on the Screenrights website).

The Chief Executive will make the Internal Determination based on all written applications received and such other material available to the Chief Executive that in the Chief Executive's view is relevant to the dispute. If Screenrights does not receive a written application and fully completed Multiple Claim Application Form from a party within 5 working days of Screenrights' notice, the Chief Executive may make a determination in favour of the other party/ parties without further reference to the party who has not submitted a written application.

Screenrights will pay the royalties comprised in the Multiple Claim in accordance with the determination in the next available royalty payment run. After 30 May in any given year, requests for Expedited Internal Determination in relation to a Deadline Royalty will not be considered and in order for the royalties to be paid to any of the parties, all of the parties must advise Screenrights in writing (which may include email) by 15 June in the calendar year of the Deadline that they have resolved the Multiple Claim and that they all agree with the outcome; otherwise, the royalties will be forfeited by the parties and rolled over into the following distribution year.

If you would like any details about the process, please contact Screenrights' General Counsel, Marie Foyle on (02) 9904 0133 or by email at marie@screenrights.org.

TABLE 1:

In relation to a Deadline Royalty, the following timelines in each calendar year must be adhered to:

Date	Event
28 February	Final day to request an Expert Adjudication
30 March	Final day for a Mediation to be scheduled
30 April	Final day for registration of a claim.
30 April	Final day to request Internal Determination
30 May	Final day to request an Expedited Internal Determination.
15 June	Final day to advise Screenrights that a Multiple Claim has been resolved between the Members concerned.
15 June	Final day by which Multiple Claims subject to Internal Determination must be concluded.
15 June	Final day by which Multiple Claims subject to Expert Adjudication must be concluded.
15 June	Final day by which Multiple Claims subject to Expedited Internal Determination must be concluded.

Note: If any of the dates listed above fall on a weekend or a public holiday the preceding business day will be the relevant date.