

What is Screenrights?

Screenrights is a non-profit copyright collecting society for producers, distributors, rightsholders in scripts, music, sound recordings of music and artistic works, and other rightsholders in film, television and radio programs. We collect royalties for various uses of our members' works, including retransmission of free to air broadcasts of their work by other services, such as pay television, in Australia.

The purpose of this information sheet is to provide a summary of the Distribution Policy for retransmission royalties. A copy of the full Distribution Policy is located on our website.

What are retransmission royalties?

Retransmission royalties are generated when free to air television or radio broadcasts are retransmitted across a different network. This is because provisions in the Australian Copyright Act allow broadcasts of copyright material to be retransmitted in Australia provided the retransmitter pays a royalty to the copyright owners.

Screenrights has been appointed by the Australian Government to administer these provisions, with royalties payable to rightsholders in programs that are retransmitted from 4 March 2001.

The Copyright Tribunal has set the royalty rate for the retransmission by pay television operators of the five free to air networks and the current multi channels, ABC2 and SBS World News, at 22.5 cents per subscriber per month.

Who determines how Screenrights distributes royalties?

The manner in which Screenrights distributes retransmission royalties is determined by Screenrights' Board of Directors, who are voted in by members. In doing this, the Board must have regard to the provisions in the Australian Copyright Act.

Allocation of Retransmission Royalties

How is the total amount allocated to each retransmitted program determined?

In summary, allocations for Australian retransmission royalties are determined in the following way:

– **The total distributable amounts for the accounting period are determined**

Screenrights determines the total amount collected over an accounting period from Australian retransmitters for both television and radio. Generally, accounting periods accord with the financial year (1 July to 30 June).

Royalties are placed into two separate funds: the Australian Retransmission Television Fund and the Australian Retransmission Radio Fund.

– **Screenrights' operating expenses are deducted**

The operating expenses are deducted from both retransmission funds.

– **An allocation is made to a contingency fund and reserve fund**

Once operating expenses are deducted, an allocation from the total distributable amounts for each retransmission fund is made to a fund known as the IBNR Fund. This fund is used to meet "claims incurred but not reported", which includes payments to members of their share of royalties previously paid mistakenly to another member and payments to correct data entry errors.

Additionally, amounts are allocated to Screenrights' Reserve Fund to fund new business opportunities, as determined by the Board on an annual basis.

– **An allocation is made to the Artistic Works Fund**

An allocation of 1.9% is made to an Artistic Works Fund from the Australian Retransmission Television Fund only. The Artistic Works Fund is used to make payments to rightsholders in artistic works incorporated in retransmitted television programs.

– **Network Pools are determined**

Once these deductions are made, Screenrights determines the proportion of retransmission royalties attributable to each television network and divides the Australian Retransmission Television fund into Network Pools.

– **A broadcast sample is used to identify the retransmitted television programs**

Screenrights uses a broadcast sample to identify the programs that are retransmitted in Australia. The broadcast sample accounts for regional variations in programming.

– **Programs are valued by minute and a ratings band factor is applied**

Screenrights first determines the total duration of each retransmitted broadcast and allocates 1 point per minute. The point allocation is then weighted according to a ratings band factor:

Ratings Band	Ratings Band Factor
Programs commencing between 18:00 and 22:29	1.0
Programs commencing between 22:30 and 23:59	0.3
Programs commencing between 00:00 and 05:59	0.1
Programs commencing between 06:00 and 17:59	0.3

This means that broadcasts made in 'primetime' receive a greater weighting than programs broadcast at other times.

Screenrights can then determine the royalty amount that should be allocated to each program identified as having been retransmitted.

The value of royalties derived from the retransmission of a television program is dependent on the duration of the program, how often it plays, the time of day it is broadcast, the television network on which it is aired and the extent to which that network is retransmitted throughout Australia.

How much is allocated to each copyright in a retransmitted program?

Because each film and television program contains a number of copyrights, Screenrights' Board has had to determine how the total amount for each title should be allocated among these various copyrights.

The allocations are as follows:

Copyright	Retransmission Royalties (Australian)
Film	68.5%
Script	22.1%
Musical Works	7.4%
Sound Recordings of Musical Works	2.0%

Artistic Works

For information as to how Screenrights distributes royalties to rightsholders in artistic works please contact Member Services.

Who gets the allocations in a retransmitted program?

Under the Australian Copyright Act, Screenrights must pay the specified share of the total royalties allocated to each retransmitted program to the relevant rightsholder at the time of broadcast in the film, script, sound recordings, musical works, and artistic works.

For retransmission royalties, the relevant right is the right to retransmit the program (or the film, script, sound recordings, musical works or artistic works incorporated in the program) in Australia.

For Screenrights' purposes, under the Australian Copyright Act, the producer is the first owner of the relevant rights in the film, the writer is the first owner of the relevant rights in the script, the composer is the first owner of the relevant rights in the music, and the person or company that commissioned the sound recording is the first owner of the relevant rights in the sound recording of commissioned music. After December 2005, directors were also granted rights in their films under certain circumstances. These rules are subject to exceptions and legal advice should always be sought.

However, in order to determine who is entitled to the Screenrights royalties, it is usually necessary to look beyond the first owner and consider if any agreements have been entered concerning the relevant right.

For example, where a producer enters an agreement with a distributor or a funding agency, the question of who owns the relevant right (and is therefore entitled to Screenrights' royalties) is normally dealt with in this contract.

If you are uncertain as to the effect of particular clauses in a contract on your entitlement to Screenrights royalties, we recommend you seek legal advice.

Screenrights cannot offer legal advice but we are happy to view a contract to determine whether we would be likely to accept a claim. Where there is a conflict over entitlement to royalties, Screenrights' Alternative Dispute Resolution (ADR) Policy will apply. This policy is available on our website.

What do I need to do to collect retransmission royalties?

You must register your titles with Screenrights. If you are already a member of Screenrights, you should contact Member Services to discuss your registrations and ensure that your registrations cover Australian retransmission royalties.

If you are not yet a member, you will need to join Screenrights and register your titles with us. This is simple and free.

Membership and Registration Forms are available on the website.

How can I ensure that I get Screenrights royalties?

When you are negotiating agreements concerning the making or subsequent distribution of a film, it is advisable to specifically address the issue of who is entitled to claim Screenrights royalties. In drafting such agreements, rightsholders should always seek independent legal advice. Screenrights does publish suggested draft clauses that you may wish to include in your agreement. These clauses could be adapted for use in agreements between producers and writers, artists, rightsholders in sound recordings; in distribution agreements and in agreements with funding agencies.

Contact us or visit our website for a copy of these clauses.

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@screenrights.org
www.screenrights.org