

Code of Conduct for Copyright Collecting Societies

As amended 1 July 2019



COPYRIGHTAGENCY



screenrights

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1 INTRODUCTION

1.1 Background

- (a) Collecting Societies in Australia provide a range of valuable services to both Members and Licensees. By administering copyright or the resale royalty right or both on behalf of Members, Collecting Societies:
- (i) promote the creation and dissemination of copyright material;
 - (ii) represent the interests of creators and owners of copyright material;
 - (iii) make it easier for people to obtain permission to use copyright material;
 - (iv) streamline the process of collecting remuneration and/or licence fees for the use of copyright material; and
 - (v) reduce the transaction costs for both Members and Licensees associated with the use and exploitation of copyright material.
- (b) Each Collecting Society aspires to:
- (i) achieve best practice in the conduct of its operations;
 - (ii) be responsive to the needs of Members and Licensees;
 - (iii) ensure transparency and accountability in the conduct of its operations; and
 - (iv) achieve efficiency in the process of allocating and distributing payments to Members.
- (c) In recognition of the services they provide, Collecting Societies expect that:
- (i) Licensees and other users of copyright material will respect the rights of the creators and owners of that material, and in particular their right to receive fair payment for the use and exploitation of copyright material; and
 - (ii) Licensees and other users of copyright material will use that material only in accordance with:
 - A. the terms of a licence or other permission; and/or
 - B. the *Copyright Act 1968*, the Copyright Regulations, any other applicable legislation, relevant decisions of courts or tribunals (including the Copyright Tribunal), and other binding legal requirements, conditions or guidelines.
- (d) This Code of Conduct is intended to provide greater protections for both Members and Licensees, and to facilitate the efficient, effective and fair operations of Collecting Societies.

1.2 Scope

This Code applies to those Collecting Societies that have agreed to be bound by the Code, as defined at clause 6.1.

1.3 Objectives

The objectives of this Code are to facilitate efficient and fair outcomes for members and licensees by:

- (a) promoting awareness of and access to information about copyright or the resale royalty right or both and the role and function of Collecting Societies in administering copyright or the resale royalty right or both on behalf of Members;
- (b) promoting confidence in Collecting Societies and the effective administration of copyright or the resale royalty right or both in Australia;

- (c) setting out the standards of service that Members and Licensees can expect from Collecting Societies; and
- (d) ensuring that Members and Licensees have access to efficient, fair and low-cost procedures for the handling of Complaints and the resolution of Disputes involving Collecting Societies.

2 OBLIGATIONS OF COLLECTING SOCIETIES

2.1 Legal Framework

- (a) This Code is one element of a broader legal and regulatory framework within which Collecting Societies operate. This Code sets minimum standards for the conduct of Collecting Societies and complements the following regulatory instruments, which each Collecting Society will comply with:
 - (i) the Corporations Act 2001 and the Corporations Regulations;
 - (ii) the Copyright Act 1968 and the Copyright Regulations;
 - (iii) its Constitution;
 - (iv) the Attorney-General's Guidelines for Declared Collecting Societies (where applicable);
 - (v) its obligations under the Privacy Act 1988, including the Australian Privacy Principles, or any Privacy Code that applies to the Collecting Society;
 - (vi) in the case of the declared Collecting Society under that Act, the Resale Royalty Right for Visual Artists Act 2009; and
 - (vii) any other applicable legislation, relevant decisions of courts or tribunals (including the Copyright Tribunal), and other binding legal requirements, conditions or guidelines that apply to the Collecting Society.
- (b) The Code does not apply to matters that are covered by the jurisdiction of the Copyright Tribunal of Australia, such as the determination of licence fees payable.

2.2 Members

- (a) The membership of a Collecting Society will be open to all eligible creators of copyright material, and to anyone who owns or controls copyright material or the resale royalty right or both, in accordance with the Constitution of the Collecting Society.
- (b) Each Collecting Society will treat its Members fairly, honestly, impartially, courteously, and in accordance with its Constitution and any Membership Agreement.
- (c) Each Collecting Society will ensure that its dealings with Members are transparent.
- (d) Each Collecting Society will provide a copy of its Constitution to a Member at the time that the Member first joins the Collecting Society, or at any time on request. A Collecting Society will also provide a copy of its Constitution to a potential Member on request.

2.3 Licensees

- (a) Each Collecting Society will treat Licensees fairly, honestly, impartially, courteously, and in accordance with its Constitution and any licence agreement.
- (b) Each Collecting Society will ensure that its dealings with Licensees are transparent.
- (c) Each Collecting Society will:
 - (i) make available to Licensees and potential Licensees information about the licences or

- licence schemes offered by the Collecting Society, including the terms and conditions applying to them, and about the manner in which the Collecting Society collects remuneration and/or licence fees for the use of copyright material; and
- (ii) to the extent it reasonably can, having regard to the complexity of the questions of fact and law necessarily involved, take steps to ensure that all licences offered by the Collecting Society are drafted so as to be plainly understandable to Licensees, and are accompanied by practical and suitable explanatory material.
- (d) Each Collecting Society's policies, procedures and conduct in connection with the setting of licence fees for the use of copyright material will be fair and reasonable. In setting or negotiating such licence fees, a Collecting Society may have regard to the following matters:
 - (i) the value of the copyright material;
 - (ii) the purpose for which, and the context in which, the copyright material is used;
 - (iii) the manner or kind of use of the Copyright Material;
 - (iv) any relevant decisions of the Copyright Tribunal; and
 - (v) any other relevant matters.
 - (e) The Collecting Societies acknowledge the important role played by relevant industry associations in relation to the formulation of terms and conditions applying to licences or licence schemes offered by some Collecting Societies.
 - (f) Each Collecting Society will where appropriate consult in good faith with relevant industry associations in relation to the terms and conditions applying to licences or licence schemes offered by the Collecting Society.
 - (g) Each Collecting Society will, in response to a reasonable request, make available to a Licensee or potential Licensee:
 - (i) the methodology for calculating the licence fees applicable to that Licensee or potential Licensee; and
 - (ii) matters taken into consideration in determining the licence fee to the extent that such information is not commercial-in-confidence and does not otherwise directly affect a commercial negotiation between the Collecting Society and the Licensee or potential Licensee.
- The Code Compliance Reviewer is able to consider whether a request or a Collecting Society's response to it has been reasonable.
- (h) A Collecting Society may not unreasonably refuse a request from a Licensee to engage in an alternative dispute resolution (ADR) process in respect of a licensing dispute. Whether a Collecting Society has acted reasonably in response to a request made pursuant to this clause is a matter for consideration by the Code Compliance Reviewer in their annual report on the Collecting Societies' compliance with the Code.

2.4 Distribution of Remuneration and Licence Fees

- (a) Each Collecting Society will maintain, and make available to Members on request, a distribution policy that sets out from time to time:
 - (i) the basis for calculating entitlements to receive payments from remuneration and/or licence fees collected by the Collecting Society (Revenue);
 - (ii) the manner and frequency of payments to Members; and
 - (iii) the general nature of amounts that will be deducted from Revenue before

distribution.

- (b) Each Collecting Society will distribute payments to its Members in accordance with its Constitution and distribution policy.
- (c) Each Collecting Society will, in response to a reasonable request by a Licensee or their representative, provide more detailed information about particular rights payments made pursuant to a licence. Such information should only be provided to the extent that it is not commercial-in-confidence and does not otherwise directly affect a commercial negotiation between the Collecting Society and the Licensee or potential Licensee. Such information is to be provided:
 - (i) on an anonymised basis; and
 - (ii) where the Collecting Society can do so at a reasonable cost.

The Code Compliance Reviewer is able to consider whether a request or a Collecting Society's response to it has been reasonable.

- (d) Each Collecting Society will:
 - (i) consult with Members prior to making any substantive changes to their distribution policy; and
 - (ii) publish 'plain English' guidelines on their distribution policy and make them available to Members and Licensees.

2.5 Collecting Society Expenses

Each Collecting Society will deduct from its total Revenue:

- (a) the expenses of managing and operating the Collecting Society; and
- (b) any other amounts authorised by its Constitution. These may include, for example, the costs of promotional activities, educational programs, cultural funds, donations in support of creators and owners of copyright material, membership of industry associations, or other charitable purposes.

2.6 Governance and Accountability

- (a) The Board of Directors of a Collecting Society will be accountable to its Members.
- (b) Each Collecting Society will at all times maintain proper and complete financial records, including in relation to:
 - (i) the collection and distribution of Revenue; and
 - (ii) the payment by the Collecting Society of expenses and other amounts described in clause 2.5.
- (c) Each Collecting Society will ensure that its financial records are audited at least annually.
- (d) Consistent with its obligations under the *Privacy Act 1988* and any applicable duty of confidentiality, a Collecting Society will provide a Member, on request, with reasonable information about that Member's entitlement to receive a payment from Revenue.
- (e) Each Collecting Society will include in its Annual Report information about:
 - (i) total Revenue during the reporting period;
 - (ii) the total sum and general nature of expenses and other amounts described in clause 2.5; and
 - (iii) the allocation and distribution of payments to Members in accordance with the distribution policy.

- (f) Each Collecting Society will provide detailed information in its annual publications, at an anonymised or aggregate level where appropriate, about the accounting and distribution of licence revenue. This information is to be reported in a consistent format year on year. Categories for reporting should include, but are not limited to:
 - (i) classes of Licensees from whom licence revenue is received;
 - (ii) classes of Members to whom licence revenue is paid;
 - (iii) categories of copyright material copied/licensed in respect of which licence revenue is received; and
 - (iv) domestic vs international payments of licence revenue.
- (g) Each Collecting Society will provide detailed annual reporting of expired undistributed funds, including:
 - (i) the reason/s why funds remain undistributed to rightsholders;
 - (ii) the steps taken to locate rightsholders and distribute funds to; and
 - (iii) detailed information on the allocation and use or proposed use of the funds by the Collecting Society for which funds are to be applied.

2.7 Staff Training

Each Collecting Society will take reasonable steps to ensure that its employees and agents are aware of, and at all times comply with, this Code. In particular, a Collecting Society will take reasonable steps to ensure that its employees and agents are aware of the procedures for handling Complaints and resolving Disputes set out in clause 3, and are able to explain those procedures to Members, Licensees and the general public.

2.8 Education and Awareness

- (a) Each Collecting Society will engage in appropriate activities to promote awareness among Members, Licensees and the general public about the following matters:
 - (i) the importance of copyright;
 - (ii) the role and functions of Collecting Societies in administering copyright generally; and
 - (iii) the role and functions of that Collecting Society in particular;and will make information about these matters available, on reasonable request, to Members, Licensees and the general public.
- (b) In deciding what activities are appropriate for the purposes of paragraph (a), a Collecting Society will take into account the following factors:
 - (i) its size;
 - (ii) the number of Members it has;
 - (iii) the number of Licensees it has;
 - (iv) the amount of Revenue it collects annually; and
 - (v) the possibility of undertaking activities jointly with another Collecting Society.
- (c) Without limiting paragraph (a) or any other obligation in this Code, each Collecting Society will produce and make available appropriate information about the following:
 - (i) the eligibility criteria for membership of the Collecting Society;
 - (ii) the benefits of membership of the Collecting Society;
 - (iii) the responsibilities of Members under the Constitution of the Collecting Society and any Membership Agreement;

- (iv) any policies and procedures of the Collecting Society that affect Members;
 - (v) the benefits to Licensees of obtaining a licence from the Collecting Society;
 - (vi) the responsibilities of Licensees under a licence granted by the Collecting Society, and under the *Copyright Act 1968* and other applicable laws; and
 - (vii) any policies and procedures of the Collecting Society that affect Licensees.
- (d) Each Collecting Society will make available plain English guidelines stating how expired undistributed funds will be allocated and spent by the Collecting Society, and how such expenditure will serve the interests of Members.
- (e) The Collecting Societies will establish and maintain a consolidated online portal for the public dissemination of governance, financial and data information, including all documents relating to the Collecting Societies' compliance with the Code.

2.9 Reporting by Declared Collecting Societies

- (a) The Annual Report of a Declared Collecting Society shall include the following information in relation to each statutory licence for which the society is declared, for the financial year to which the Annual Report pertains:
- (i) For each Statutory Licensee Class:
 - A. total licence fees received;
 - B. income on investments of licence fees;
 - C. total amount allocated and paid to Members;
 - D. the total amount of licence fees held in trust; and
 - E. total licence fees for which the trust period expired.
 - (ii) the total expenses of the Declared Collecting Society.
- (b) A Declared Collecting Society will, upon request from a representative of a Statutory Licensee Class, provide the following information to the extent that it can do so at a reasonable cost:
- (i) proportions to classes of recipients from the distribution of licence fees from the Statutory Licensee Class;
 - (ii) for each of the total amounts referred to in clause 2.9(a)(i)(E), the proportion not paid to rights holders due to:
 - A. the entitled Member not being located;
 - B. the relevant rights holder not being a Member;
 - C. entitlement Disputes;
 - D. the amounts being below the distributable threshold; and
 - E. other reasons (which reasons the Declared Collecting Society may elect to specify).

3 COMPLAINTS AND DISPUTES

- (a) Each Collecting Society will develop and publicise procedures for:
- (i) dealing with Complaints from Members and Licensees; and
 - (ii) resolving Disputes between the Collecting Society and:
 - A. its Members; and/or
 - B. its Licensees.
- (b) The procedures developed under paragraph (a) will apply to any Complaint about a

- matter covered by the Code which adequately identifies the nature of the Complaint and the identity of the person complaining.
- (c) The procedures developed under paragraph (a) will comply with the requirements of Australian Standard ISO 10002 *Customer Satisfaction*. In developing its procedures, a Collecting Society will have particular regard to the following principles:
- (i) The procedures should define the categories of Complaints and Disputes they cover and explain the way in which each will be dealt with.
 - (ii) Information on how to make Complaints should be readily accessible to Members and Licensees.
 - (iii) Each Collecting Society should provide reasonable assistance to a Member or Licensee in the formulation and lodgement of a Complaint.
 - (iv) The procedures should recognise the need to be fair to both the person complaining and the Collecting Society to which the Complaint relates.
 - (v) The procedures should specify by position who in the first instance will handle Complaints on behalf of the Collecting Society.
 - (vi) The procedures should indicate time frames for the handling of Complaints and Disputes.
 - (vii) Each Collecting Society should provide a written response to a Complaint that is made in writing.
 - (viii) Each Collecting Society should establish appropriate alternative dispute resolution procedures.
 - (ix) Each Collecting Society will ensure that adequate resources are made available for the purpose of responding to Complaints and resolving Disputes.
- (d) Each Collecting Society will regularly review its Complaint handling and Dispute resolution procedures to ensure that they continue to comply with the requirements of this Code.

4 PUBLICITY AND REPORTING

- (a) Each Collecting Society will:
- (i) take appropriate steps to publicise this Code and the fact that it has agreed to be bound by it; and
 - (ii) make copies of the Code available to Members, Licensees and the general public on request.
- (b) Each Collecting Society will include in its Annual Report a statement about its compliance with this Code.
- (c) If the Code Compliance Reviewer reports a finding, in a report prepared under clause 5.1(d), that a Collecting Society has contravened the Code, that Collecting Society will notify its Members and Licensees of the contravention by means such as:
- (i) Notification of the contravention published on the Collecting Society's website;
 - (ii) Report of the contravention itemised in the Collecting Society's annual report; and
 - (iii) Report on the online portal referred to in Clause 2.8(e).

5 MONITORING, REVIEW AND AMENDMENTS

5.1 Code Compliance Reviewer and Triennial Code Reviewer

- (a) The Collecting Societies that have agreed to be bound by this Code will appoint:
 - (i) a Code Compliance Reviewer with specialist expertise in administrative law, copyright law and/or licensing practices to perform the functions conferred by paragraph (c); and
 - (ii) a Triennial Code Reviewer to conduct a review of the Code in accordance with clause 5.3.
- (b) The Code Compliance Reviewer will be independent of the Collecting Societies and will have no association with any of them. Neither a lack of independence nor any “association” will, however, be inferred purely by virtue of that person having provided professional services to a Collecting Society of a kind that does not, or did not, relate to a matter covered by the Code. The Code Compliance Reviewer will be appointed for a minimum period of three years.
- (c) The functions of the Code Compliance Reviewer are:
 - (i) to monitor and prepare annual reports on the level of compliance by Collecting Societies with the obligations imposed on them by this Code;
 - (ii) as part of the functions under subparagraph (i), to consider Complaints from Members or Licensees in accordance with clause 5.2 (c).
- (d) The Triennial Code Reviewer will:
 - (i) be a person other than the Code Compliance Reviewer;
 - (ii) have specialist expertise regarding the functions in clause 5.3;
 - (iii) be independent of the Collecting Societies and have no association with any of them, but may have provided professional services to a Collecting Society of a kind that does not, or did not, relate to a matter covered by the Code;
 - (iv) be appointed by the Collecting Societies, before the commencement of each Triennial Review, for the period necessary to perform the functions in clause 5.3.
- (e) It is not a function of the Code Compliance Reviewer to resolve a Dispute between a Collecting Society and a Member, Licensee or other person, including a Dispute about licence fee pricing.
- (f) Each Collecting Society will contribute to the costs and expenses of the Code Compliance Reviewer and of the Triennial Code Reviewer as agreed from time to time.

5.2 Annual Compliance Monitoring and Reporting

- (a) For the purposes of performing his or her functions under clause 5.1(c), the Code Compliance Reviewer may undertake such consultations as he or she considers appropriate. Without limiting his or her discretion, the Code Compliance Reviewer may:
 - (i) call for submissions from Members, Licensees and the general public, and from groups representing them, on the level of compliance by Collecting Societies with the obligations under this Code;
 - (ii) convene meetings with such individuals or groups as he or she considers appropriate; and
 - (iii) consult with the Commonwealth Department(s) responsible for the administration of the *Copyright Act 1968* and such other Commonwealth, State or Territory

Government agency as he or she considers appropriate.

- (b) In addition to the consultations undertaken in accordance with paragraph (a), each Collecting Society will report annually to the Code Compliance Reviewer on that Collecting Society's compliance with this Code, including:
- (i) its compliance with clauses 2.1 to 2.8;
 - (ii) the number of Complaints it has received and how those Complaints have been resolved; and
 - (iii) if it is a Declared Collecting Society, its compliance with clause 2.9.
- To assist Collecting Societies in complying with this paragraph, the Code Compliance Reviewer will develop templates and/or guidelines for the preparation of reports.
- (c) Each Collecting Society will provide, in its annual report to the Code Compliance Reviewer, information on steps taken to improve the capture and exploitation of data to achieve better business practices.
- (d) Each Collecting Society will establish and maintain a contraventions register on the online portal referred to in clause 2.8(e) to record all historical and future contraventions of the Code.
- (e) Each Collecting Society will make public, on the online portal referred to in Clause 2.8(e), its reports prepared for the Code Compliance Reviewer under clause 5.2(b) after 1 January 2019. The published versions of the reports will include summaries of any Complaints without identifying any of the people involved, and will exclude any information that is confidential, commercial-in-confidence or that identifies individual Members or Licensees.
- (f) The Code Compliance Reviewer may, subject to the terms of this paragraph, receive and consider Complaints from Members or Licensees to the effect that a Complaint made by the Member or Licensee to the Collecting Society under clause 3 of this Code was not addressed in the manner required by clause 3(c) of the Code.
- (g) Upon receipt of a Complaint from a Member or a Licensee of the type referred to in paragraph (f) above, the Code Compliance Reviewer must:
- (i) request of the complainant sufficient information and documentation as to the specific breaches alleged as may be required to elucidate the nature of the Complaint;
 - (ii) provide the relevant Collecting Society with full details of the Complaint as so elucidated and allow the Collecting Society a reasonable period within which to provide a response;
 - (iii) to the extent that the Collecting Society's response makes allegations against the complainant, provide full details of that response to the complainant and allow the complainant a reasonable time within which to reply to those allegations.
- (h) Having considered the views of both the complainant and the relevant Collecting Society under paragraph (g), the Code Compliance Reviewer must form a view on the merits of the Complaint that the society failed to comply with clause 3(c):
- namely,
 - (i) whether it is wholly or partly justified;
 - (ii) whether it is wholly or partly unjustified; or
 - (iii) whether some other view is appropriate and if so, what view and for what reason;
- and inform the complainant and the Collecting Society of that view, making such recommendations as may be appropriate in the circumstances. If the Code Compliance

Reviewer considers it appropriate, he or she may also report on that Complaint in the annual report produced pursuant to paragraph (i).

- (i) Following his or her consultations, and consideration of the Collecting Societies' reports, the Code Compliance Reviewer will prepare annually a report on compliance generally by Collecting Societies with this Code, and on steps taken to improve the capture and exploitation of data to achieve better business practices. The Code Compliance Reviewer will make a copy of the report available to:
 - (i) each Collecting Society;
 - (ii) the Commonwealth Department(s) responsible for the administration of the Copyright Act 1968;
 - (iii) each individual or group that made a submission to the Code Compliance Reviewer; and
 - (iv) members of the public.

5.3 Review and Recommendations for Amendment of the Code

- (a) This Code will be reviewed:
 - (i) in 2021; and
 - (ii) at least once within each subsequent three-year period.
- (b) For the purposes of a Review of the Code, the Triennial Code Reviewer will:
 - (i) invite written submissions on the operation of the Code and on any amendments that are necessary or desirable to improve the operation of the Code;
 - (ii) convene and publicise widely, during the period in which submissions may be made, one or more meetings that Members, Licensees and the general public may attend to make oral submissions to the Review; and
 - (iii) undertake such other consultations as he or she considers appropriate, including consultations of the kind set out in clause 5.2(a).
- (c) Each Collecting Society will inform its Members and Licensees in an appropriate manner that the Review is being conducted and that they may make submissions to the Triennial Code Reviewer.
- (d) The Triennial Code Reviewer will allow a period of at least two months for the making of submissions.
- (e) At the completion of the period for the making of submissions, the Triennial Code Reviewer will prepare a report of the Review, and will make such recommendations as he or she considers appropriate in relation to the operation of the Code, including recommendations for amendments of the Code.
- (f) The Triennial Code Reviewer will make a copy of the report of the Review available to:
 - (i) each Collecting Society;
 - (ii) the Commonwealth Department(s) responsible for the administration of the *Copyright Act 1968*;
 - (iii) each individual or group that made a submission to the Triennial Code Reviewer;
 - (iv) the Code Compliance Reviewer; and
 - (v) members of the public.

5.4 Making amendments to the Code

- (a) If the report of the Review includes recommendations, the Collecting Societies will:

- (i) decide, by consensus or majority, their response to the recommendations within 30 days from the delivery of the report to them by the Triennial Code Reviewer;
 - (ii) notify the Triennial Code Reviewer of their decision and the reasons for it including reasons why any recommendations have not been adopted; and
 - (iii) if their response requires amendments to the Code, the Collecting Societies will make those amendments within 60 days from the delivery of the report to them by the Triennial Code Reviewer.
- (b) The Collecting Societies may make amendments to the Code that have not been recommended by the Triennial Code Reviewer, provided those amendments are consistent with clause 1.1(d) and follow consultations with Members and Licensees.
- (c) If the Collecting Societies make an amendment to the Code, they will:
- (i) update the table of amendments for the Code, including the reason the amendment was made;
 - (ii) notify the Triennial Code Reviewer of the amendment and the reasons for it (including where it implements a recommendation by the Triennial Code Reviewer);
 - (iii) notify the Commonwealth Department(s) responsible for the administration of the *Copyright Act 1968*; and
 - (iv) notify other affected stakeholders, including Members and Licensees, of the amendment, the reasons for it, and its consequences (using plain English).

6 DEFINITIONS AND INTERPRETATION

6.1 Definitions

In this Code:

Collecting Societies means the copyright collecting societies that have agreed to be bound by this Code, being:

- (a) Audio-Visual Copyright Society Limited trading as Screenrights (ABN 76 003 912 310)
- (b) Australasian Performing Rights Association Limited (ABN 42 000 016 099)
- (c) Australasian Mechanical Copyright Owners Society Limited (ABN 78 001 678 851)
- (d) Australian Screen Directors Authorship Collecting Society Limited (ABN 80 071 719 134)
- (e) Australian Writers Guild Authorship Collecting Society Limited (ABN 38 002 563 500)
- (f) Copyright Agency Limited (ABN 53 001 228 799); and
- (g) Phonographic Performance Company of Australia Limited (ABN 43 000 680 704)

Complaint means an allegation that a Collecting Society's conduct has fallen short of a standard of conduct required of it by the Code (such as an allegation that the Collecting Society has not responded within a reasonable time to correspondence from the Licensee or has been rude in dealing with the Licensee over the Dispute is a Complaint).

Declared Collecting Societies means Copyright Agency and Screenrights.

Constitution means the documents that establish and govern the operations of a Collecting Society. In the case of a Collecting Society that is incorporated, this would include the Memorandum and Articles of Association of the Collecting Society.

Dispute means the taking of rival positions by a Collecting Society on the one hand and Member, Licensee or other person on the other hand, as to their respective legal rights and obligations, resolution of which depends on a determination of what the relevant law

is and/or a finding as to what the relevant facts are (such as whether a Licensee owes an amount of money to a Collecting Society).

Licensee means:

- (a) a person granted permission by a Collecting Society to use copyright material;
- (b) a person entitled to use copyright material under a statutory licence in the *Copyright Act 1968*;
- (c) a person who requires a licence from a Collecting Society to use copyright material; and
- (d) for the purposes of this Code, people who are obliged to report resales and people who are liable to pay royalties under the *Resale Royalty Right for Visual Artists Act 2009*.

Member means a person who creates copyright material, or who owns or controls copyright material or a resale royalty right, and who is entitled to be a Member of a Collecting Society under its Constitution. This includes creators of copyright material, such as authors, publishers, playwrights, musicians, composers, artists, computer programmers, producers or broadcasters, as well as people or organisations to whom the rights in copyright material have been assigned or in whom they have become vested.

Revenue means remuneration and/or licence fees collected by the Collecting Society.

Statutory Licensee Class means:

- (a) the Commonwealth Government;
- (b) the State and Territory Governments;
- (c) schools;
- (d) universities;
- (e) Technical and Further Education institutions; and
- (f) other educational institutions.

6.2 Interpretation

- (a) Where there is any doubt about the intent or scope of this Code, it should be interpreted in the light of the objectives set out in clause 1.3.
- (b) Where this Code requires a Collecting Society to make information or documents available on request, such request is generally satisfied by making the information or documents available on a website. Where a person requiring the information or documents advises that they cannot access the Internet, the Collecting Society should take reasonable steps to satisfy their request in another way.

7 AMENDMENTS TO THE CODE OF CONDUCT SINCE 2002

There is a Table of Amendments to the Code, since it was established in 2002, on the [Code of Conduct website](#).