

**Report of Review of Copyright Collecting
Societies'
Compliance with their Code of Conduct
for the Year 1 July 2016 to
30 June 2017**

The Hon K E Lindgren AM, QC

2 December 2017

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Report of Review of Copyright Collecting Societies'

Compliance with their Code of Conduct for the Year 1 July 2016 to 30 June 2017

INTRODUCTION AND SUMMARY CONCLUSIONS

1. This report of the Code Reviewer, the Hon K E Lindgren, AM, QC, is the fourteenth annual report of a Code Reviewer assessing the compliance with their voluntary Code of Conduct (Code) of the following eight collecting societies: Australasian Performing Right Association Limited ("**APRA**"), Australasian Mechanical Copyright Owners Society Limited ("**AMCOS**"), Phonographic Performance Company of Australia Limited ("**PPCA**"), Copyright Agency Limited ("**Copyright Agency**"), Audio-Visual Copyright Society Limited ("**Screenrights**"), Viscopy Limited ("**Viscopy**"), Australian Writers' Guild Authorship Collecting Society Limited ("**AWGACS**") and Australian Screen Directors Authorship Collecting Society Limited ("**ASDACS**"). This "Compliance Report" assesses that compliance during the period 1 July 2016 to 30 June 2017 (the Review Period).
2. AMCOS is administered by APRA. Therefore, the practice is adopted of referring to APRA and AMCOS collectively as "APRA AMCOS" except where it is necessary or convenient to distinguish between them.
3. Viscopy is administered by Copyright Agency. Therefore, the practice is adopted of referring to Copyright Agency and Viscopy collectively as "Copyright Agency/Viscopy", except where it is necessary to distinguish between them.

4. For the purposes of the review, each society reported to the Code Reviewer in respect of its activities covered by the Code during the Review Period. In some cases, their reports were accompanied by documents (in the cases of APRA AMCOS and PPCA, voluminous documents) which provided the evidence for the statements made in the text of the report (Accompanying Underlying Documents).
5. The review and the opportunity to make submissions relevant to it were widely advertised: see the Appendix to this Report for the notice of the review and for details of the publication of the notice.
6. Certain organisations and individuals were individually notified by the Code Review Secretariat. The Secretariat has prepared and holds an alphabetical list of them. It is available for inspection on request, but is so voluminous that, in the interests of convenience, it is not attached to this Report.
7. During the Review Period, while there were some failures to comply with the Code, on the evidence before me, in the terms of Clause 5.2(f) of the Code, I am satisfied that the collecting societies generally complied with the requirements of the Code.
8. I again record my thanks to Kylie Toombs who constitutes the Code Review Secretariat for her considerable help to me in bringing this Report to a conclusion.

COMPLIANCE WITH CODE REQUIREMENTS OTHER THAN THOSE RELATING TO COMPLAINTS AND DISPUTES

9. This section of the Report, structured society by society, addresses significant events, changes and developments during the Review Period by reference to the relevant clauses of the Code.

Australasian Performing Right Association Limited ("APRA") and Australasian Mechanical Copyright Owners Society Limited ("AMCOS")

General

10. As noted at [2] above, APRA administers AMCOS, and has done so under an arrangement between the two societies dated 1 July 1997.
11. APRA AMCOS have previously reported comprehensively in respect of earlier years and have also previously provided details of the history and constitution of each society, as well as a history and copy of each licence scheme offered by the companies. The current report provided by APRA/ AMCOS provides information covering the Review Period and, where applicable, indicates where there have been no developments since the previous Code Review.

Legal Framework (Code, Clause 2.1)

12. APRA AMCOS state that they have not changed any of the principal characteristics of their membership structures during the Review Period.

13. The APRA Board has six writer directors, elected by the writer members, and six publisher directors, elected by the publisher members.
14. The AMCOS Board is elected by the members of AMCOS.
15. Being directly elected by the membership, both Boards are representative and accountable. A list of the current Directors on the APRA and AMCOS Boards was provided to the Code Reviewer in the Accompanying Underlying Documents.
16. Access to the following documents relating to the Review Period were provided by APRA AMCOS:
 - APRA AMCOS Year in Review (an easy to read annual summary of both organisations' performance, achievements and initiatives) for the 2015/16 financial year by way of a link to the website;
 - APRA Statutory Accounts for the 2015/16 financial year;
 - AMCOS Statutory Accounts for the 2015/16 financial year;
 - A diagram showing the overall management structure of APRA AMCOS; and
 - APRA AMCOS Privacy Policy.
17. The Constitutions of both APRA and AMCOS are available on the APRA AMCOS website and a link to them was provided to the Code Reviewer.
18. As at 30 June 2017, APRA AMCOS had 332 employees (including casual compliance staff) in Australia and an additional 31 employees in the APRA AMCOS New Zealand office.
19. Finally, neither APRA nor AMCOS is a declared collecting society under the Act in respect of any of the statutory licences. Accordingly,

neither is required to comply with the requirements of the *Guidelines for Declaration of Collecting Societies*. In practice, however, they say that they satisfy many of those requirements.

Members (Code, Clause 2.2)

20. As at 30 June 2017, APRA had 94,940 (Australian and New Zealand) members, comprising composers, authors and publishers. Of these, 92,305 were local writer members, and 651 were local publisher members. In addition APRA had 1,976 overseas resident writer members and continues to have 8 overseas resident publisher members. Most Australian and New Zealand composers and publishers are members
21. As at 30 June 2017, AMCOS had 17,325 (Australian and New Zealand) members, of whom 16,423 were writers and 551 were publishers. In addition AMCOS had 346 overseas resident writer members and continues to have 5 overseas resident publisher members.
22. As at 30 June 2017, APRA AMCOS had 1,284 Aboriginal and Torres Strait Islander (ATSI) members which represented an increase of 7.3% during the Review Period. Although indigenous membership is still low, APRA AMCOS state that they are committed to increasing awareness through their national indigenous membership strategy, overseen by their Aboriginal and Torres Strait Islander (ATSI) National Representative.
23. APRA AMCOS maintain that their relationships with their members remains at the core of their operations, and that communication with members is frequent. They further state that "Member Services" staff are expert in advising members on their relationship with APRA AMCOS and on the music business generally and that members

interact freely with APRA AMCOS, having direct access to all levels of management.

24. Members, overseas affiliates, Board Directors and the media are able to login to a secure section of the APRA AMCOS website (<http://apraamcos.com.au/>) which provides a number of online services. Additionally, APRA AMCOS produce a large amount of written material for members, all of which has been provided in previous review periods.
25. Royalty queries to the Membership Department are logged in that Department's query tracking system that uses the companies' internal email to forward messages to relevant staff. This system ensures that complaints made by members are also logged and forwarded to the Head of Member Services.
26. During the Review Period, the Writer Services Department engaged in email correspondence with writer members on 50,257 separate occasions. The Publisher Services Department sent 17,035 emails to publisher members. In addition, over 2,412,038 emails were sent to members as part of email broadcasts to the membership, which contained information including event notices, payment advice and APRA AMCOS publications.
27. Writer Services staff log member phone calls eight weeks per year; one week for APRA distribution related calls after each APRA distribution and one week for AMCOS distribution related calls after each AMCOS distribution. During the Review Period, Writer Services staff logged 823 phone queries following APRA distributions and 2 phone queries following AMCOS distributions. Further statistics relating to the number of contacts with members were provided to the Code Reviewer.

28. During the Review Period, positive feedback was received in relation to the 'Live Chat' service provided on APRA AMCOS's website.

International relations

29. APRA AMCOS has an International Department which is responsible for the reciprocal representation agreements with other societies administering performing and mechanical rights around the world. The International Department undertakes royalty distributions for performing rights to members. It also monitors the use of APRA repertoire overseas. It makes claims for missing payments and researches members' notifications and enquiries relating to overseas use and payments. The Department acts as the conduit for communications between APRA AMCOS and their respective affiliated societies, the umbrella representative bodies CISAC and BIEM, as well as its dealings with WIPO
30. During the Review Period, APRA distributed over AUD\$26m to members in twelve separate distributions. The International Department is also responsible for the distribution of overseas mechanical rights income through AMCOS and it distributed over AUD\$924k to AMCOS members in four distributions.
31. Also in the Review Period, APRA collected a record amount of over AUD\$43.4m for the use of Australian and New Zealand repertoire overseas. AMCOS collected over AUD\$1.2m.
32. In addition, during the Review Period, the International Department was involved in a number of regional and international activities.

Opt Out and Licence Back

33. APRA provides members with the opportunity to 'opt out' and request that their entire repertoire be assigned to them for all territories in respect of all or particular usages, or 'licence back' specific works for specific usages in Australia and/or New Zealand.
34. During the Review Period, APRA received and approved 10 licence back applications and 1 opt out application. Further confidential details regarding these applications were offered to be provided to me as Code Reviewer. A copy of all information and forms relating to opt out and licence back, including the plain English information guides, are available on the APRA AMCOS website.
35. In 2016, the AMCOS Board approved a variation to the opt out provisions in the AMCOS Input Agreement, to offer increased flexibility to its members in the way in which they are able to withdraw rights from AMCOS for digital music services. For digital music services that operate internationally, AMCOS members are now permitted to withdraw their digital reproduction rights specifically in relation to nominated services, rather than for all services within particular categories of usage as was previously the case. Simply, members can now notify AMCOS that they wish to negotiate directly with particular international digital music services, provided the member gives AMCOS adequate prior notice.

Member Benefits Program

36. APRA AMCOS has developed an extensive benefit program for their full Australian members that can assist with their careers as songwriters/composers, including exclusive information, advice,

services and benefits. Information on the members' program is provided on the website.

Licensees (Code, Clause 2.3)

37. APRA AMCOS have large licensing departments dedicated to liaising with licensees and potential licensees. The three main areas of licensing operations are: General Licensing, Business and Events Licensing and Media Licensing. Collectively, the three licensing departments administer approximately 67,900 annual licensees and 3,008 fixed term licensees, representing approximately 145,492 businesses and events in Australia and New Zealand.
38. The fees paid to APRA AMCOS by licensees vary according to the licence scheme applicable to the particular circumstances of use. The details of all major APRA AMCOS licence scheme tariffs have been provided previously, as well as details of the value of each licence scheme as a whole.

General Licensing and Business & Events Licensing

39. The General Licensing and Business & Events Licensing Departments administer the vast majority of licences with 63,922 annual licensees and 3,008 fixed term licensees, representing 141,514 businesses and events. During the Review Period the Departments executed 11,392 new annual licences and 7,292 one-off event licences which included dance parties, festivals and music used in theatrical performances.
40. As part of the Australian Competition and Consumer Commission (ACCC) conditions of authorisation for APRA AMCOS, licensees must have access to 'plain English' Licence Information Guides tailored to their industry type; be able to complete licence application forms on-line; and submit the licence forms for processing by the APRA

Licensing Department. Links to each Licence Information Guide can be found on the APRA AMCOS website.

41. During the Review Period, the General Licensing, Business & Events Licensing and Finance (Credit Management) Departments engaged in more than 577,000 contacts with licensees, including by letter, email and telephone calls. A breakdown of the statistics was provided to the Code Reviewer, together with a sample of expressions of appreciation to these Licensing departments.

Media Licensing

42. The Media Licensing Department administers APRA AMCOS' commercial and community radio and television broadcaster clients, along with the cinema and airlines licensees. In total, approximately 970 licensees were administered by the Department during the Review Period. The Department also administers production music (AMCOS-controlled Production Music is music specifically written and recorded for inclusion in all forms of audio and audiovisual productions). There were 802 Australian production music clients licensed during the Review Period who, between them, lodged 3,417 separate licence applications.
43. The Media Licensing Department issues a range of licences relating to the reproduction of musical works in a wide variety of contexts, including: CD sales, digital download sales, video on demand services, digital subscription music services, ringtones, business to business applications, dance schools and videographers. In total, 1,082 annual licences were administered during the Review Period and an additional 657 one-off licences issued.
44. The Media Licensing Department also licenses various online services including: user-generated content sites, online portals, on-demand

streaming sites, webcasters, podcasters, online simulcasters and online production music usage. Generally, these licensees are aware of their copyright and licensing obligations. In total there were 272 online services clients administered by the Department during the Review Period.

Information provided to Licensees

45. APRA AMCOS' website contains a Licensee section with information in relation to our various licenses and with contact details for the relevant Licensing department. The information made available to licensees and potential licensees differs according to the nature of the relevant licence. For example, sophisticated national broadcasters and telecommunications companies generally require less information than small business operators with less exposure to copyright law and with limited access to specialist legal advice. The information provided by APRA AMCOS takes these factors into account.

APRA AMCOS relationship with relevant trade associations

46. APRA AMCOS state that they continue to work hard at maintaining relationships with various bodies representing major licensee groups, including television and radio broadcasters, record companies, internet service providers, small businesses, hotels, restaurants, fitness centres and educational institutions, and that during the Review Period they have supported the activities of several of those bodies (including the Australian Hotels Associations and Clubs Australia) by way of sponsorships.
47. In addition, APRA AMCOS claim to consult regularly with relevant trade associations in relation to the introduction of new licence schemes or material variations to existing licence schemes. This

approach is demonstrated by the successful negotiation of new licence schemes with relevant industry bodies.

Tariff Reviews

48. APRA AMCOS have previously provided detailed information in relation to the history and development of all significant existing licence scheme tariffs. Details are provided below only on those tariffs which were introduced, re-negotiated or phased in during the Review Period.

Hotel Industry

49. APRA AMCOS' consultations with the Hotel Industry on a new licence scheme continued into the Review Period. However, by the time APRA AMCOS and PPCA announced their intention in November 2016 to launch *OneMusic Australia* in late 2018, agreement had not been reached with all parties on some aspects of the new scheme. Accordingly, so as not to require hotels to undergo the upheaval of two re-licensing programs in as many years, the parties decided to suspend consultations on the APRA AMCOS-only scheme, and to recommence discussions with *OneMusic Australia* in due course.

Dramatic Context Licence Scheme

50. During the Review Period, in response to the changing theatrical market, APRA and its members commenced a review of the Dramatic Context Licence Scheme. APRA is the appointed agent of its member to license the performance of musical works in a Dramatic Context (DC). The agency appointment terms, the licence scheme and its processes have been in place for over 25 years.

51. One of APRA's main objectives was to ensure the new definition of Dramatic Context more closely aligned to the approach taken in larger theatrical markets so that, where possible, international and local shows would be subject to similar treatment when touring. It was also intended that whilst the licensing process would become less administratively burdensome for a range of parties, some performances that currently do not fall within the dramatic context definition, particularly those where there is a storyline about the life or work of a particular composer, or artist or other figure would, in future be licensed as dramatic context.

52. To date, both APRA and Live Performance Australia have agreed a new definition, so that Dramatic Context (DC) means:

the performance of musical works:

a) in conjunction with a presentation on the live stage that has (i) a storyline and (ii) one or more narrators or characters; or

(b) as a Ballet.

53. APRA AMCOS's management has also proposed that a set of guidelines be produced and made available to producers and members alike to provide direction on how APRA AMCOS intend to operate under the new definition. These guidelines are in the process of being finalised.

54. In addition, APRA will also extend licensing arrangements that currently only apply to primary and secondary schools to tertiary institutions and dance schools so that, subject to a small range of conditions, APRA will automatically issue dramatic context licences for these shows.

55. APRA will also introduce a \$20,000 box office threshold for dramatic context productions where productions that meet a range of criteria will also be automatically licensed under APRA's DC licence scheme.
56. The changes to the DC licence will become effective 1 January 2018, and APRA has continued to communicate with event promoters and venues who produce or hold theatrical events of the likely changes to the DC definition.

Eisteddfod Licence Scheme

57. During the Review Period, APRA AMCOS worked closely with the Association of Eisteddfod Societies of Australia (AESA) to introduce a new joint society licence for the sector. In April 2016 an Association Agreement was executed between AESA, APRA AMCOS, PPCA and ARIA. The agreement offers a one stop shop for all copyright music licensing to AESA Members at a discounted association rate.
58. In late 2016, website and communication materials were updated, and 137 clients who had been licensed under the previous eisteddfod tariff were notified of the change. The new scheme was introduced 1 January 2017. Overall, APRA AMCOS consider that response has been positive, with a high percentage uptake going through AESA.
59. A licence application is also available for those who wish to take out the licence directly through APRA AMCOS. An Agency Agreement is currently being finalised to allow APRA AMCOS to issue these licenses directly on behalf of PPCA and ARIA.

Pan Asian Licensing Project

60. The aim of APRA AMCOS's Pan Asia licensing project is to co-operate with publishers in order to establish a simple one-stop shop for multi-territory licensing schemes for online usage, covering the largest

number of Asian territories for the largest possible repertoire of musical works.

61. As previously reported, APRA AMCOS' Pan Asia licensing project commenced in July 2013. APRA/ AMCOS currently represents Universal Music Publishing, Peermusic, Hillsong Music Publishing, Imagem, Downtown Music and Native Tongue Music Publishing and has licences in place via the Pan Asian Licensing hub covering 32 territories.

OneMusic Australia Project

62. During the Review Period APRA AMCOS began work on *OneMusic Australia*, a joint licensing project between APRA and the Phonographic Performing Right Association (PPCA) which aims to provide a single licensing solution for music and recordings in Australia.
63. Several key steps have been taken to date, including considering the content and timing of communications to the ACCC, respective client and member bases and staff, formalising the APRA AMCOS and PPCA project team, the release of a number of tariff consultation papers, commencing client matching between the PPCA and APRA AMCOS databases and completion of the Business Requirements Document (BRD) for an eCommerce Portal.
64. OneMusic Australia is expected to launch in the second half of 2018.

Disaster Relief

65. During the Review Period APRA AMCOS maintained its policy regarding Disaster affected licensees, which was introduced as a response to various natural disasters that occurred in 2010. APRA AMCOS' actions, intended to alleviate financial pressure on affected

businesses, including deferring licence fees renewals for up to three months, extended payment periods and corporate donations to relief appeals.

66. APRA AMCOS' staff continue to use online, print and broadcast media sources to remain actively aware of possible areas that may be affected by disaster and monitor events closely to establish the appropriate course of action.

Distribution of Remuneration and Licence Fees (Code, Clause 2.4)

67. As noted above, APRA AMCOS has a large Membership Department whose staff are trained to deal with members' (and others') enquiries, including in relation to distribution. The Boards of APRA and AMCOS both continue to have a Membership and Distribution Committee that deals with, among other things, requests by members for distributions in relation to "unlogged performances". This committee also deals with complaints from and disputes between members. Members are strongly encouraged to resolve disputes between them using Resolution Pathways; an Independent Alternative Dispute Resolution facility.
68. The most recently audited financial statements for the year ended 30 June 2016 reveal that APRA AMCOS' total combined net distributable revenue for the year was \$285.5m.
69. APRA and AMCOS continue to distribute royalties quarterly, with the exception of the Performance Returns distribution, which is done annually.

Distribution Rules and Practices

70. During the Review Period, the APRA Distribution Rules were updated in July 2016: to note that AMCOS Licensee Complaints should be

directed to the Head of Revenue instead of to the Director of Recorded Music Licensing; to amend wording regarding the points allocation for commercials and community service announcements reported by means of Music Recognition Technology (MRT) and the duration applied to Jingle Reporting Forms; and to show changes to credit point allocations for Cinema, Airline Video and Video on Demand.

71. Further, the Rules were most recently updated, in October 2016, to note a change to the Dispute Resolution Procedure – i.e. addition of section C; to vary wording for the Radio, Free-to-Air and Pay TV distribution sections to reflect the inclusion of Community Service Announcements in the new MRT system, and in reference to ‘music tags’; to rename ‘Live Performance Reports’ to ‘Performance Reports’; and to note that music tags in advertisements will be paid at their stated duration instead of at a fixed percentage of the length of the advertisement.

72. The APRA Distribution Practices were updated several times during the Review Period, as follows:

In July 2016 to:

- update wording with regard to SBS Radio, including reference to music in commercials;
- update Nightclub wording by adding reference to KUVO devices and change to the music channels’ share of licence revenue;
- note with regard to Music on Hold members’ claims that should there be a delay of more than 3 months in obtaining a licence fee from the relevant business, APRA will effect a distribution payment based on our best estimate;
- add STAN as a discrete distribution source;
- amend the allocation of NZ Schools’ licence fees to 100% NZ data; and

- change the credit point allocation for Cinema.

October 2016 to:

- rewrite interim wording referring to the use of Music Recognition Technology for music in Radio and TV commercials and community service announcements (CSAs) to outline methodology for transitional first distribution;
- re-word/clarify the distribution methodology for Airlines;
- change the treatment of Ambient music; and
- add sections for Music Distribution Services and Cloud Services.

January 2017 to:

- rewrite sections regarding treatment of music in Radio and TV commercials and CSAs to reflect ongoing methodology after transitional arrangements for Distribution P1610;
- updated the wording for Airlines;
- add new Background Music clients; and
- change the treatment of General Revenue allocations.

March 2017 to:

- change the wording to reflect the decision to remove ARIA Club Chart from NZ Nightclub distribution; and
- add a section for PNG Radio.

May 2017 to:

- add a section regarding a payment system in respect of on-costing by venues; and
- change the section for Nightclubs to introduce a second version of the ARIA Club Chart for royalty allocation purposes.

73. The AMCOS Distribution Rules were updated in November 2016 to reflect new rules for New Media advances.
74. The AMCOS Distribution Practices were most recently updated in July 2016 to update Schools Photocopying to include change to NZ pool, paid to NZ data 100%; and to update the Streaming Services to include new services.

Investment in Systems Development

75. As previously reported, in 2014 APRA AMCOS commenced a core system replacement project to ensure a best-in-industry service offering in the years ahead. The project, *Copyright Licensing Enterprise Facility (CLEF)*, was initially due to be completed by November 2015, however the timeline has now shifted to late 2017 to allow more time to develop testing regimes, to undertake user acceptance testing, to carry out training and to perform data migration.
76. APRA AMCOS Publisher Members continue to transact with APRA AMCOS via a direct connection to the current system, and a new interface will be required in the move to CLEF. They report that the new web-based interface, the publisher portal, which is currently in development, has been structured to follow the implementation schedule of the CLEF project.

Collecting Society Expenses (Code, Clause 2.5)

77. The APRA accounts show that its operating expenses are deducted from total gross revenue.
78. Commission on revenue pays AMCOS's expenses. The commission rate depends on the source of the revenue.

79. According to the most recent audited financial statements, for the year ended 30 June 2016 APRA AMCOS achieved a group expense to revenue ratio of 14.28%, which includes expenses relating to its investment in the CLEF project.

Governance and Accountability (Code, Clause 2.6)

80. The Annual Report of each of APRA and AMCOS contains the matters set out in clause 2.6(e) of the Code.
81. The relationship between APRA and AMCOS and their respective Boards of Directors is governed by each company's Constitution and Charter of Corporate Governance. The Boards have both established Audit and Governance sub-committees, which continue to meet at least six times a year and which concentrate exclusively on issues relating to Corporate Governance.
82. The APRA AMCOS management also has an internal Governance Committee, comprising the Chief Executive, Divisional Heads and Director HR, which meets regularly to discuss matters relating to the day to day operation and management of the organisations. This Governance Committee deals with policy setting and other matters relating to Human Resources and Industrial Relations, risk management, infrastructure, general administration, and regulatory compliance.
83. APRA AMCOS also have an internal "Staff Code of Conduct", which continues to complement the Code, as it sets out the standards by which staff are expected to treat one another.

84. APRA AMCOS maintain complete financial records which are audited each year, and a statement by each company's auditors is included in its Annual Report.
85. As reported previously, APRA's membership, licensing, distribution and international arrangements are all the subject of an "authorisation" by the Australian Competition and Consumer Commission (ACCC). APRA's current conditional authorisation was granted for a period of five years, expiring on 28 June 2019. In granting this and past authorisations, the ACCC confirmed that the conduct and arrangements for which APRA sought re-authorisation are likely to result in a public benefit which would outweigh the likely public detriment.
86. APRA claims that it has complied with all the ACCC's conditions of authorisation.
87. APRA considers that its authorisations by the ACCC and the conditions attached to those authorisations form an important part of its governance and accountability framework.

Staff Training and Development (Code, Clause 2.7)

88. APRA AMCOS report that their staff at management level continue to be trained regarding the Code.
89. Divisional Heads meet on a weekly basis and discuss matters relating to policy and strategy development and assessment. At these meetings issues relating to service and staff performance and training are regularly tabled.
90. In addition, the wider senior management team meets in the week following each scheduled Board Meeting, providing a cross-

departmental opportunity to discuss interaction with stakeholders and wider communities and of reviewing company policies. At these meetings, the Code (including the complaints procedures and the Review process) is regularly discussed.

91. Manager and Team Leader forums are held annually at which the Chief Executive and Divisional Heads address the middle and frontline management teams. They provide an opportunity for the latter to raise any concerns, suggestions or initiatives directly with the senior leadership, and for the Chief Executive to share information about business and membership trends and concerns, and to set performance expectations. In addition, other members of the senior management team are invited to address these groups.
92. The General Licensing, Business & Events Licensing and Member Services Departments continue to hold staff training conferences annually.
93. Additionally, all departments in APRA AMCOS conduct regular departmental staff meetings that provide opportunities to discuss topics relevant to the Code, including: client service, conflict management, time management, and the procedures for identifying and dealing with complaints.
94. APRA AMCOS also hold company wide staff briefings throughout the calendar year. The briefings focus on the respective needs and expectations of general staff, middle and senior management and also the expectations of the organisation. The focus of the training sessions has in the past covered the Code, ACCC authorisation and the CLEF Project, as well as performance within and between departments and with external stakeholders

95. APRA AMCOS have provided details of the induction and training sessions that they provide for staff. The Code and internal Staff Code of Conduct (a copy of which is provided in the Accompanying Underlying Documents) are central components of the induction program that all new staff attend when they join the company. As well as the induction sessions conducted by Human Resources, roles with a high level of client and/or member contact also receive additional training from within the relevant departments in relation to handling complaints and the complaints procedure.
96. APRA AMCOS have developed a brand blueprint, which further outlines their purpose, values and personality.
97. APRA AMCOS also report that as part of their response to concerns raised by music customers during the ACCC re-authorisation process, they widened the channels by which members and licensees could contact APRA AMCOS. The website now includes a "live chat" facility so that responses to urgent enquiries can be provided in real time. The staff who respond to live chat enquiries are required to attend two, two-hour training sessions to understand the live chat service guidelines and ensure that the highest level of customer service is offered via this channel.
98. APRA AMCOS assert that they are committed to taking a proactive approach to staff development and wellbeing, such internal programs include:
- Higher Education Assistance Program
 - Leadership Development Programme
 - Mentoring Programme
 - Buddy Program
 - In-house Training Programs
 - Employee Assistance Programme

- Purchased Leave Scheme
 - Seminars on resilience, stress management, work-life balance and dealing with change
 - Lunchtime yoga for staff members twice a week on the premises
99. Under the *Workplace Gender Equality Act 2012*, APRA AMCOS continue to submit their annual report to the Workplace Gender Equality Agency (WGEA) outlining their performance against a set of standardised gender equality indicators. A copy of that report is available on the APRA AMCOS website and, as required by the Act, staff and members were notified of the report in June 2017.
100. APRA AMCOS's internal "wiki" facility continues to form the basis of staff training and is a key information source for all staff. All new APRA AMCOS staff are trained in accessing and using the Wiki which contains policies relating to Client Service, Human Resources, Work, Health & Safety and Departmental Organisation.

Education and Awareness (Code, Clause 2.8)

101. APRA AMCOS state that they devote "considerable resources" to the education of members, licensees, industry associations and members of the public, regarding the matters set out at Cl 2.8 (a) of the Code. A list of the organisations and associations with which they have an ongoing relationship was provided to the Code Reviewer in the Accompanying Underlying Documents.
102. APRA claims that, as Australia's oldest and largest collecting society (incorporated in 1926), it is in a position to have developed extensive materials and expertise in relation to education and awareness matters. APRA AMCOS participates and contributes to the following education and awareness initiatives:

- Various Grant Programs, Sponsorships, Competitions and Promotions
- Indigenous Member Strategy
- Aboriginal and Torres Strait Islander (ATSI) Music Office
- Ambassador Program
- Events
- Member Advisory Group Development
- Sounds Australia & Live Music Office; and
- Various industry related organisations and programs
- Seminars and public forums and working groups

103. In their report, APRA AMCOS provide updates and information on their educational activities in detail under the headings "Member Education", "Licensee Education", "International Relations", "Government Relations" and "APRA AMCOS Website & Social Media".

Complaints and Disputes (Code, Clause 3)

104. This subject is dealt with in a separate section, "Complaints and Disputes", below.

Publicity of the Code and Reporting of Compliance with it in the Annual Report (Code, Clause 4)

105. APRA AMCOS report that they have kept their members and licensees updated with information regarding the Code, in particular by maintaining relevant information including a copy of the Code on their website.

106. In addition, on their website they invite any interested person to make submissions to the Code Reviewer as part of the annual compliance process.

Copyright Agency Limited (“Copyright Agency”) / Viscopy

107. Since 2 July 2012, Viscopy has retained Copyright Agency to manage its services, under a services agreement. However, Viscopy remains a separate legal entity, with a separate board, membership, and international affiliations.
108. As in recent review periods, a joint Copyright Agency/Viscopy report was provided to the Code Reviewer in respect of the Review Period. Accordingly, this report by the Code Reviewer deals with both collecting societies together. As noted at [3] above, reference is made to “Copyright Agency/Viscopy” except where it is necessary to distinguish between the two societies.

General

Copyright Agency

109. Copyright Agency is a company limited by guarantee and has more than 30,000 members. They include writers, artists, surveyors, publishers and other collecting societies.
110. In its report to the Code Reviewer, Copyright Agency has categorised its operations as follows:
- in accordance with its appointments by the Australian Government:
 - management of the statutory licences for educational and governmental use of text, images and print music, including negotiation, collection and distribution of fair compensation for content creators;

- management of the statutory licences for people with disabilities (no compensation is paid under these licences); and
- management of the artists' resale royalty scheme;
- in accordance with the authority of its members and foreign affiliates, and with the oversight of the Copyright Tribunal of Australia, formulation and management of 'voluntary' licensing arrangements, principally for the corporate sector; and
- in accordance with its agreement with Viscopy, management of Viscopy's services to its members and licensees.

111. Copyright Agency is declared by the Minister as the collecting society appointed to collect and distribute equitable remuneration under the statutory licence in Part VB of the Act for "each owner of copyright in a work, other than a work included in a sound recording or in a cinematograph film". The Part VB statutory licence is for educational use of text, images and print music, and for assisting people with a print or intellectual disability.
112. Copyright Agency is also declared by the Copyright Tribunal of Australia as the collecting society appointed to collect and distribute equitable remuneration under the statutory licence provided for by Div 2 of Part VII in relation to the government copying of published works (other than those embodied in sound recordings, films and television and sound broadcasts).
113. Copyright Agency is engaged by the Minister, following an open tender process, to manage the scheme for the payment of royalties to visual artists under the Resale Royalty for Visual Artists Act 2009 (Cth) ("Resale Royalty Scheme").
114. Copyright Agency also operates in accordance with the Attorney General's Department guidelines for 'declared' collecting societies.

115. As a result of amendments to the Copyright Act in June 2017, the *statutory licences* for people with disabilities will be replaced by *exceptions* for people with disabilities in December 2017. Copyright Agency will no longer be a 'declared' collecting society for the statutory licences, but will continue to work with its members and associations assisting people with disabilities to improve access to content for people with disabilities.

Viscopy

116. Viscopy is also a company limited by guarantee. It represents more than 10,000 artists and artists' estates and beneficiaries from Australia and New Zealand. Viscopy also represents more than 40,000 international artists and their estates and beneficiaries in the Australasian territory, through reciprocal agreements with more than 40 visual arts rights management agencies around the world.

117. As stated above, Copyright Agency manages Viscopy's services under the arrangement that has operated since 2 July 2012. Those services include management of the Viscopy licences for Australia and New Zealand, which are primarily licences for the reproduction and communication of artworks by auction houses and public galleries. However, Viscopy remains a separate legal entity, with a separate board and membership.

118. Copyright Agency continues to maintain a visual arts unit with staff dedicated to managing relationships in the visual arts sector, including those with licensees, artists and people affected by the Artists' Resale Royalty Scheme.

119. Copyright Agency and Viscopy are in the processing of merging, subject to regulatory approval by the ACCC and Australian Securities and Investment Commission (ASIC), and approval by members of both Viscopy and Copyright Agency

Legal Framework (Code, Clause 2.1)

Copyright Agency

120. Copyright Agency states that during the Review Period it complied with its obligations under the legislation and other documents referred to in clause 2.1 of the Code.

121. On its website, Copyright Agency publishes the following documents related to governance:

- Constitution;
- Corporate Governance Statement;
- Customer Services Charter;
- Privacy Policy;
- Dispute Management Procedures;
- Complaints Management Procedures
- Code of Conduct for Copyright Collecting Societies
- the Attorney-General's Guidelines for Declared Collecting Societies;
- the Attorney-General's Declaration of Copyright Agency for Part VB of the Act; and
- the Copyright Tribunal's declaration of Copyright Agency for Div 2 of Part VII of the Act.

122. Copyright Agency's in-house legal team oversees compliance issues, monitors relevant legal and regulatory developments, and implements any necessary or desirable changes to its policies or practices.

Viscopy

123. Viscopy also claims that during the Review Period it complied with its obligations under the legislation and other regulatory documents referred to in clause 2.1 of the Code.

124. Compliance by Viscopy is also overseen by Copyright Agency's in-house legal team.

Members (Code, Clause 2.2)

Copyright Agency

125. Copyright Agency membership is free and open to owners of copyright in works and their licensees and agents, as well as to holders of a resale royalty right. Applications for membership can be made online and are approved by the Board.

126. Visual artists are invited to become members of both Copyright Agency and Viscopy.

127. Copyright Agency states that it continues to adopt a range of policies and processes aimed at ensuring that its members are treated fairly, honestly, impartially, courteously, and in accordance with its Constitution and membership agreements. It has a "Service Charter", induction training for new staff and periodic updates for all staff on the requirements of the Code.

128. In its report to the Code Reviewer, Copyright Agency gives details of its communication with its members and potential members, including:

- information on the Copyright Agency website about membership, distributions of licence fees and payments and a copy of its Constitution;
- broadcast and one-on-one communications about changes to membership, distribution or payment arrangements;
- responding to enquiries in accordance with the Service Charter; and
- secure online member accounts that enable members to review their membership, distribution and payment details.

Viscopy

129. Viscopy membership is also free and is open to all artists and other owners of copyright in artistic works, including the estates of artists.

130. The Copyright Agency and Viscopy websites invite artists to join both societies.

Licensees (Code, Clause 2.3)

Copyright Agency

131. Copyright Agency states that it has adopted a range of policies and processes aimed at ensuring that its licensees are treated fairly, honestly, impartially, courteously and in accordance with its Constitution and licence agreements. These include: a "Service Charter", induction training for new staff, and periodic updates for all staff on the requirements of the Code.

132. For the statutory licences for education and government, Copyright Agency mostly deals with bodies or departments representing a class of licensees (such as Universities Australia, Copyright Advisory Group to the COAG Education Council for most schools and TAFEs, the Department for Communications and the Arts for the Commonwealth) rather than individual licensees. There are also more than 1,000 individual licence agreements with other education providers.
133. Most aspects of the statutory licences are governed by the legislation and the regulations under it. The major areas for negotiation are the amount of payment, the manner of collecting information about usage of content under the licence, and the processing of that information to estimate correctly the “volume” of usage. Licensees participating in surveys of usage receive special training in order to complete the surveys.
134. Copyright Agency publishes information about its “voluntary” licences (“blanket” and pay-per-use) on its website and on the RightsPortal website (*rightsportal.com.au*). In addition, it provides information about its licences through such channels as seminars, trade shows and trade publications and in response to specific enquiries.
135. Copyright Agency states that it continues to review regularly the terms of its voluntary licence agreements to ensure that they are expressed in plain language, correspond with its mandate and reflect feedback from licensees.
136. New industry licence schemes are usually designed by Copyright Agency with the input of the relevant industry association.

Additional information sought by Licensees

137. The Code was amended in 2017 to add clause 2.9, setting out reporting requirements for declared collecting societies. Copyright Agency's compliance with the new requirements is set out under that clause heading below.
138. Disclosure of information by collecting societies, and the governance of collecting societies, was also raised in submissions to the Productivity Commission in connection with its inquiry into Intellectual Property Arrangements.
139. The Commission's final report includes the following recommendation:

"RECOMMENDATION 5.4

The Australian Government should strengthen the governance and transparency arrangements for collecting societies. In particular:

- . The Australian Competition and Consumer Commission should undertake a review of the current code, assessing its efficacy in balancing the interests of copyright collecting societies and licensees.
- . The review should consider whether the current voluntary code: represents best practice, contains sufficient monitoring and review mechanisms, and if the code should be mandatory for all collecting societies."

140. The Government is in the process of responding to the Commission's recommendations

Viscopy

141. Viscopy's licences have been managed by Copyright Agency since 2 July 2012 and cover reproduction, publication and communication of artistic works in a wide variety of contexts including print media, internet, merchandise, advertising, film and television. They cover

'one-off' uses, as well as uses of a range of works under 'blanket' annual licences. Customers include those in the government and corporate sectors and individuals.

142. Viscopy claims that its licences and agreements are drafted in plain language in order to be understood by licensees and Copyright Agency staff provide additional information where required.
143. Viscopy also states that its licence fees and other licence terms are regularly reviewed and updated to reflect changing types of reproduction and customer needs.
144. The Viscopy website includes information for licensees and prospective licensees, including a searchable database of Viscopy members, information about licences and licence fees, and information about the circumstances in which a licence is not required.

Distribution of Remuneration and Licence Fees (Code, Clause 2.4)

Copyright Agency

145. On its website, Copyright Agency publishes its "Distribution Policy", information about forthcoming distributions, and its deductions for its administrative expenses. It distributes in accordance with its Distribution Policy and its Constitution.
146. Policy compliance, quality control, quality assurance, and continuous improvement processes are built into Copyright Agency's distribution processing. These include routine independent internal review and management sign-off of key inputs, processes, and outputs.

147. Further, some Copyright Agency licence agreements provide that the external survey supplier be required to audit Copyright Agency's processed data before providing volume estimates: under some schemes the data is either audited by licensees or they are provided with a data file, setting out the works used.
148. In May 2017, Copyright Agency engaged an external consultant to review a number of aspects of its distribution policies, processes, systems and communications. The consultant will provide recommendations in August 2017 and any resultant changes will be communicated to members and other relevant stakeholders

Viscopy

149. Viscopy's "Payments Policy" sets out the basis for calculation of entitlements to receive payments from remuneration and licence fees, the manner and frequency of payments to members, and the amounts that are deducted by Viscopy by way of artist charges. The Payments Policy is available on the Viscopy website and also in hard copy upon request. There is also information on the Payments page of the Viscopy website about when distributions are scheduled.

Collecting Society Expenses (Code, Clause 2.5)

Copyright Agency

150. Copyright Agency reports that the administrative costs associated with managing the statutory and voluntary licence schemes are met from its revenue. In some cases, the deduction is a fixed percentage (eg for distribution of licence fees collected from overseas), but in most cases the deduction represents the actual cost relevant to the particular licence scheme.

151. Copyright Agency's Board of Directors must approve the society's annual operating budget and reviews the budget at each Board meeting.
152. Copyright Agency's Constitution allows it to deduct up to 1.5% of revenue for cultural or benevolent purposes. Its Board approves the amount to be allocated for these purposes. Copyright Agency publicly invites applications for cultural support. The Board approves the successful applications following a recommendation process by a committee of the Board.
153. Copyright Agency publishes information about deductions in its "Distribution Policy" and on its website. Members also receive itemised information about deductions with each payment. In addition, it publishes information about expenses, including the expense to revenue ratio for each financial year, in its Annual Report.

Viscopy

154. Under the Services Agreement between Copyright Agency and Viscopy, Copyright Agency receives agreed deductions from Viscopy's licensing revenue. In the Review Period this was:
 - 25% of fees from Viscopy's voluntary licence agreements and Screenrights;
 - 10% of royalties collected from overseas via Viscopy's international partner organisations; and
 - 10% of statutory licensing remuneration collected by Copyright Agency for Viscopy members who are not Copyright Agency members.
155. Since the Services Agreement with Copyright Agency commenced, artists have been encouraged to join both Viscopy and Copyright

Agency and there is a link from Copyright Agency's website to Viscopy's website to facilitate this.

156. Viscopy and Copyright Agency are in the process of merging. Following the merger, Copyright Agency will deduct operating costs from licence fees from image licences using the same methodology as it uses for deduction of operating costs from licence fees from statutory licences.

Governance and Accountability (Code, Clause 2.6)

Copyright Agency

157. Under Copyright Agency's Constitution, its Board comprises directors elected by author and publisher members respectively, and directors appointed by the Australian Society of Authors and Australian Publishers Association. The current directors and the capacity in which they were elected or appointed appears on Copyright Agency's website.
158. The merger with Viscopy will entail amendments to Copyright Agency's Constitution to provide for a new class of member (visual artist), and an additional Board director elected by the visual artist members.
159. The society's financial statements are audited annually. Information about revenue, expenses and distribution of licence fees is included in each Annual Report, together with the auditor's report and is made available to the public on Copyright Agency's website, as well as to members and to the Minister for Communications and the Arts. In addition, the Annual Report is tabled in Parliament.

160. Copyright Agency provides, on request, information to members about entitlement to payment, in accordance with privacy and confidentiality obligations.

Viscopy

161. Viscopy is governed by a non-executive Board of Directors which includes artist members and business experts from various professions. Viscopy's Directors are unpaid but are reimbursed out of pocket expenses incurred in connection with their attendance at meetings.

162. Viscopy's Constitution provides for its Board to have a minimum of seven directors. There is information about Viscopy's current Directors on its website.

163. Viscopy claims to maintain proper and complete financial records, including records relating to the collection and distribution of royalties and payment of expenses.

164. Viscopy's financial statements are audited annually by external auditors, the results being published in its Annual Report. The Annual Report and the auditor's report are available on Viscopy's website.

165. Copyright Agency provides, on request, information to Viscopy members about entitlement to payment, in accordance with privacy and confidentiality obligations.

Staff Training (Code, Clause 2.7)

Copyright Agency

166. Copyright Agency's procedures for making its staff aware of the Code include:

- induction training for new staff members on the requirements of the Code;
- policy documents implementing those requirements on the society's intranet; and
- periodic updates for all staff on the requirements of the Code.

167. In addition, Copyright Agency's policies and procedures regarding management of complaints and disputes are available from Copyright Agency's corporate website.

Viscopy

168. The staff training for Copyright Agency staff on the Code includes training in relation to Viscopy's obligations under the Code.

Education and Awareness (Code, Clause 2.8)

Copyright Agency

169. Education and awareness activities conducted by Copyright Agency for its and Viscopy's members, licensees and other stakeholders include:

- information on the corporate website and other websites managed by Copyright Agency;

- eNewsletter to members and other stakeholders ('Creative Licence');
- eNewsletter to visual arts stakeholders ('Canvas');
- social media channels, including Copyright Agency's Facebook pages and Twitter account;
- presentations at Copyright Agency events and other events;
- training for licensees participating in surveys of usage;
- engagement with industry and professional associations who represent members and licensees; and
- mainstream and specialist media (such as industry magazines and newsletters).

170. Copyright Agency also uses the above channels to provide information about:

- matters relating to membership, including eligibility, benefits, responsibilities, policies and procedures; and
- matters relating to licensing, including benefits, responsibilities, obligations under copyright law, policies and procedures.

171. Information on the website relating to membership includes:

- membership terms and conditions; and
- information about distributions, including distribution policy, information about each distribution (such as the data used), and forthcoming distributions.

172. Information on the website relating to licensing includes:

- licences available for various sectors (e.g. business, not-for-profit, education);
- pay-per-use licences; and
- works excluded from voluntary licences.

173. Copyright Agency has also provided funding to other organisations to conduct copyright education and awareness activities, including to:

- Australian Copyright Council;
- National Association for the Visual Arts; and
- Australian Society of Authors.

Viscopy

174. Copyright Agency's education and awareness activities referred to above cover issues relevant to Viscopy's members and licensees. In addition, information specific to Viscopy members and licensees is provided on the Viscopy website.

Reporting by Declared Collecting Societies (Code, Clause 2.9)

175. For convenience a copy of clause 2.9 of the Code is Appendix B to this Report.

176. In response to an inquiry by me, Copyright Agency has provided me with references to the various sections of its Annual Report for 2015-2016 that respond to the requirements of clause 2.9 and has offered to provide references to the comparable paragraphs in the Annual Report for 2016-2017 which is in the course of being finalised. The Annual Reports also provide information regarding:

- classes of recipients of licence fees received from the schools, universities and government sectors respectively;
- allocations unpaid after four years from the education sector and government sector respectively, the reasons the allocations were unpaid, and the proportion of unpaid allocations attributable to each reason.

Complaints and Disputes (Code, Clause 3)

Copyright Agency

177. This subject is dealt with in a separate section, "Complaints and Disputes", below.

LearningField Subscription Service

178. LearningField is an online subscription service for teachers and students, developed by Copyright Agency with a group of educational publishers and managed by Copyright Agency.

179. The LearningField team manages frontline customer support through a helpdesk tool called Zendesk. All users – school administration, teachers, students and parents are able to email us at support@learningfield.com.au where the ticket gets logged and tracked. Copyright Agency's first response to the customer is set at two business hours. Once the issue is resolved, the respondent is asked to rate the level of support they have received (good/bad) and provide a comment. Weekly monitoring occurs on open tickets, and satisfaction levels.

180. Publishers, school customers and others are also able to contact LearningField directly about any concerns or issues they may have. LearningField also conducts proactive customer engagement with regular face to face meetings with schools and publishers, and in-school training sessions.

Viscopy

181. This subject is dealt with in a separate section, "Complaints and Disputes", below.

Publicity of the Code and Reporting of Compliance with it in the Annual Report (Code, Clause 4)

Copyright Agency

182. The Code is available on the Copyright Agency website as is information about the Annual Compliance Review of its compliance with the Code, the Code Reviewer's annual Compliance Reviews and his triennial review of the Code itself.
183. Copyright Agency alerts members and other stakeholders to the Code and its annual review in a number of ways including on its website and monthly eNews.
184. Copyright Agency includes reference to its compliance with the Code in its annual reports.
185. Of course, Copyright Agency's annual report to the Code Reviewer is itself directed to its compliance with the Code.

Viscopy

186. The Code and information about how to participate in reviews of Viscopy's compliance with the Code are also available on the Viscopy website.
187. Of course, Viscopy's annual report to the Code Reviewer is itself directed to its compliance with the Code.

Audio-Visual Copyright Society Limited ("Screenrights")

General

188. Audio-Visual Copyright Society Ltd, trading under the name "Screenrights", was established in 1990 as the declared collecting society for purposes of the statutory licence for the copying and communication of broadcasts by educational and other institutions under Part VA of the Act ("Copying and Communication of Broadcasts by Educational and Other Institutions")(see s135P of the Act).
189. Screenrights also represents the owners of the copyright in sound recordings and cinematograph films (and works included in sound recordings and cinematograph films) for the purposes of the statutory licence in favour of educational institutions and institutions assisting persons with an intellectual disability under Pt VB Div 4 of the Act ("Reproduction and Communication of Works etc by Institutions Assisting Persons with an Intellectual Disability")(see s135ZZB of the Act).
190. In addition, Screenrights is the sole collecting society for the collection of equitable remuneration for the retransmission of free-to-air broadcasts under Pt VC of the Act. (see s135ZZT of the Act).
191. Finally, Screenrights is the declared collecting society in respect of television and radio broadcasts under the government copying scheme in Div 2 of Pt VII of the Act (Copyright Agency is declared in respect of published works for that purpose) (see s153E of the Act).
192. At 30 June 2017, Screenrights had 4,107 members and 1,351 licensees. It collects royalty payments from schools, universities, vocational training bodies, government agencies, TAFEs, resource

centres, retransmitters, and New Zealand schools and tertiary institutions, as shown in the following table:

Type of Entity	Number
Screenrights Members	4,107
Licensees	1,351
<i>Schools -- Government, Catholic Systemic, Independent -- Peak Bodies</i>	26
<i>Higher education including universities</i>	68
<i>Private Vocational Education/Training Organisation (inc ELICOS)</i>	41
<i>Government Agency</i>	372
<i>TAFE (including individual institutions and Departments representing multiple institutions)</i>	18
<i>Resource Centre</i>	9
<i>Retransmitter</i>	7
<i>NZ -- Tertiary</i>	27
<i>NZ – Schools</i>	781
<i>NZ – Resource Centre</i>	2

Legal Framework (Code, Clause 2.1)

193. Screenrights claims to have complied with the legal framework governing its operations and has made no changes to its Constitution or other documents relevant to the legal framework during the Review Period.

Members (Code, Clause 2.2)

194. Statistics in relation to the membership of Screenrights were set out under “General” above.

195. During the Review Period, in the interests of improving the information provided to and exchanged with members and the efficiency with which Screenrights deals with its members, the following changes were made:

- Screenrights introduced the **International Warranty Form** – the purpose of this form was to enable rightsholders who do not have current international service registrations in place with Screenrights to claim the international royalties that had been paid to Screenrights by overseas collecting societies.
- In May 2017 Screenrights launched a new version of the member portal **MyScreenrights**. New features of MyScreenrights include greater ease in registering series as well as more detail in relation to competing claims including being able to view competing claims at a series level and visibility of the opposing party’s registration to enable all parties to identify what the competing claim is in relation to.
- In December 2016 Screenrights launched a website to assist members in resolving their competing claims, the *Screenrights Resolution* website (resolution.screenrights.org) provides guidance to members on resolving their competing claims, key dates, Screenrights’ competing claims resolution pathways as well as access to relevant policies.

196. As reported in the last review period, Screenrights launched an *Express Resolution Process* (ERP) based on set of nine presumptions that represent a starting position from which to determine the relevant rightsholder. As was explained in the report, the presumptions draw on general principles of Australian copyright law, standard terms of industry agreed contracts and industry practice.

197. In the interests of transparency and impartiality, following the first year of operation, Screenrights engaged an independent consultant, Mr Philip Argy, to conduct a review of the new policy and its operation. The report dated 17 November 2016 confirmed that the ERP is conceptually sound and included 21 recommendations for further consideration by Screenrights.
198. Mr Argy's recommendations and Screenrights' preliminary views were published to members and industry representatives on Screenrights' Resolution website on 8 June 2017 for consultation. The submissions and Screenrights' final recommendations will be considered by the Board at its meeting in the second half of 2017.

Licensees (Code, Clause 2.3)

199. During the Review Period, Screenrights updated application forms for licensees to reflect annual CPI based changes in rates.
200. On 16 June 2017, Screenrights entered a new collection scheme agreement with the Commonwealth for government copies of audiovisual material. The agreement covers copying from television and radio and also for the first time copies of audiovisual material made available on the internet. The extension of the agreement to include internet hosted material was a consequence of Screenrights' expanded declaration which was reported in the last review period. Agreement in principle has also been reached with the States and Territories and contract discussions are well progressed

Distribution of Remuneration and Licence Fees (Code, Clause 2.4)

201. There were no changes to the Distribution Policy in the 2016/17 financial year.

Collecting Society Expenses (Code, Clause 2.5)

202. Screenrights reports that its expenses for the year ended 30 June 2017 were approximately 15.3% of gross revenue (see Clause 2.5 (a) of the Code). This figure is unaudited and the audited figure will be in Screenrights Annual Report. A detailed summary of Screenrights' expenses to collections ratios will be found in Screenrights Annual Report for the financial year 2016/2017, where a comparison with the years 2014/2015 and 2015/2016 will be depicted. This report will be available in September 2017.

Governance and Accountability (Code, Clause 2.6)

203. Screenrights' Annual Report for 2016-17 will be available in September 2017, including the audited accounts as at 30 June 2017.

Staff Training (Code, Clause 2.7)

204. Screenrights reports that it has taken steps, including through staff training, to ensure that all staff are aware of and comply with the Code. A copy of this year's training materials was provided to the Code Reviewer.

205. In addition, Screenrights reports that it has arranged training sessions to familiarise staff with its ADR procedures and complaints handling procedures. The relevant information is available on Screenrights' website.

206. To complement such formal staff training, relevant matters are raised in regular staff meetings and other staff training meetings, such as training in relation to Screenrights' Privacy Policy.

Education and Awareness (Code, Clause 2.8)

207. Screenrights continues to promote and provide information about Screenrights on its website, which is reviewed and updated regularly.
208. Further to this, Screenrights' improvements in providing accessible education and awareness will be perused via the re-development of the Screenrights corporate website to better promote and provide information to key stakeholder audiences. The launch of the new website will be in the 2017/2018 financial year.
209. As indicated under the "Members (Code, Clause 2.2)" heading above, Screenrights launched a *Screenrights Resolution* website in December 2016 to assist members who are involved in competing claims to understand better the resolution pathways available to them.
210. In addition, Screenrights has promoted its role and functions as a collecting society by sponsoring and participating. through speaking engagements, industry market stalls or providing attendees with hardcopy marketing material about Screenrights at the following events:
- SPADA NZ November 2016
 - Australian International Documentary Conference March 2017
 - Screenworks Seminars March 2017
 - Screen Edge NZ May 2017
 - 37°South Market at Melbourne International Film Festival August 2017
 - Screen Production and Development Association Summit (NZ) November 2017
 - Screen Forever (run by Screen Producers Australia) November 2015

211. Also, the *Off the Air* newsletter, which continues to be distributed to members and interested stakeholders via a subscription based email system, promotes the importance of copyright, the role and functions of other collecting societies, as well as the role and functions of Screenrights itself.

Reporting by Declared Collecting Societies (Code, Clause 2.9)

212. As noted earlier, a copy of clause 2.9 of the Code is Appendix B to this Report. In response to an inquiry by me, Screenrights has provided references to a table that constitutes an Appendix to its Annual Report for 2015-2016 that responds to the requirements of clause 2.9.

Complaints and Disputes (Code, Clause 3)

213. This subject is dealt with in a separate section "Complaints and Disputes" below.

214. In addition, in the Review Period, Screenrights had over 1.4 million individual claims, and opened competing claims involving 514 series and 1,417 one off programs. These competing claims were published on Screenrights' member portal MyScreenrights. Throughout the year competing claims were closed for 421 series and 1,181 one off programs.

Publicity of the Code and Reporting of Compliance with it in the Annual Report (Code, Clause 4)

215. Screenrights publicises the Code and refers to its undertaking to be bound by it, and makes the Code available on its website for downloading by members and licensees and other interested persons.

216. Screenrights includes a statement in its Annual Report (under "Governance") on its compliance with the Code.

217. Of course, Screenrights' annual report to the Code Reviewer is itself directed to its compliance with the Code.

Phonographic Performance Company of Australia Ltd ("PPCA")

General

218. As stated in previous reports, PPCA was established in 1969 by the owners of copyright in sound recordings, with the object of issuing blanket licences for the broadcast and public performance of copyright-protected sound recordings and music videos.

219. Further, the Constitution of PPCA makes clear that its objects are focussed on the exercise and enforcement of copyright in respect of the communication rights and public performance rights in (a) sound recordings; and (b) music videos that embody sound recordings, or soundtracks which, if made as a sound recording, would be a sound recording.

220. PPCA is not a declared collecting society under the Act.

Legal Framework (Code, Clause 2.1)

221. PPCA reports that its Constitution did not change during the Review Period.

222. PPCA's Privacy Policy was amended in November 2016 to reflect PPCA's collection of information on gender and its use in producing statistics.

Members (Code, Clause 2.2)

223. PPCA is a company limited by shares, the shares still being held equally by the remaining three of the six founding members. The three members are ineligible to receive any dividend, and they receive remuneration only on the same basis as other licensors, in line with PPCA's "Distribution Policy".
224. As a result, whereas other collecting societies represent the interests of their "members", PPCA represents the interests of "licensors" (ie the owners or exclusive licensees in respect of copyright in sound recordings).
225. PPCA's relationship with licensors is governed by the terms of its standard "Input Agreement", rather than by PPCA's Constitution. The Input Agreement allows PPCA to sub-license on a non-exclusive basis, and to create blanket public performance and broadcast licensing schemes for the users of sound recordings (particularly, small businesses).
226. Similarly, PPCA has "registered artists" rather than "artist members". The payment made available to Australian featured artists under the PPCA Distribution Policy is on an ex gratia basis and does not depend on ownership of copyright by the artists.
227. As at 30 June 2017, PPCA had 2,202 licensors representing major record companies and independent copyright owners. The number of registered artists was 3,829.
228. Neither the Distribution Policy nor the Input Agreement were subject to amendment during the Review Period.

229. PPCA reports that it increasingly receives queries relating to registering as a licensor by telephone or email. PPCA generally refers the applicant to the relevant section of the website and the related on-line registration form.
230. Similarly, enquiries from artists about registering with PPCA are mostly received by email, in which case again they are directed to the relevant area of the website and the on-line registration forms.
231. The PPCA website includes "FAQ" sections for both licensors and artists, to assist in the explanation of the services provided by PPCA.
232. During the Review Period, PPCA emailed its registered artists and licensors several times, including for:
- announcing the call for expressions of interest for Indie Week 2017;
 - inviting licensors to attend the 2016 ARIA Masterclass
 - inviting licensors to the 12th Australian Music Prize Winners Announcement; and
 - providing an update on PPCA's simulcast licence for Commercial Radio.

Licensees (Code, Clause 2.3)

233. At 30 June 2017, PPCA had over 57,700 businesses licensed for the public performance of protected sound recordings and music videos. By volume, this remains the largest sector of PPCA's licensing activity and is managed by the largest team of staff (the Public Performance Licensing Department).

234. PPCA also has in place communication licences for those offering other services (including broadcasters and linear and customer-influenced streaming services).
235. All radio broadcast, television broadcast and communication licences previously advised remain on foot. This includes, for example
- radio broadcast agreements with Commercial Radio Australia members;
 - television broadcast licence and communication licence agreements with free to air television broadcasters (including Free TV members);
 - broadcast and communication licences with various subscription television operators (including IPTV operators); and
 - broadcast and optional simulcast licences for members of Community Broadcasting Association of Australia ("CBAA") and those community radio stations that operate independently of CBAA.
236. During the period agreements with the ABC and SBS in respect of their radio and television broadcasts and online activities continued.
237. A key development in respect of PPCA's communication licences occurred in late 2016. As previously reported, in July 2016, PPCA and Commercial Radio Australia ("CRA"), which is the peak body representing Australian commercial radio broadcasters, worked collaboratively to implement the simulcast licensing scheme in accordance with orders from the Copyright Tribunal. PPCA in consultation with CRA, implemented the new arrangements, and finalised the licence fees applicable for those commercial radio broadcasters who had elected to take advantage of the interim scheme. New simulcast licences were entered into by participating

commercial radio broadcasters during the Review Period.

238. PPCA also continued established licences with online music streaming services including a customer influenced music streaming service and continued its licensing of other non-interactive music streaming services. Additionally, PPCA continued to license background music services that provide music services to commercial premises by means of a broadcast or stream.
239. In January 2017, PPCA, in conjunction with ARIA and APRA AMCOS, introduced a new blanket licence solution which covers the use of sound recordings and copyright music at eisteddfods. The joint licence with ARIA, APRA AMCOS, Copyright Agency and Viscopy, for early learning providers remains on offer, and is administered by APRA AMCOS on behalf of all the Licensors.
240. The PPCA website contains extensive information on its standard public performance licence schemes, including descriptions of tariff categories and costs of the relevant licences (tariff sheets).
241. Licence applications, incorporating Licence Terms, may be submitted (a) online, (b) via a downloadable application form, (c) using PPCA's hard copy application form, or (d) by phone.
242. The standard terms and conditions for PPCA's public performance licences were amended in May 2017 with the following changes:

1.1 (b) - Definitions

Annual Renewal Date means the anniversary of the Commencement date or another date on which the Licence renews for each Further Period.

and

Clause 3.2

Either you or PPCA may terminate this Agreement, at the end of the Initial Period or at the end of any Further Period, by written notice to the other party. A termination notice under this clause must be given to the other party at least two weeks before the termination date specified in the notice and will take effect on and from the date specified in the notice

243. These changes were introduced to support the transition to single joint licences through *OneMusic Australia*, scheduled for the second half of 2018. Following the announcement of *OneMusic Australia* during the Review Period, both APRA and PPCA have liaised with licensees and key representative groups on the planned transition, including the consultation process for proposed joint tariffs. A summary of those activities, jointly prepared by APRA and PPCA was provided to the Code Reviewer as part of the Accompanying Underlying Documents.
244. PPCA's website also contains information on the range of broadcasting and digital licences available (including the application process) and a range of FAQs covering matters both specific to PPCA and on copyright more generally.
245. PPCA's public performance tariffs generally increase annually, on 1 July, by an amount equivalent to CPI. By 1 April each year, PPCA writes to relevant key industry associations it has been able to identify, advising of the proposed increase and inviting recipients to contact PPCA if they wish to consult in regard to the proposal. In 2017 the notification letters were issued on 31 March.

Distribution of Remuneration and Licence Fees (Code, Clause 2.4)

246. PPCA reports that it maintains and makes available on its website its Distribution Policy, which sets out how it collects licence fees for the use of sound recordings and music videos, and allocates and

distributes payments to licensors who have authorised PPCA to issue licences on their behalf. The Distribution Policy also incorporates details of the Direct Artist Distribution Scheme. As indicated above, this is an *ex gratia* arrangement under which featured Australian artists may register to receive payments directly from PPCA, regardless of whether they have retained copyright in the sound recordings on which they feature.

247. In addition to being available on the website, the Distribution Policy is also provided to each new licensor together with the Input Agreement. An information sheet on the Direct Artist Distribution Scheme is provided to each registering artist as part of the artist registration pack. The correspondence describes the overall scheme as outlined in the Distribution Policy, and advises that the Policy (and all other policies) can be viewed on the PPCA website, or supplied on request.

248. PPCA undertakes an single annual distribution for the financial year ended 30 June, which is made prior to 31 December in each calendar year.

Collecting Society Expenses (Code, Clause 2.5)

249. PPCA's operating expenses are deducted from total gross revenue, yielding a surplus available for allocation and distribution in line with PPCA's Distribution Policy.

250. PPCA's Annual Report for the year ended 30 June 2016 (published during the Review Period) showed that the expense to revenue ratio was 19%.

Governance and Accountability (Code, Clause 2.6)

251. PPCA's financial records are audited annually.
252. Reports of the Board of Directors and of the external auditors are published in the Annual Report which, for 2015-2016 was provided as part of the Accompanying Underlying Documents, and is available on the PPCA website. It contains the information specified in the Clause 2.6(e) of the Code.
253. In addition, a Finance Committee appointed by the Board continues to meet regularly to review interim financial accounts, and the outgoings and expenses contained in them.
254. The PPCA Board, committees and relevant managers are also provided with PPCA's "Competition and Consumer Compliance Guidelines" and "refresher" presentations are held periodically.
255. In accordance with PPCA's Constitution (rules 6.2(b) and 6.2(c)) PPCA conducts regular elections to fill the positions for both Licensor and Artist Representative directors. At each meeting of the PPCA Board, directors are reminded of their obligations and duties.
256. The PPCA Management Team meets each week to discuss operational and strategic matters.

Staff Training (Code, Clause 2.7)

257. PPCA's practice of providing staff at the commencement of their employment with a number of key documents, including the Code, the PPCA Privacy Policy and the PPCA Complaints Handling and Dispute Resolution Policy, continued to be followed during the Review Period.

258. Members of the Licensing Department meet at least once each month, with individual licensing teams meeting more often. At these meetings, staff are reminded of PPCA's obligations under the Code and of the various other PPCA policies.
259. A document containing standard responses to frequently asked questions is provided as a resource to the Licensing Department.
260. During the Review Period, Licensing Department staff attended training sessions in updates to the account management system.
261. In addition, senior licensing staff also attended courses in case management and changes to contract law.
262. Both the Licensing and Distribution Departments also meet regularly for staff training and process review purposes.
263. Departmental managers continue to be provided with copies of any complaints received so that they can be discussed and reviewed at team meetings.
264. Staff training sessions on the Code for the Licensing, Credit, Enforcement and Distribution departments are held regularly.
265. PPCA maintains an intranet which serves as a repository for all key policy documents, including the Code. Staff are encouraged to review the intranet regularly.
266. During the Review Period, new staff were sent to external courses dealing with customer service / telephone skills.

Education and Awareness (Code, Clause 2.8)

267. In addition to communications previously outlined, PPCA reports that it meets regularly with licensees and key licensee representative bodies. It distributes explanatory materials (either by mail, distribution at specific industry events, placement in trade publications, or publication on the website), and publishes a quarterly newsletter, *In The Loop*, which is forwarded to each licensee with the periodic licence renewal documentation.
268. PPCA itself is a corporate member of several licensee representative bodies.
269. During the Review Period, PPCA wrote to approximately 6,100 businesses advising them of the licensing obligation relating to the use of protected sound recordings, and the convenience of the PPCA licence. The information pack supplied to them includes notification of the operation of the Code.
270. PPCA states that it continued to meet with artists and licensors to educate them on the role and function of PPCA, presented at seminars and panel discussions, and distributed explanatory materials.
271. PPCA regularly issues a newsletter, *On the Record*, to artists and licensors.
272. PPCA uses Facebook and Twitter to communicate directly with registered and potential artists and licensors, keeping them informed of PPCA news, issues and initiatives, as well as providing the latest music industry information to help aspiring artists, managers and music industry professionals. PPCA continues to post 3-4 times per

week on both Facebook and Twitter. PPCA currently has 2,132 “likes” on Facebook and 1,786 “followers” on Twitter.

273. Awareness of PPCA is enhanced through its sponsorship and support of the following prizes and cultural organisations:

- the Australia Music Prize (the AMP)
- Sounds Australia
- the PPCA Performers’ Trust Foundation
- Music Matters
- The Arts Law Centre of Australia
- The Australian Copyright Council
- the ATSI office
- the Australian Independent Record Labels Association (AIR)
- Support Act Limited; and
- the Australia Songwriters Association Awards.

274. PPCA runs a ‘Patron Program’ in order to inform artists, record labels and businesses about PPCA activities. PPCA remains in close contact with its patrons in order to keep them apprised of all issues impacting PPCA, in order to allow them to disseminate that information across their contacts in the artist community.

275. PPCA’s website is a source of information for music users and copyright owners, and is updated regularly.

Complaints and Disputes (Code, Clause 3)

276. This subject is dealt with in a separate section, “Complaints and Disputes”, below.

Publicity of the Code and Reporting of Compliance with it in the Annual Report (Code, Clause 4)

277. PPCA publishes notification of the process for the annual review of compliance with the Code on its website and in its newsletter, *In the Loop*.
278. Of course, PPCA's annual report to the Code Reviewer is itself directed to the issue of its compliance with the Code.

Australian Writers' Guild Authorship Collecting Society Ltd ("AWGACS")

General

279. The Australian Writers' Guild Authorship Collecting Society states that there have been no substantive changes to its practices since the last reporting period in 2015, outside of its ongoing issues with domestic collection and distribution with Screenrights previously raised with the Code Reviewer.
280. The number of members of AWGACS at 9 October 2017 was 1,669 members, an increase of 129 since the last report.
281. AWGACS is not a declared society under the *Copyright Act* (Cth) 1968, but elects to submit voluntarily to the Code of Conduct for Collecting Societies.
282. AWGACS is a member of CISAC (the International Confederation of Societies of Authors and Composers). Therefore, AWGACS submits to the *International Best Practice Guidelines*. AWGACS is considered a "developing society" in CISAC terminology, reflecting the number of

its members, level of collections, age and infrastructure. AWGACS reports to CISAC extensively on an annual basis.

283. AWGACS confirms that it does not deal with licensees and that it collects and distributes secondary royalties only.

Legal Framework (Code, Clause 2.1)

284. AWGACS asserts that it has met all of its obligations with regard to the relevant obligations under this clause and that there has been no change since the previous Review.

Members (Code, Clause 2.2)

285. As noted above, the number of members of AWGACS as at 9 October 2017 was 1,669 members, an increase of 129 since the last report.

286. There was no change to the membership criteria or to the constitutional obligations of members during the Review Period. AWGACS's Constitution is available to all members and potential members upon request and on the AWGACS section of the Australian Writers' Guild (AWG) website.

287. Membership remains available to all scriptwriters.

288. AWGACS states that it has received no complaints from its members about any of its obligations under the Code.

Licensees (Code, Clause 2.3)

289. Clause 2.3 of the Code does not apply to AWGACS because AWGACS is not a licensor of copyright material.

Distribution of Remuneration and Licence Fees (Code, Clause 2.4)

290. AWGACS does not grant licences and therefore does not receive licence fees for distribution.
291. AWGACS distributes to its members monies that it collects on their behalf from other collecting societies. This is in accordance with its Constitution and its Distribution Policy as determined by its Board of Directors.
292. The Distribution Policy is made available to AWGACS's members upon request and is also published on the AWGACS section of the AWG website.
293. The AWGACS financial year is a calendar year. In the calendar year ended 31 December 2016, AWGACS:
- collected \$1,766,122.80 (distributable in the following calendar year, 2017); and
 - distributed \$1,302,886.27 from prior year collections.

Collecting Society Expenses (Code, Clause 2.5)

294. AWGACS states that it deducts from each calendar year's royalty collections the "standard operating costs for that year".
295. AWGACS also deducts 5% of gross royalties received as a "cultural levy" to be directed towards appropriate activities in support of its members. It sponsors the Annual AWGIE Awards for scriptwriters, which is run by the AWG.

296. In addition, AWGACS claims that it invests, to the extent that human and cash resources permit, in pursuing new sources of income for its constituents.

297. A special Levy for legal costs of 5% was charged on the funds collected in 2015 that were distributed to members in 2016.

Governance and Accountability (Code, Clause 2.6)

298. The Board of Directors of AWGACS comprises five directors, of whom two are elected by the Board of the AWG (which itself is democratically elected by and from writers who are members of the AWG), two are elected by the AWGACS members from among the AWGACS membership, and one is, ex-officio, the AWGACS/AWG Executive Director.

299. The audited annual accounts for calendar year 2016 were presented to members at the AGM and included: details of total revenue, the total amount and general nature of expenses, and the allocation and distribution of payments to members.

300. As previously stated, AWGACS voluntarily submits to the extensive governance and accountability reporting measures and reviews of CISAC.

Staff Training (Code, Clause 2.7)

301. During the Review Period, there was one appointment, to the position of "Collections and Distributions Officer" within AWGACS. The appointee was advised of AWGACS's obligations under the Code.

302. Existing AWGACS employees remain aware of the Code and of its requirements and particularly of the society's Complaints Handling Procedure.

Education and Awareness (Code, Clause 2.8)

303. As a small "developing" society, AWGACS itself focuses on the education of scriptwriters and relies on larger societies and the Australian Copyright Council to contribute to the promotion of the importance of copyright and of collecting societies in general in Australia.

304. Internationally, its membership of CISAC is directed to the same purpose.

305. It also contributes via sponsorship of the Annual AWGIE Awards.

306. In addition, AWGACS regularly writes to members requesting the information on their new productions to educate them on the importance of keeping AWGACS up to date with their writing credits.

307. AWGACS promotes awareness of scriptwriting royalties to members and the industry via electronic bulletins and website materials.

308. In addition, AWGACS provides an individual and legal advice service to members and to the industry on copyright and related issues.

309. AWGACS's foundation documents are available internationally to other collecting societies, via the CISAC portal, and domestically via the AWGACS website.

310. AWGACS continues to respond individually to all telephone and email questions from members, potential members and the general public

about the society's purposes and practices.

Complaints and Disputes (Code, Clause 3)

311. The subject of complaints and disputes is dealt with in a separate section of this report, "Complaints and Disputes", below.

Publicity of the Code and Reporting of Compliance with it in the Annual Report (Code, Clause 4)

312. The Code is posted on the AWGACS section of the AWG website and is made available to members and potential members upon request.

313. Calls for submissions to the Code Reviewer are made on the society's website in accordance with the requirements of the Code.

314. Of course, AWGACS's annual report to the Code Reviewer is itself directed to the issue of its compliance with the Code.

Australian Screen Directors Authorship Collecting Society Ltd ("ASDACS")

General

315. Established by the Australian Directors' Guild (ADG), the Australian Screen Directors Authorship Collecting Society Ltd (ASDACS) was incorporated as a company limited by guarantee in 1995. ASDACS collects and distributes secondary royalty income for screen directors, which arises from the screening of their work both internationally and domestically.

316. As has been previously noted, ASDACS is not a declared collecting society under the Act.

317. ASDACS reports that it continues to be administered by the ADG through a services contract but continues to be legally governed by a separate board and acts in accordance with its own constitution.
318. ASDACS further states that it continues to work closely with the ADG with the aim of promoting fair remuneration for screen directors. This is in alignment with the broader international Writers & Directors Worldwide continuing campaign for fair remuneration for authors, from which ADG / ASDACS has garnered further support.
319. ASDACS employs one full-time staff member and two part-time staff. An external database technician and a legal adviser continue to be employed on a consultancy basis.

Legal Framework (Code, Clause 2.1)

320. ASDACS reports that there were no changes during the Review Period.

Members (Code, Clause 2.2)

321. As at 30 June 2016, ASDACS had 942 members. By the end of the Review Period on 30 June 2017, membership had grown to 1,001 – an increase of 59 members.
322. ASDACS reports that there was no change to its membership rules or procedures during the Review Period.

Licensees (Code, Clause 2.3)

323. ASDACS does not grant licences to use copyright works.

Distribution of Remuneration and Licence Fees (Code, Clause 2.4)

324. ASDACS reports that its international royalty income for the 2016 calendar year totalled \$1,112,132. Additionally, a small amount of domestic retransmission royalty revenue totalling \$18,049 was received from Screenrights

325. A total of \$28,714 bank interest earned on ASDACS income over 2016 will also be distributed to members in accordance with its constitutional rules.

Collecting Society Expenses (Code, Clause 2.5)

326. ASDACS' members received the full amount of gross royalties that it received from reciprocal collecting societies internationally for their works, less the following amounts:

- **Administrative fee:** an administrative fee of 22% which covers ASDACS' operational expenses;
- **Membership fee:** a membership fee of 10%, waived for members of the Australian Directors' Guild (ADG), as well as the Directors and Editors Guild of New Zealand (DEGNZ); and
- **Cultural Purposes Fund:** a cultural fund fee of 4%; In 2016, this amounted to \$44,485; \$10,000 of which was granted to the ADG (Byron Bay/Western Australia directors workshops) and \$5,000 was granted to the DEGNZ (Directors masterclass event) for the support and promotion of directors in accordance with the ASDACS Constitution.

Governance and Accountability (Code, Clause 2.6)

327. At its Annual General Meeting, six members were appointed to the ASDACS Board, including four ADG members and one DEGNZ (Directors and Editors Guild of New Zealand) member. The newly elected directors re-appointed the one non-member as the specialist director in finance.
328. ASDACS is a member of CISAC (the International Confederation of Societies of Authors and Composers) and abides by CISAC professional rules and standards, including the submission of an annual finance declaration and completion of a professional rules questionnaire

Staff Training (Code, Clause 2.7)

329. During the Review Period, the ASDACS full-time staff member attended the Legalwise seminar on "Legal updates in Film, TV and Entertainment" and the new part-time staff member received further training by the full-time ASDACS staff member on ASDACS' technical systems and processes.

Education and Awareness (Code, Clause 2.8)

330. The ASDACS website and regular enews updates (*News from the Chair*) are used to keep members informed of its work and progress. The ASDACS website also continues to promote the importance of copyright and makes detailed references to the nature of copyright as administered by collecting societies in Australia and overseas, addressing the functions and policies of ASDACS in particular. ASDACS's social media (Twitter, Facebook and LinkedIn) have also

been further developed and will serve as another vehicle to keep ASDACS members and international partners updated.

331. ASDACS also continues to use the regular newsletter of the ADG for broader awareness campaigns for screen directors. It provides sponsorship and cultural support through the ADG to enhance its visibility to the wider film and TV community.

Complaints and Disputes (Code, Clause 3)

332. This subject is dealt with in a separate section, "Complaints and Disputes", below.

Publicity of the Code and Reporting of Compliance with it in the Annual Report (Code, Clause 4)

333. ASDACS publicises the Code and its adherence to it on its website and in all relevant information documents provided to members and potential members.

334. The Code is posted on the ASDACS website in a comprehensive area called "Governance", where those interested can also find:

- the Code Reviewer's latest Report on Compliance with the Code;
- the Code Reviewer's Triennial Review of the Operation of the Code; and
- the 2017 Call for Submissions.

335. Members can download those documents or obtain hard copies upon request to the ASDACS office.

336. Of course, ASDACS's annual report to the Code Reviewer is itself directed to the issue of its compliance with the Code.

COMPLAINTS AND DISPUTES

General

337. In accordance with a recommendation made at [28]-[38] of my Report of my Review of the Operation of the Code of Conduct dated 30 April 2014, the collecting societies have attached to the Code an explanatory document distinguishing between “complaints” and “disputes”. A copy of that document is, for convenience, attached as Appendix C to this present report.

Australasian Performing Right Association Limited (“APRA”) and Australasian Mechanical Copyright Owners Society Limited (“AMCOS”)

General

338. APRA AMCOS deal with complaints and disputes in paragraphs 9.1 – 9.16 of the text of their report to me and in a separate volume of Accompanying Underlying Documents. Allowing for the interest that a collecting society has an interest in the way in which it describes complaints and its handling of them, it must nonetheless be acknowledged that APRA AMCOS’s report is commendably detailed and, apparently, frank.

339. APRA AMCOS say that they have applied the distinction between complaints and disputes referred to above.

340. The relevant volume of Accompanying Underlying Documents is Volume 2 which is divided by tabs.

341. The APRA AMCOS "Complaints Procedure" document is at Vol 2 Tab 1. It is publicised on the APRA AMCOS website and explains to readers who is entitled to make a complaint and how to do so, offers to provide assistance in formulating a complaint, and sets out APRA AMCOS's procedure for dealing with complaints. For example, the societies undertake to acknowledge the complaint within seven days of receiving it and the Complaints Procedure document sets out a timetable of steps which APRA AMCOS undertake to take.
342. APRA AMCOS state that they have included in Vol 2 all documents and correspondence that have been dealt with as complaints during the Review Period.
343. Member complaints, together with related correspondence and documents, are in Vol 2 Tab 2, while Licensee complaints, together with related correspondence and documents, are in Vol 2 Tab 3.
344. Three new Member complaints were received during the Review Period and there were none carried over from the previous review period.
345. Two new Licensee complaints were received during the Review Period and there was one carried over from the previous review period.
346. Where APRA AMCOS is unsuccessful in its attempt to license a user of music and the matter is referred to APRA AMCOS's external solicitors, the matter is not categorised as a complaint unless a complaint regarding the actual conduct of an APRA AMCOS employee or of APRA AMCOS's external solicitors is received (para 9.6).
347. As at 30 June 2017, there were 265 ongoing general infringement matters under the management of APRA AMCOS's Licensing

Departments, of which 167 were being handled by APRA AMCOS's external solicitors.

348. Where a licensee refuses to pay invoices issued by APRA AMCOS, the matter is pursued by their Finance Department and then referred to external mercantile agents to manage, and, if necessary, to pursue through debt recovery proceedings. As at 30 June 2017, there were 574 "clients" under the management of APRA AMCOS's Australian external mercantile agent, and 165 under that of APRA AMCOS's New Zealand external mercantile agent.
349. These debt recovery steps are not characterised as "complaints" unless a complaint regarding the conduct of the Finance Department or debt collector is made. No such complaints were made during the Review Period.
350. As previously reported, in April 2015 APRA AMCOS launched a new independent ADR facility called "Resolution Pathways".
351. In August 2016 "Resolution Pathways" was awarded the Australian Disputes Centre's *ADR Corporate Team of the Year Award*.
352. The ADR facility assists in the resolution of disputes between APRA AMCOS and its licensees or potential licensees, and between APRA AMCOS and its members, as well as disputes between members themselves.
353. APRA AMCOS appointed Shirley Kirschner of Resolve Advisors as the Independent Dispute Facilitator to administer the ADR scheme. Ms Kirschner worked with APRA AMCOS's management and the ACCC to establish a prescribed governance framework for the independent ADR facility. A fundamental feature of this is a Consultative Committee comprising an equal number of member and licensee

representatives. The Independent Dispute Facilitator must consult with the Committee on matters such as the monitoring of the operation of the scheme, including its cost; receipt of feedback on the scheme; and the making of a recommendation about the budget for the operation of the scheme.

354. Of course the ADR facility is publicised on the APRA AMCOS website, in materials released to the public, and in legal correspondence. APRA AMCOS has given its external solicitors standing instructions to make the existence of the ADR facility known to parties prior to the commencement of legal proceedings and negotiations.
355. When a dispute arises between members, APRA AMCOS encourage them to resolve it among themselves or by way of ADR.
356. Where APRA AMCOS are notified of a dispute among members or involving members of an affiliated society, as to the allocation of shares in a work administered by APRA AMCOS, the societies may, at their discretion, place all or any of the performance credits relating to the work in suspense until the dispute is settled or resolved by a court or by ADR.
357. Under the terms of its authorisation from the ACCC, the ADR facility's Independent Resolution Facilitator must submit an annual report to the ACCC detailing the disputes that have been notified to her. A copy of her report to the ACCC for the year ended 31 December 2016 is at Vol 2 Tab 4.
358. Ms Kirschner's report for calendar year 2016 states that there have been 16 referrals to her over that year of which 14 are concluded and 2 are ongoing. Of the 14 concluded, 11 were resolved as set out in her report and 3 were either withdrawn or did not proceed. In a

schedule to her report, Ms Kirschner gives a short summary of the kinds of matters that were referred to her.

359. She reports that the Consultative Committee has functioned well and that certain sub-committees have been established.
360. Of the 16 referrals, 13 were in respect of writer members and 3 were in respect of licensees.
361. APRA AMCOS also included in Vol 2 Tab 4 a copy of Resolution Pathway's quarterly report for the period 1 January to 31 March 2017 which was sent to APRA AMCOS's Head of Legal, Corporate and Policy.

Complaints by Members

APRA AMCOS Member Complaint 1

362. A Writer Member had difficulty adapting to APRA AMCOS's new online Live Performance Return (LPR) member self-reporting system. APRA AMCOS state that they had enhanced the system in an attempt to ensure increased accuracy and ease of submission of LPRs.
363. The complainant also expressed frustration at not being able to communicate with a particular Writer Services Representative. After a number of telephone calls from the complainant, the issue was escalated to senior management.
364. I have been briefed with a record of telephone calls and with emails extending over a period 28 July 2016 to 12 August 2016.
365. Ultimately the solution arrived at was to allocate to the complainant a senior Writer Services Representative to assist with his queries on an

ongoing basis. His LPRs are now submitted internally by a Writer Services Representative. APRA AMCOS report that in order to “avoid confusion, accurate work durations and titles have been incorporated within each LPR”.

366. I have read through the correspondence and records of telephone conversations. It is clear that the member was angry and frustrated because of the difficulty he experienced in providing his LPR.
367. I have not, however, located any complaint by him about the conduct of any individual or individuals within APRA AMCOS. He was critical of the organisation as a whole for having adopted a system with which he as a writer member could not work (“APRA should have ironed all these bugs before subjecting writer members to this nightmare. Wasting millions of hours of other people’s time is not OK. The LPR software you previously had was fast and responsive and easy to use. To migrate to an untested and dysfunctional system is premature and just extremely poor management.”)

Code Reviewer’s comments (if, and to the extent, called for)

368. No doubt the societies will take on board the possibility that they should offer similar assistance to other Writer Members who have difficulty in completing their LPRs online.

APRA AMCOS Member Complaint 2

369. A Writer Member complained about the Terms and Conditions for APRA AMCOS’s Professional Development Awards (PDAs) which the complainant felt militated against her ability to enter.

370. She also complained that APRA AMCOS representatives were not available to respond to her expression of concern about the PDA within an appropriate timeframe.
371. In its report to me, APRA AMCOS state that Writer Services staff were attending their annual departmental conference, but that a staff member left the conference specifically to respond to “increasingly agitated queries” from the complainant.
372. The PDA competition was open from 9 March 2017 until midnight on 27 April 2017, and, according to APRA AMCOS, they ensured that the Writer Member’s concerns were addressed prior to closure of applications for the PDAs.
373. The correspondence provided to me suggests that the Writer Member’s complaint was made on 26 April 2017 – one day prior to closure of entries. The complaint was, generally speaking, about the Terms and Conditions to which an entrant was expected to agree. In particular, she complained that the Terms and Conditions allowed APRA AMCOS to use the material submitted for promotional purposes.
374. An APRA AMCOS officer replied on 27 April 2017. The reply included the following:

“Whilst we include these clauses that relate to possible promotional use, we do always contact our members regarding any promotional use to ensure that they are okay with what we are proposing and that they are across our proposed usage.

I can confirm that in the past few iterations of our program we haven’t released any audio or audio-visual material from our entrants. We mostly utilise photos and bios provided for any press opportunities.

We are also very aware that unreleased material is very valuable to our members and that the integrity of their moral rights for first release need to be maintained.

I wanted to commit to you today that if you are to be a recipient of a PDA we would seek your consent to use any materials for our promotional purposes.”

375. The Writer Member replied on 28 April 2017 to the effect that it was too late now for her to apply.
376. There followed correspondence extending over a period from 3 May 2017. The Terms and Conditions of the PDAs were amended so as to remove the right to use an applicant’s name, photos or likeness and other material, except in the case of “Short-listed Entrants”.
377. The correspondence between the Writer Member and APRA AMCOS reveals the complainant’s strong sense of grievance. She provided to APRA AMCOS an invoice for \$600 for her services headed “Correcting Discriminations from PDA Terms and Conditions APRA”. Of course, APRA AMCOS did not pay the invoice.
378. On 14 June 2017 there was a teleconference between the complainant and several officers of APRA AMCOS, including senior officers (including the head of Legal, Corporate and Policy). The teleconference concluded with the most senior officer of APRA AMCOS thanking the complainant for her time and advising that the changes to the PDA Terms and Conditions would be credited to her internally.
379. There was no subsequent contact from the complainant, and APRA AMCOS regarded the teleconference as having resolved the complaint.

Code Reviewer’s comments (if, and to the extent, called for)

380. It seems to me that that the complaint has been resolved to the extent that it is capable of being resolved.

381. I should add that in my view the Terms and Conditions of the PDAs were, prior to the amendment, too one sided in favour of APRA AMCOS; that the complaint in that respect was justified; and that APRA AMCOS acted prudently in amending the Terms and Conditions.

APRA AMCOS Member Complaint 3

382. A Writer Member complained by email on 7 February 2017 addressed to the "Code Reviewer". The complaint was referred to AMCOS as it was a complaint that the member had not received the correct mechanical royalties. Her email said that she had an issue with the publisher.

383. AMCOS responded on 13 February 2017 advising that the complaint would be investigated, to which the member replied on the same day expressing thanks, and adding: "I wrote melody and lyrics but never really earn't a cent only heartache".

384. On 3 March 2017 AMCOS advised the complainant of the result of its investigations which was, generally speaking, that royalties had been paid to the publisher under a publishing agreement between it and the complainant.

385. AMCOS explained that it was not able to disclose "details of mechanical payments AMCOS has made to a third party", but that as the "release dates" preceded the signing of the agreement between the complainant and the publisher, the complainant would have been "unpublished" on AMCOS's system. The explanation continued:

"Mechanical payments would have been made to APRA for you as an agency writer when AMCOS collected mechanicals on your behalf. Unfortunately due to the time frames of the releases, we do not have

the distribution data going back that far that actually confirm the amounts paid.”

386. APRA AMCOS offered to “investigate the methods of distribution and work out why no money has been paid”.
387. Finally, APRA AMCOS offered the use of its alternative dispute resolution service, “Resolutions Pathways”, in relation to any issue between the complainant and her publisher.
388. APRA AMCOS have heard nothing further from the complainant and therefore consider the complaint to have been resolved.
389. I think that her view was supportable.

Complaints by Licensees

APRA AMCOS Licensee Complaint 1

390. The complaint arises out of requests made by APRA AMCOS’s external mercantile agent for payment of an invoice. The complainant said that she was under the impression at that time that her APRA AMCOS licence had been cancelled and that no licence fees were payable. She was also concerned that the reference of the unpaid invoice to an external mercantile agent would negatively affect her credit rating.
391. The complaint was made by email on 26 May 2017 and on the same day APRA AMCOS acknowledged receipt and undertook to investigate the complaint as a matter of urgency and to provide a formal response within 14 days.
392. On 7 June 2017 APRA AMCOS wrote to the complainant advising that an administrative error had caused her account to remain active in APRA AMCOS’s client management system when it should have been

cancelled after the complainant advised APRA AMCOS that the activity in question had closed with effect from 1 July 2016. The letter explained that as the complainant's account had not been appropriately cancelled in APRA AMCOS's system, the original licence automatically renewed on 1 February 2017, at which time an invoice was issued for the 2017/18 licence year. The letter advised that it was that invoice that was issued in error and was referred to the external mercantile agent for recovery.

393. The letter frankly admitted the error: "APRA AMCOS can confirm that a licence was not requested by you, or any representative of [name of group] for any period beyond June 2016".

394. The letter went on to apologise to the complainant and to advise that steps had been taken to ensure that there was no recurrence.

395. The letter also confirmed that "no negative credit reporting was made with respect to [the complainant or her group] and that our external mercantile agents have been instructed to close the file and cease any action in respect of this matter".

396. APRA AMCOS received no further communication from the complainant and considered the matter resolved.

Code Reviewer's comments (if, and to the extent, called for)

397. Of course, it is unfortunate that the administrative error occurred but it was handled expeditiously and appropriately within APRA AMCOS.

APRA AMCOS Licensee Complaint 2

398. The correspondence in relation to this complaint, which concerned the reassessment of an annual licence fee, extended over the period 16 February 2017 to 7 April 2017.
399. The email of complaint dated 16 February 2017 asserted that an invoice received from APRA AMCOS was for more than double the amount of the previous year, without any reason being given. Contemporaneously with the complaint, the licensee gave 30 days' notice cancelling the contract with APRA AMCOS stating, "I will be going with another company to licence rights on my behalf as your company will send me broke if I continue business with you".
400. APRA AMCOS replied promptly on 17 February 2017 acknowledging receipt of the complaint and undertaking to investigate the concerns expressed and to come back with a formal response within 14 days.
401. APRA AMCOS attempted to contact the complainant by telephone within that 14 day period but ultimately wrote on 7 March 2017 suggesting that the complainant resubmit her 2016 figures so that APRA AMCOS could make an adjustment and that the complainant would pay the correct amount. At the same time, it was pointed out to the complainant that cancellation of the licence would have the effect that public performance of copyright music on her premises would be an infringement of copyright.
402. There was further a disputation over APRA AMCOS's request that the complainant identify the new alternative source that she was relying upon for a licence.

403. On 17 March 2017 APRA AMCOS confirmed that it had terminated the licence with effect from 1 February 2017, and attached invoices for the period 1 January 2016 to 31 January 2017.
404. The same letter reminded the complainant that if she did not have an appropriate licence from APRA AMCOS, she would not be entitled to use APRA AMCOS music, and that "APRA AMCOS's repertoire includes practically all commercially available musical works performed in Australia".
405. According to the correspondence, the matter finished with a threat by the complainant to go to the media and ongoing attempts by APRA AMCOS to recover the balance owing on the invoice/statement.
406. APRA AMCOS considers the complaint to have been resolved by virtue of their having terminated the complainant's licence at her request. APRA AMCOS's report to me states:

"APRA AMCOS may contact the complainant in the future about entering into a new licence in the event that APRA AMCOS becomes aware that music in APRA AMCOS's repertoire is being used at the complainant's business."

Code Reviewer's comments (if, and to the extent, called for)

407. There is no further comment that I can usefully make beyond noting that apparently the amount of the invoice/statement remains outstanding and that no doubt any attempt to recover it will prompt disputation.

APRA AMCOS Licensee Complaint 3

408. This complaint was also APRA AMCOS Licensee Complaint 2 in my Compliance Report for the year 1 July 2015 to 30 June 2016.

409. As I noted there, the case was one of hostility on the part of the complainant towards APRA AMCOS and its staff. As I noted at [344] of last year's Compliance Report, "communications from [the complainant] to APRA AMCOS have been aggressive, offensive and insulting (and at times obscenely abusive)".
410. As was noted at [347] of that Compliance Report, APRA AMCOS felt compelled to refer the matter to its external solicitors, and subsequent correspondence took place between them and the complainant.
411. APRA AMCOS's report to me in respect of the Review Period states that between 1 July 2016 and 21 November 2016, external solicitors continued corresponding with the complainant and his staff in order to facilitate ongoing management and administration of the complainant's event licensing.
412. According to APRA AMCOS's report to me, while the complainant adopted an aggressive tone when responding to APRA AMCOS's external solicitors, there has not been cause to caution the complainant about unacceptable or abusive comments as was necessary in the preceding year.
413. In November 2016 the complainant's own solicitors contacted APRA AMCOS's external solicitors, and since that date correspondence with respect to licensing of the complainant's events has taken place exclusively between solicitors.
414. This has resulted in the following outcomes:

- APRA AMCOS and their external lawyers are no longer receiving inappropriate or aggressive comments directly from the complainant;
- The complainant is entering into licences, and although there has been some disputation over these, the disputes have been resolved or continue to be addressed and resolved; and
- No further representations to APRA AMCOS by the complainant with respect to the issue of the proportion of APRA AMCOS repertoire performed at his events have been made.

415. APRA AMCOS express the opinion that correspondence between solicitors will continue until APRA AMCOS are confident that the business relationship has been regularised and is comfortable with APRA AMCOS's staff resuming direct contact with the complainant.

416. In the meanwhile, APRA AMCOS considers the complaint to have been resolved for the purposes of the review of their compliance with the Code of Conduct.

417. I agree.

Copyright Agency Limited ("Copyright Agency") / Viscopy

418. As in their report to me in respect of 2015-16, Copyright Agency/Viscopy have recorded in a table "matters regarding services for members and licensees of Copyright Agency and Viscopy in [2016-17] that may be regarded as complaints as defined in Australian Standard ISO10002-2006 – Customer Satisfaction". Clause 3.2 of that document defines "complaint" as an "expression of dissatisfaction made to an organisation, related to its products, or the complaints-handling process itself, where a response or resolution is explicitly or implicitly expected".

419. In their report to me on the Review Period, Copyright Agency/Viscopy note the amendment that was made to the Code of Conduct in 2017 to add a guidance note on the meaning of “complaint” and “dispute”, which was noted at [xx] above.

420. The table is reproduced below (with names and other identifying details omitted):

	Who	Issue	Resolution
1	Resale Royalty Artist	Artist notified CA that gallery had not paid RR for sales of artist’s work. Artist said CA should not receive administration fees from artist’s royalties because it had not given sufficient information to the artist and gallery about scheme.	CA explained scheme (including “opt out”) and admin fees. CA also contacted gallery to establish reporting and payments.
2	Publisher Member	No advance notice or explanation regarding lower payment in 2017 compared to 2016.	CA apologised for not giving advance notice of payment reduction. CA will review processes to enable advance notice in future in similar situations. CA explained distribution process and will review member information about this.
3	Participating Publisher	Concerns about online subscription platform for schools	Resolution in train.
4	Licensee	Aspects of CA Media Monitoring Organisation (MMO) licence agreements.	Investigation of concerns, appropriate action with respect to third parties where appropriate, and response to complainant licensee.

421. Before I deal with these four complaints in more detail, I should note that in my Compliance Report for 2015-16, when dealing with Copyright Agency Complaint 11, I required Copyright Agency/Viscopy to report further on that complaint for the purpose of the following year’s (this year’s) Compliance Report. That complaint related to a sensitive commercial negotiation between Copyright Agency and a

licensee. The licensee was represented by solicitors and the complaint was made by them in a seven-page letter dated 7 April 2016.

422. Briefly, the complaint was that action taken by a member of Copyright Agency had restricted access by the licensee to that member's content, with the consequence that the terms of the licence granted by Copyright Agency had been breached. In effect, the member had put Copyright Agency in breach of its contract with the complainant.
423. Copyright Agency's report to me was rather opaque.
424. In its current report to me, Copyright Agency states that in December 2016, it and the complainant licensee entered into an addendum to the original licence agreement which enables the complainant to act as agent for Copyright Agency to collect licence fees for downstream rights.
425. This appears to have resolved the licensee's complaint.

Copyright Agency/Viscopy Complaint 1

426. The indigenous artist's complaint was that he had not been receiving resale royalties in respect of sales of his works by a particular indigenous art centre for over six years. He also blamed Copyright Agency for not having publicised to art galleries their obligations under the *Resale Royalty Right for Visual Artists Act 2009*, and collected the resale royalties and transmitted them to him.
427. The substantive complaint was made by the artist on 3 July 2016. On 6 July 2016 the Indigenous Engagement Manager of Copyright Agency spoke to the artist and discussed his complaint. The Manager

explained how the administration fee was structured and what it covered, and the “opt out” possibility for artists.

428. The Manager recorded that at the end of the conversation the indigenous artist said that he was happy for Copyright Agency to continue to collect royalties for him and for it to retain its administration fee for both the past and future royalties collected on his behalf.

Code Reviewer’s comments (if, and to the extent, called for)

429. The complaint was responded to promptly. So far as appears, the complaint was resolved to the artist’s satisfaction.

Copyright Agency/Viscopy Complaint 2

430. There was a substantial decrease in the payments made by schools in respect of the Publisher Member’s works, in fact a decrease of 62% on last year’s figure. Copyright Agency explained to the member that this was due to two factors: a lesser number of works in the dataset for this year’s distribution as opposed to the previous year’s; and a very substantial reduction in the number of pages of the member’s content that were copied.
431. Copyright Agency checked the correctness of the figures and the member’s complaint became one of the lack of communication in relation to the substantial loss of income. One of the member’s emails contained this: “From a high-level management perspective, the slightest hint from your organisation as to the drop in fees would have assisted immensely in my planning”.
432. On 27 July 2016, Copyright Agency’s CEO and Policy Director met with representatives of the complainant.

433. The member understood that the surveys were of a small sample of schools and occurred over a two year period (half the States and Territories in one year and the other half in the next) but had not appreciated that different schools were selected each year, or that the level of copying of a publisher's works may be affected by the sampled schools' access to the publisher's materials (eg by whether or not the particular school in the sample is a customer of the publisher).
434. Copyright Agency apologised for not providing advance notice to the member of the fall in the number of pages of its content that had been copied, and undertook to review its processes to identify ways in which advance notice could be given in the future to members in a similar position to the particular publisher here. The publisher accepted that Copyright Agency may not be able to forecast the actual amount that would be paid, given the variables in the distribution process.
435. Copyright Agency also undertook to review its communications to members about survey and distribution methodology.
436. The correspondence suggests that as at 29 June 2017, an independent consultant was conducting a review of Copyright Agency's distribution processes and systems.

Code Reviewer's comments (if, and to the extent, called for)

437. I require Copyright Agency in next year's report on its compliance with the Code, to inform me of the outcome of the review.

Copyright Agency/Viscopy Complaint 3

438. The complainant was also the complainant in Copyright Agency/Viscopy Complaint 2 discussed above.
439. In 2014, after a trial in 2013, Copyright Agency launched an online subscription platform for schools with four founding publishers. The number of the participating publishers has increased over time and there are now 16 of them including the complainant which became a participant in July 2014.
440. In July 2016 the complainant raised some issues concerning its continuing participation. Over the last 12 months there have been meetings and communications between the publisher and the Director of the online platform regarding the publisher's continued participation.
441. In a meeting on 27 July 2017 between the publisher's Managing Director and Copyright Agency's CEO and Policy Director, the publisher raised a number of concerns relating to the establishment and governance of the online platform, the entitlements of the founding publishers, and arrangements regarding the sharing of data and revenue. The complainant takes the view that there has been insufficient transparency regarding these matters. At the meeting, it gave Copyright Agency a letter setting out its concerns.
442. Copyright Agency/Viscopy's report to me on compliance states: "Copyright Agency is in the course of responding to the letter".
443. Copyright Agency states that it is not clear that the complainant's concerns are covered by the Code as they relate to issues other than the negotiation, collection and distribution of copyright licence fees. It has, nonetheless included Complaint 3 because the same publisher

raised concerns, as a member, in the form of Complaint 2 above regarding aspects of distribution of statutory licence fees.

Code Reviewer's comments (if, and to the extent, called for)

444. I require Copyright Agency, in its report on compliance next year, to report on its response to the letter that was handed over on 27 July 2017 and on subsequent developments.

Copyright Agency/Viscopy Complaint 4

445. There is a licence agreement between Copyright Agency and a media intelligence and data technology company which has complained about the activities of media monitoring organisations (MMOs).

446. The complainant's grievance is that it is not being treated by Copyright Agency in the same way as other such organisations are treated. Essentially the complainant asserts that the lack of parity with other MMOs has the effect of undermining the value of its agreement with Copyright Agency.

447. Copyright Agency reports that it investigated the allegations and took appropriate action with respect to third parties where appropriate, and either responded to the complainant's complaint or explained why action was not considered necessary under the licence.

448. One of the MMOs of which complaint was made has subsequently taken a licence from Copyright Agency in similar terms to those of the complainant's licence.

449. Copyright Agency states that it intends to introduce an industry standard licence agreement with the Australian MMO industry in the financial year 2017-18.

Copyright Agency's Future Fund

450. This Fund was established in 2013. The amount of the Fund has increased over time from interest on licence fees and allocations that have remained unpaid after four years.
451. What prompted the establishment of the fund was the threat of the loss of statutory licences in favour of a "fair use exception" for the benefit of schools and universities. Copyright Agency's prediction is that such a development would cause an immense loss of revenue to it with consequent effects on its author and publisher members.
452. The establishment of the Fund has, however, been controversial, and in its report to me Copyright Agency has included exchanges of correspondence with a particular journalist who is also a member of Copyright Agency, and who objects to the establishment of the Future Fund.
453. As interesting as the material briefed to me is, it relates to an issue of policy on which I do not think it appropriate for me to comment.

Audio-Visual Copyright Society Limited ("Screenrights")

General

454. In my report on compliance for 2015-2016, I noted (at [498]) that on 3 March 2016 the Australian Writers' Guild (AWG) and AWGACS commenced litigation against Screenrights in the Federal Court of Australia and that Screenrights filed its defence on 1 July 2016. I also noted (at [500]) that the Court referred the parties to a mediation before a Registrar of the Court in September 2016, and that the

proceeding was listed for further directions before Justice Jagot on 11 October 2016.

455. In its report to me for the year 2016-2017, Screenrights advises that the litigation remains on foot despite attempts at mediation.
456. It also reports that it keeps its members, licensees and stakeholders informed of key developments in the litigation via the News section of Screenrights' website.
457. While Screenrights did not receive any formal complaints in the Review Period, it received two informal complaints which it has reported in the Complaints Table which constitutes Appendix D to its Report. The Accompanying Underlying Documents in relation to the first complaint are contained in Appendix E to Screenrights' report and those relating to the second complaint are contained in Appendix F to that report.

Screenrights Complaint 1

458. This complaint related to delay in payment of royalties in respect of a documentary film. The complaint was made on 30 March 2017 and resolved on the same day.
459. What appears to have happened is that in December 2016 titles were transferred from a family trust to a family company. The company became a member of Screenrights and registration for the film was duly transferred in Screenrights' records, but "when the transfer took place the registration reverted to being unsigned and unaudited preventing the payment from going through".
460. The individual complainant followed up in February 2017 but at that time the reason for the blockage was not identified.

461. When an email dated 29 March 2017 was received at Screenrights from the complainant asking how a serious complaint about withholding of royalties could be made, the question of the blockage was investigated and the relevant officer of Screenrights attended to the matter promptly and the payment was made, apparently on 31 March 2017.

Code Reviewer's comments (if, and to the extent, called for)

462. It is unfortunate that the cause of the blockage was not investigated thoroughly on or shortly after 22 February 2017 when the complainant wrote to Screenrights: "Can you please advise on when you will pay my royalties?".

463. Nonetheless, the complaint was attended to promptly and thoroughly following receipt of the email on 29 March 2017.

Screenrights Complaint 2

464. This complaint related to receipt by a member of a payment which was made in error and which the member was required to refund.

465. The origin of the required refund, was a tortuous history of clerical and administrative errors. In part this may have been due to the member's change of the registrations and associated updating of her bank account details. This caused Screenrights to remove the former NZ bank code from the BSB field and a subsequent updating by the member brought the old NZ bank code back into "RightTrack" in the BSB field.

466. The matter came to an end with a telephone call on 3 April 2017 from the complainant to Screenrights expressing her displeasure with Screenrights' royalty payment procedures.
467. The Screenrights' officer's note says "member did say that she is always having issues with payments from Screenrights, sounded grumpy".
468. The Screenrights' officer apologised to the member and explained to her how she could make a formal complaint. Apparently she did not make one.

Phonographic Performance Company of Australia Ltd ("PPCA")

General

469. PPCA reports that it is committed to handling and resolving complaints equitably, and that all employees are provided with information on the society's established policy, and are encouraged to ask questions and to review related processes regularly. It reports that its policy document relating to complaints is available on its public website and its internal intranet site, and is also provided to new employees as a hard copy document as part of their induction package.
470. A complaints officer continues to oversee the complaints process and has access to all PPCA employees in order to address any issues raised.
471. The complaints policy incorporates provision for mediation, neutral evaluation and conciliation options.

472. The website is well publicised. Staff members presenting on PPCA to both licensee and licensor groups, routinely refer to the Code and advise those attending of its operation.
473. A hard copy of the Complaints Policy is annexed to, and forms part of, the employment contracts of all staff. They are made aware that further copies can be obtained from the PPCA website, the intranet site, their supervisor and PPCA's Complaints Officer.
474. The Complaints Policy is written in plain language and sets out the way in which a complaint may be lodged and how it will be handled. Staff are trained to be able to point people to the Complaints Policy and to explain the process for lodging of a complaint, and to direct enquiries to the Complaints Officer when necessary.
475. PPCA makes no charge for the handling of complaints under the Complaints Policy, but if the matter is subsequently referred for independent resolution, the costs would be shared equally between the complainant and PPCA.
476. All complaints are recorded in a Complaints Register database, and are reviewed for identification of recurring issues. Individual complaints and the procedures for the handling of them are reviewed annually.
477. During the Review Period nine complaints were received of which seven related to public performance licences, one was from a musician who was having difficulty registering online, and one was a complaint about noise from the PA system at a venue.

PPCA Complaint 1

478. In July 2016 a potential licensee complained that the individual PPCA officer with whom he had had dealings had failed to answer his questions, had emailed the complainant "like I am an idiot", and refused to accept that the complainant ran events not for profit. The complainant asked to deal with someone else at PPCA.
479. The email of complaint was dated 13 July 2016 and the PPCA Complaints Officer replied on 15 July 2016 undertaking to gather and review the correspondence and to come back to the complainant more substantively, but in the meanwhile apologised for the fact that the complainant had not found the experience a positive one. The Complaints Officer advised the complainant that the file would be passed to a very experienced Licensing Officer within PPCA.
480. The complainant responded positively on 15 July 2016.
481. The complainant took out a public performance licence under the appropriate tariff within a week.
482. The complaint was raised with the staff member in question and the broader licensing staff, and all were reminded of PPCA's requirement that clients and potential clients be treated courteously. The email correspondence leading up to the complaint was reviewed and has been used as a basis for a discussion with the licensing team about how PPCA might make its content clearer and more accessible to clients and potential clients.

PPCA Complaint 2

483. In July 2016 a licensee complained that PPCA's Credit & Collections Department called a mobile number that was not hers and left a message regarding her outstanding account.
484. The Complaints Officer reviewed PPCA's files and the log provided by PPCA's collection agency.
485. PPCA had been trying to contact the complainant since February 2016 but without success. A call to the mobile number given on the complainant's application form revealed that the number had been disconnected.
486. PPCA conducted a web search and identified a business of the same kind as that of the complainant being conducted in the same suburb as hers.
487. PPCA officer telephoned that number and left a message requesting the complainant to contact PPCA in relation to the outstanding account.
488. On 21 July 2016, the PPCA Complaints Officer wrote to the complainant advising that investigations suggested that no personal information regarding the complainant was disclosed in the telephone message. The complainant insisted that PPCA's conduct had been "against the Privacy Policy".
489. PPCA's Complaints Officer assured the complainant that since she had raised the issue, PPCA staff had been reminded of the need to take care when leaving messages, particularly if there is any doubt about the contact details of the intended recipient.

490. There was no further response from the complainant and PPCA eventually terminated her licence and wrote off the debt as a bad debt.

PPCA Complaint 3

491. On 8 September 2016 a licensee wrote to PPCA complaining that its fees were “unreasonable and unsustainable”. The complainant asked what government instrumentality PPCA “fell under” so that the complaint could be directed to the relevant ombudsman.

492. On the following day, PPCA’s Complaints Officer advised the complainant that there was no particular government department but that PPCA, like other Australian collecting societies, subscribed to the Code of Conduct. The email gave the complainant PPCA’s website address as a place where the Code could be accessed.

493. The Complaint Officer’s letter advised that one requirement of the Code is for all collecting societies to maintain and publish a “Complaints Handling and Dispute Resolution Policy”, and the complainant was given the website address to access that policy of PPCA’s. Finally, the email from the Complaints Officer indicated that the Policy set out the means by which disputes could be escalated and resolved, including, where appropriate, by mediation, conciliation or neutral evaluation.

494. The letter advised that if the complainant wished to use any of those aspects of the Policy, the Complaints Officer would be happy to assist him.

495. In the absence of any response from the Complainant, the licences remain in place.

PPCA Complaint 4

496. A licensee who conducted a bar business received a demand for payment of a licence fee, not from PPCA, but from a provider of background music. The person who signed the letter of demand signed it "Member of ARIA Voting Academy, APRA/AMCOS, PPCA".
497. The complainant forwarded to PPCA the correspondence he had received from the individual. On 19 October 2016 PPCA wrote to the individual advising that it had come to PPCA's attention that he had been reproducing the PPCA trademarks on his website without PPCA's consent, and, in addition, had published on his website information relating to PPCA which was incorrect and which falsely suggested an association between PPCA and his business. An illustration of the latter was the bald statement "[name of his business] are agents for PPCA".
498. The background music provider complied with PPCA's demands and ceased claiming to represent PPCA and removed all references to PPCA from his website.

Code Reviewer's comments (if, and to the extent, called for)

499. Strictly this was not a complaint about PPCA or its staff. Rather the licensee was assisting PPCA by drawing to its attention the conduct of the background music provider.

PPCA Complaint 5

500. PPCA sought to recover outstanding licence fees and the licensee complained "I am being harassed by the local sheriff in relation to approx \$5,000 in charges that we all know have been incorrectly levied against our restaurant". The complainant asserted that he had

not been using recorded music in the restaurant for more than two years and that he was referring the matter to his lawyers to contest his liability to pay the charges.

501. In his email the complainant gave a “snapshot” of how the restaurant operated, and in particular asserted that the restaurant and bar operated primarily as a service to in-house guests of the resort.
502. On 8 March 2017 PPCA’s Head of Licensing wrote at some length to the complainant explaining the reason why PPCA contended that he was liable to pay the outstanding licence fees.
503. In the absence of a reply, on 3 April 2017 she wrote to the complainant again stating that she assumes that the complainant had no further questions. Her email concluded: “With this in mind, it is disappointing that you [have not] made any attempt to make any payment. Please can you contact either myself or [name of other PPCA officer] to let us know how you intend to proceed to settle this matter”.
504. There was no response from the complainant and PPCA states that it continues to pursue recovery of the unpaid fees.

PPCA Complaint 6

505. A person whose home backs onto a sporting reserve complained to PPCA that when home games are played in the reserve, a large public address system is set up and music is played at such a volume that it is audible throughout his entire home and, he suspects, for several hundred metres beyond his home.
506. The complainant asked PPCA for assistance in convincing the sporting club to limit the noise to a more reasonable range.

507. PPCA replied to the effect that while PPCA could not comment on the current licensing status in relation to the public reserve, it would investigate to ensure that an appropriate licence was in place for the use of sound recordings in the reserve.
508. In relation to the volume, PPCA explained that it has no control over a licensee's compliance with noise regulations which was a matter for the local government council and/or the Environmental Protection Authority. PPCA's Complaints Officer suggested that the complainant contact both of them.

PPCA Complaint 7

509. An artist complained that when he was trying to register himself as an artist with PPCA, the PPCA website kept "timing out" and then upon his return to the page did not save the information that he had previously typed in.
510. The following day, PPCA apologised and noted that it had received various forms from the complainant. The letter enclosed a PDF version of the appropriate form if the complainant needed to submit more recording details. As well, PPCA undertook that its IT section would be informed of the website issue so that it could be rectified soon.
511. The complainant wrote on 13 April 2017 thanking the officers at PPCA and indicated that he appreciated their attentiveness to his complaint.

PPCA Complaint 8

512. In February 2017 PPCA received a complaint from a public performance licensee who had received a letter of demand from PPCA's external collection agent. The complainant felt that the level of the licence fees was too high and expressed doubt as to whether the fees were being passed onto the recording artists or record labels. She asked for an opportunity to discuss a reduction in the level of fees.
513. The complaint was escalated to PPCA's Complaints Officer who immediately contacted the complainant asking her to indicate a convenient time for a call to discuss the matter, but no reply was received. In those circumstances, PPCA referred the matter of recovery to PPCA's external collection agency.
514. A demand from that agency prompted an email dated 5 May 2017 repeating the earlier complaint about the level of fees. In particular, the complainant asserted that she had been speaking to "industry peers" and had found that most of them do not pay PPCA at all, so she was wondering why she was being singled out and being asked to pay fees to both PPCA and APRA.
515. On 5 May 2017 PPCA's Complaints Officer wrote to the complainant explaining the difference between APRA and PPCA. The Complaints Officer repeated the offer of a telephone conversation.
516. On 5 May 2017 the complainant wrote to the Complaints Officer and this led ultimately to a telephone discussion on Monday, 8 May 2017. That discussion covered numerous issues raised by the complainant, and the Complaints Officer undertook to forward to her details of the two tier rates relevant to fitness classes.

517. Ultimately the complainant offered to pay by mid-June if PPCA was prepared to wait until then and PPCA agreed to that course.

518. Subsequently the licence fees were paid in full.

PPCA Complaint 9

519. A lawyer representing a public performance licensee (a restaurant) complained about the conduct of PPCA's in-house legal counsel during a telephone call about the failure of the complainant's client to comply with a settlement agreement.

520. The complaint was escalated to the PPCA Complaints Officer who contacted the complainant by email setting out some proposed times for a call to discuss the issue. That telephone call took place on 16 June 2017. A payment amount was agreed for a limited period, and the PPCA Complaints Officer suggested that the solicitor advise his client to ensure that the client's staff were made aware that the restaurant did not have a licence to cover the playing of recordings.

Code Reviewer's comments (if, and to the extent, called for)

521. In substance, the complaint was directed to what was said to be discourteous conduct by PPCA's in-house lawyer.

Other Matters

522. During the Review Period PPCA commenced three debt recovery proceedings.

523. PPCA's report to me also gave an account of progress in references to the Copyright Tribunal of Australia of a Subscription Television

Licence Scheme (CT 1 of 2012) and a commercial Radio Broadcasters Simulcast Scheme (CT 3 of 2013).

Australian Writers' Guild Authorship Collecting Society Ltd ("AWGACS")

524. AWGACS reports that its complaints handling procedure and dispute resolution procedure were developed in line with the requirements of the Code, the requirements of CISAC, and the Australian Standard AS4269-1995 (Complaints Handling).
525. AWGACS reports that during the Review Period, it received no requests from members for any of these documents.
526. Its ongoing dispute with Screenrights is addressed in the Screenrights section of this report above.

Australian Screen Directors Authorship Collecting Society Ltd ("ASDACS")

527. ASDACS reports that in accordance with an earlier recommendation of the Code Reviewer, it changed its procedure for recording complaints. In accordance with the new procedure, complaints received during the Review Period were recorded in a specific "Complaints Register".
528. ASDACS reports that during the Review Period, two complaints were lodged with it.

ASDACS Complaint 1

529. A member complained in December 2016 that several years earlier when he started working overseas he joined Directors UK ("DUK") and instructed that collecting society to collect on his behalf, and informed ASDACS that he was no longer a member of ASDACS and that DUK would be collecting for him. His complaint was that money continued to be sent to ASDACS leading to a situation in which he paid ASDACS's costs while still paying for his membership of DUK.
530. The member asserted that he had informed both ASDACS and DUK of this many times yet the confusion continued.
531. The Executive Officer of ASDACS replied explaining that the income collected dated back to 2015, during the period of the member's transition. She explained that ASDACS had waived its 10% membership fee charged on royalties leaving payable only the administration/cultural fee. Finally she explained that if ASDACS were to pass the amount onto DUK to distribute, the member would be charged another lot of administration fees, so it was better for ASDACS to pay directly to the member.
532. Subsequently, the Executive Officer of ASDACS informed the member that ASDACS would also reimburse him for his membership fee previously charged on royalties paid to him for the 2015/16 payment years (arising from his cancellation of ASDACS membership in 2014).
533. The amount was paid into the member's bank account on 18 January 2017 which led to his writing: "Thanks for the email. The funds have been deposited in my account. Thank you for your cooperation and help, hopefully we won't have to go through this again".

ASDACS Complaint 2

534. The Executive Officer of ASDACS wrote to an individual explaining ASDACS's role of collecting income on behalf of the directors of audio-visual work from Australia and New Zealand. She also explained that ASDACS collects rights royalties arising under European and other international law, that recognises directors as one of the authors of a work for the purpose of secondary rights remuneration, separate to any domestic contractual arrangement the director may have made within Australia.
535. She explained that she was contacting the individual because ASDACS had collected money on his behalf due to the international screening of his credited work. She offered membership of ASDACS so that ASDACS could pay him and continue to claim for his titles.
536. The individual replied to the effect that he did not recognise in the form of application for membership supplied, any explanation of the "administration fee" and "cultural fee" or the "10% membership fee".
537. The Executive Officer wrote explaining the nature and amounts of the various fees and this led to the individual's signing and returning the form of application for membership.
538. The Executive Officer informed the member that ASDACS had a total of \$235 to distribute to him which would be included in the forthcoming payment run.

This report is now submitted to the societies and to the Department of Communications and the Arts of the Commonwealth of Australia.

Dated this 2nd day of December 2017

A handwritten signature in blue ink, appearing to read 'K Lindgren', with a long horizontal flourish extending to the right.

The Hon K E Lindgren, AM, QC
Code Reviewer

APPENDIX A TO REPORT

Review of Code Compliance For the Year to 30 June 2017

Notice of the Review, with an invitation to make submissions by mail to the Code Reviewer at a specified address or by email by 31 July 2017, was given by the Societies to their members, and by the Code Review Secretariat to the licensees of the various societies or to bodies representing large classes of licensees, as well as to other interested persons, names and addresses having been supplied by the societies. The Notice was published in an advertisement in *The Australian* newspaper on 3 June 2017 and it was also placed on the websites of the societies. It was in the following terms:

The Code Reviewer

*Suite 704, 4 Young Street
NEUTRAL BAY NSW 2089
EMAIL: codereviewer@gmail.com*

COPYRIGHT COLLECTING SOCIETIES CODE OF CONDUCT CALL FOR SUBMISSIONS 2017

Each of the copyright collecting societies, Australasian Performing Right Association Limited (“**APRA**”), Australasian Mechanical Copyright Owners Society Limited (“**AMCOS**”), Phonographic Performance Company of Australia Limited (“**PPCA**”), Copyright Agency Limited (“**Copyright Agency**”), Viscopy Limited (“**Viscopy**”), Audio-Visual Copyright Society Limited (“**Screenrights**”), Australian Writers’ Guild Authorship Collecting Society Limited (“**AWGACS**”) and Australian Screen Directors Authorship Collecting Society Limited (“**ASDACS**”), subscribes to a code of conduct. In its original form, the Code came into effect in July 2002.

A copy of the Code is available on each Society’s website and can be downloaded or, if requested, a copy can be supplied by post.

Compliance by participating collecting societies with the Code’s standards of conduct is the subject of an independent annual review. The Code Reviewer for this purpose is former Federal Court judge and former President of the Copyright Tribunal of Australia, The Hon Kevin Lindgren AM, QC. He is currently reviewing the Societies’ compliance with the Code during the period 1 July 2016 to 30 June 2017.

The Code allows for interested parties to make submissions to the Code Reviewer concerning a collecting society’s compliance or non-compliance with the Code. Accordingly, should you wish to make such a submission to Dr Lindgren, please do so in writing to the following address by no later than **31 July 2017**.

It would assist if your submission referred to any particular provision of the Code with which you contend that a collecting society has not complied.

The Code Reviewer
Suite 704, 4 Young Street
Neutral Bay NSW 2089
Email: codereviewer@gmail.com

APPENDIX B TO REPORT

Review of Code Compliance For the Year to 30 June 2017

New Clause 2.9

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).

(c) In this clause 2.9:

Declared Collecting Society means a Collecting Society that has been declared under ss. 135P, 135ZZB or 153F of the *Copyright Act 1968*;

Statutory Licensee Class means:

(i) the Commonwealth Government;

(ii) the State and Territory Governments;

(iii) schools;

(iv) universities;

(v) Technical and Further Education institutions; and

(vi) other educational institutions.

APPENDIX C TO REPORT

Review of Code Compliance For the Year to 30 June 2017

EXPLANATORY MEMORANDUM ACCOMPANYING COLLECTING SOCIETIES' CODE OF CONDUCT

The heading to clause 3 of the Code is "COMPLAINTS AND DISPUTES"

In the various paragraphs of clause 3, both expressions, "Complaints" and Disputes" are used, sometimes separately and at other times in association with one another.

Clause 3(a) obliges each collecting society to 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.

Clause 5.1 (c) sets out the functions of the Code Reviewer. These include:

- (i) to monitor, and prepare annual reports on, the level of compliance by Collecting Societies with the obligations imposed on them by the Code; and
- (ii) as part of that function to consider complaints from Members or Licensees.

Finally, paragraphs (c) to (e) of clause 5.2 deals with the reception of complaints by the Code Reviewer.

In summary, it is only "complaints" and not "disputes" that the Code Reviewer is to receive and deal with under clause 5.2.

The expressions "complaint" and "dispute" are not defined in the Code.

In his Report of his review of the operation of the Code issued in April 2014 the Code Reviewer suggested that the following definitions might be considered appropriate:

"complaint" means "an allegation that a collecting society's conduct has fallen short of a standard of conduct required of it by the Code"

"dispute" means "the taking of rival positions by a collecting society on the one hand and a 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".

For example, an issue as to whether a licensee owes an amount of money to a collecting society is a dispute, whereas 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.

Readers should understand that it is part of the role of the Code Reviewer to address complaints by them about the conduct of a collecting society but not to resolve disputes between them and the collecting society.