

C©**P**YRIGHT**A**GEN**C**Y

Report to Code Reviewer on compliance with Collecting Societies Code of Conduct for 2017–18

t: 02 9394 7600

f: 02 9394 7601

Level 11, 66 Goulburn Street
Sydney NSW 2000

e: info@copyright.com.au

www.copyright.com.au

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INTRODUCTION

This report covers compliance by Copyright Agency with its obligations under the Code of Conduct for Copyright Collecting Societies during 2017–18.

On 1 December 2017, Copyright Agency merged with Viscopy. From 2 July 2012 until the merger, Viscopy’s services were managed by Copyright Agency under a services agreement. Viscopy members are now Copyright Agency members, and Copyright Agency is now the licensor for the artwork licences it previously managed for Viscopy.

This report covers Copyright Agency’s compliance with the Code of Conduct in 2017–18, including matters relating to members and licensees formally associated with Viscopy.

As in previous years, we will provide detailed information about our operations for the year, and the external auditor’s report (Directors’ Report and Financial Report), in our Annual Report provided to the Minister for Communications and the Arts, which is tabled in Parliament, and published on our website.¹

REVIEW OF THE CODE BY DEPARTMENT OF COMMUNICATIONS AND THE ARTS

The Code of Conduct is currently being reviewed by the Bureau of Communication and Arts Research (BCAR) in the Department of Communications and the Arts. BCAR released a draft report in February 2018, on which Copyright Agency and others provided submissions.² In its submission Copyright Agency said:

We agree with the findings in the draft report and we support, in principle, all of the recommendations. We will work with the other [Copyright Management Organisations] to implement the recommendations. Some recommendations can be implemented quickly, and some will require transitional processes.

A final report is expected soon.

PUBLICATION OF THIS REPORT

This report will be published on Copyright Agency’s website, in accordance with one of the recommendations in the BCAR draft report. We are also providing to the Code Reviewer, on a confidential basis, an annexure with supporting documentation regarding the matters in the complaints summary at the end of this report.

¹ Previous annual reports are available at copyright.com.au/about-us/governance/annual-reports/

² <https://www.communications.gov.au/have-your-say/reviewing-code-conduct-copyright-collecting-societies>

OVERVIEW OF COPYRIGHT AGENCY

Copyright Agency is a company limited by guarantee. It has more than 37,000 members, who include writers, artists, surveyors, publishers and other collecting societies. Its operations can be broadly categorised as follows:

- in accordance with its appointments by the Australian Government:
 - management of the statutory licences for educational and government use of text, images and print music, including negotiation, collection and distribution of fair compensation for content creators;³ and
 - management of the artists' resale royalty scheme;⁴ and
- in accordance with the authority of its members, and with the oversight of the Copyright Tribunal, formulation and management of 'voluntary' licensing arrangements, principally for the business sector.

Copyright Agency reports annually to the relevant Minister in accordance with statutory obligations in the Copyright Act and the Resale Royalty for Visual Arts Act respectively. Annual reports are tabled in Parliament and are available from the Copyright Agency website.

Copyright Agency also operates in accordance with the Attorney General's Department guidelines for 'declared' collecting societies.

As a result of amendments to the Copyright Act that came into effect in December 2017, the statutory licences for people with disabilities were repealed and replaced by exceptions for people with disabilities. As a result, Copyright Agency is no longer a 'declared' collecting society for these statutory licences, but is continuing to work with its members and associations assisting people with disabilities to improve access to content for people with disabilities.

³ Copyright Agency is 'declared' by the Minister as the collecting society appointed to manage the statutory licences in Part VB of the Copyright Act: the statutory licence for educational use of text, images and print music, and the statutory licences for people with disabilities. Copyright Agency is also declared by the Copyright Tribunal under section 153F of the Copyright Act as the collecting society for Division 2 Part VII in relation to copying of published editions and works (other than those in sound recordings, films and broadcasts). The declarations are available from our website.

⁴ Copyright Agency was engaged by the Minister for the Arts, following an open tender process.

COMPLIANCE WITH THE CODE

LEGAL FRAMEWORK (CLAUSE 2.1)

Each Collecting Society will comply with:

- (a) the Corporations Act 2001 and the Corporations Regulations;**
- (b) the Copyright Act 1968 and the Copyright Regulations;**
- (c) its Constitution;**
- (d) the Attorney-General's Guidelines for Declared Collecting Societies (where applicable);**
- (e) its obligations under the Privacy Act 1988, including the National Privacy Principles, or any Privacy Code that applies to the Collecting Society;**
- (f) in the case of the declared Collecting Society under that Act, the Resale Royalty Right for Visual Artists Act 2009; and**
- (g) any other applicable legislation, relevant decisions of courts or tribunals (including the Copyright Tribunal), and other binding legal requirements, conditions or guidelines that apply to the Collecting Society.**

In 2017–18, Copyright Agency complied with its obligations under the legislation and other regulatory documents set out in Clause 2.1 of the Code.

Copyright Agency governance documents published on its website include: Constitution; Corporate Governance Statement; Customer Service Charter; Privacy Policy; dispute management procedures; and complaints management procedures.⁵

Other documents accessible from the website include: Code of Conduct for Copyright Collecting Societies; Attorney-General's Guidelines for Declared Collecting Societies; Declaration by Attorney General of Copyright Agency for Part VB of the Copyright Act; and Declaration by Copyright Tribunal of Copyright Agency for Division 2 Part VII of the Copyright Act.⁶

Compliance is overseen by Copyright Agency's in-house legal team. Amongst other things, the team monitors relevant legal and regulatory developments, and oversees implementation of any necessary or desirable changes to Copyright Agency's policies or practices.

MEMBERS (CLAUSE 2.2)

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

⁵ copyright.com.au/about-us/governance/

⁶ copyright.com.au/about-us/governance/

Membership of Copyright Agency is open to owners of copyright in works, and their licensees and agents, and holders of a resale royalty right. Applications for membership are approved by the Board.

Membership is free. New members can apply for membership online.⁷

We have adopted a range of policies and processes aimed at ensuring that its members are treated fairly, honestly, impartially, courteously, and in accordance with our Constitution and membership agreements. These include: a Service Charter, induction training for new staff and periodic updates to staff on requirements under the Code of Conduct.

Our communications with members and potential members regarding membership arrangements, distributions of licence fees and payments include:

- information on the our Agency website;
- 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.

Our Constitution is available to the public on its website. We direct new and potential members to it.

We report information about new members in our annual reports.

Viscopy merger

As a result of the merger with Viscopy on 1 December 2017, Copyright Agency's Constitution was amended to introduce a new class of membership: Visual Artist. Members in the new class include members of Viscopy who have become members of Copyright Agency since 2 July 2012. The classes of membership determine which elected Board directors a member is entitled to vote for.

LICENSEES (CLAUSE 2.3)

(a) Each Collecting Society will treat Licensees fairly, honestly, impartially, courteously, and in accordance with its Constitution and any licence agreement.

(b) Each Collecting Society will ensure that its dealings with Licensees are transparent.

(c) Each Collecting Society will:

(i) make available to Licensees and potential Licensees information about the licences or licence schemes offered by the Collecting Society, including the terms and conditions applying to them, and about the manner in which the Collecting Society collects remuneration and/or licence fees for the use of copyright material; and

(ii) to the extent it reasonably can, having regard to the complexity of the questions of fact and law necessarily involved, take steps to ensure that all licences offered by the Collecting Society are drafted so as to be plainly understandable to Licensees, and are accompanied by practical and suitable explanatory material.

⁷ members.copyright.com.au

(d) Each collecting society's policies, procedures and conduct in connection with the setting of licence fees for the use of copyright material will be fair and reasonable. In setting or negotiating such licence fees, a Collecting Society may have regard to the following matters:

- (i) the value of the copyright material;**
- (ii) the purpose for which, and the context in which, the copyright material is used;**
- (iii) the manner or kind of use of the Copyright Material;**
- (iv) any relevant decisions of the Copyright Tribunal; and**
- (v) any other relevant matters.**

(e) The Collecting Societies acknowledge the important role played by relevant industry associations in relation to the formulation of terms and conditions applying to licences or licence schemes offered by some Collecting Societies.

(f) Each Collecting Society will where appropriate consult in good faith with relevant industry associations in relation to the terms and conditions applying to licences or licence schemes offered by the Collecting Society.

Copyright Agency 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 to staff on requirements under the Code of Conduct.

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.

Many aspects of statutory licences are governed by the legislation and regulations. The major areas of 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 the 'volume' of usage.

Licensees participating in surveys of usage receive special training.

Copyright Agency publishes information about 'voluntary' licences ('blanket' and pay-per-use) on its corporate website and on the RightsPortal website (rightsportal.com.au). There is also information currently on viscopy.net.au about artwork licences (which will be migrated to the Copyright Agency website). Further information is available on request.

We also provide information about our licences via other channels, including seminars, trade shows, trade publications and in response to specific enquiries.

Copyright Agency regularly reviews the terms of its voluntary licence agreements to ensure that they are written in plain language, correspond with our mandate, and reflect feedback from licensees.

New industry licence schemes are usually designed with the input of relevant industry associations.

Information on Copyright Agency's website

Information on Copyright Agency's website about licensing includes:

- plain English guides for different types of businesses;⁸
- pay-per-use plain English guides;⁹
- Information for media monitoring organisation customers.¹⁰

Information about data from surveys in schools and universities

Copyright Agency has data access arrangements with Copyright Advisory Group to the COAG Education Council and Universities Australia to provide access to data from surveys in schools, universities and TAFEs. The survey records are ‘processed’ by Copyright Agency to extract information relevant to estimating the overall extent of content usage under the statutory licence, which is taken into account (together with other matters) in licence fee negotiations, and data to assist distribution of licence fees.

Tribunal proceedings with licensees

Copyright Agency is currently engaged in the following proceedings in the Copyright Tribunal:

- with the government of New South Wales, regarding arrangements under section 183A of the Copyright Act; and
- with three media monitoring companies – Meltwater, Isentia and Stream – regarding Copyright Agency’s licensing arrangements for media monitoring.

There is some background for these proceedings on Copyright Agency’s website.¹¹

Licence negotiations with peak bodies for the education sector

Copyright Agency is currently engaged in negotiations with peak bodies regarding licensing arrangements for the education sector:

- with the Copyright Advisory Group to the COAG Education Council (CAG) for the school sector;
- with Universities Australia (UA) for UA’s 39 university members; and
- with CAG for the TAFE sector (excluding Victorian TAFEs, which are covered by a separate agreement).

The agreements covering each of these sectors all expire in December 2018.

DISTRIBUTION OF REMUNERATION AND LICENCE FEES (CLAUSE 2.4)

(a) Each Collecting Society will maintain, and make available to Members on request, a Distribution Policy that sets out from time to time:

(i) the basis for calculating entitlements to receive payments from remuneration and/or licence fees collected by the Collecting Society (Revenue);

(ii) the manner and frequency of payments to Members; and

⁸ <https://www.copyright.com.au/licences-permission/commercial-licences/plain-english-guides/>

⁹ <https://www.copyright.com.au/licences-permission/commercial-licences/pay-per-use-plain-english-guides/>

¹⁰ <https://www.copyright.com.au/licences-permission/commercial-licences/information-mmo-customers/>

¹¹ <https://www.copyright.com.au/2018/07/protecting-members-rights-and-sustaining-publishing-writing-and-journalism/>

(iii) the general nature of amounts that will be deducted from Revenue before distribution.

(b) Each Collecting Society will distribute payments to its Members in accordance with its Constitution and Distribution Policy.

Copyright Agency publishes on its website:

- its distribution policy;¹²
- its distribution schedule (including past distributions);¹³
- information sheets about distributions;¹⁴ and
- deductions before distribution.¹⁵

Copyright Agency distributes payments in accordance with its distribution policy and Constitution.

Some members have raised concerns about payments that Copyright Agency makes to rightsholders with an obligation to share the payment with any other rightsholders entitled to a share: for example, under a book publishing agreement. We are reviewing our processes and communications to improve members' understanding and implementation of their obligations regarding sharing of payments.

Copyright Agency informs members of changes to distribution policies and processes, via its website and eNewsletter 'Creative Licence', such as:

- a new process for images copied with text;¹⁶
- distribution-related matters considered by the Board at the December 2017 Board meeting;¹⁷ and
- use of undistributed funds.¹⁸

COLLECTING SOCIETY EXPENSES (CLAUSE 2.5)

Each collecting society will deduct from its total revenue:

(a) the expenses of managing and operating the collecting society; and

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

Copyright Agency's administrative costs associated with managing statutory and voluntary licence schemes are met from its revenue. In a few cases, the deduction is a fixed percentage, but in most cases the deductions are based on actual costs.

¹² <https://www.copyright.com.au/membership/payments/distribution-policy/>

¹³ <https://www.copyright.com.au/membership/payments/distribution-schedule/>

¹⁴ <https://www.copyright.com.au/membership/payments/distribution-schedule/previous-distribution-schedules/>

¹⁵ <https://www.copyright.com.au/membership/administration-fees/>

¹⁶ <https://www.copyright.com.au/2018/03/changes-processes-images-copied-schools-universities>

¹⁷ <https://www.copyright.com.au/2017/12/updates-changes-developments-december-copyright-agency-board-meeting>

¹⁸ <https://www.copyright.com.au/2018/07/future-fund-changes/Future Fund>

Copyright Agency's Board of Directors must approve the company's annual operating budget, and reviews the budget at each Board meeting.

Copyright Agency's Constitution allows it to deduct up to 1.5% of revenue for cultural or benevolent purposes. Copyright Agency's Board of Directors approves the amount allocated for these purposes. Copyright Agency publicly invites applications for cultural support, and successful applications are approved by the Board following a recommendation process by a committee of the Board.¹⁹

We publish information about deductions in our Distribution Policy and on our website.²⁰ Members also receive itemised information about deductions with each payment.

We publish information about expenses, including expense to revenue ratio for the financial year, in each year's Annual Report.

GOVERNANCE AND ACCOUNTABILITY (CLAUSE 2.6)

(a) The Board of Directors of a Collecting Society will be accountable to its Members.

(b) Each Collecting Society will at all times maintain proper and complete financial records, including in relation to:

(i) the collection and distribution of Revenue; and

(ii) the payment by the Collecting Society of expenses and other amounts described in clause 2.5.

(c) Each Collecting Society will ensure that its financial records are audited at least annually.

(d) Consistent with its obligations under the Privacy Act 1988 and any applicable duty of confidentiality, a Collecting Society will provide a Member, on request, with reasonable information about that Member's entitlement to receive a payment from Revenue.

(e) Each Collecting Society will include in its Annual Report information about:

(i) total Revenue during the reporting period;

(ii) the total sum and general nature of expenses and other amounts described in clause 2.5; and

(iii) the allocation and distribution of payments to Members in accordance with the Distribution Policy.

In accordance with its Constitution, Copyright Agency's board includes 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, are listed on Copyright Agency's website.

The merger with Viscopy entailed 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. An interim Visual Artist director has been appointed pending an election in November 2018.

Copyright Agency's financial records are audited annually.

¹⁹ There is information about Cultural Fund grants at www.copyright.com.au/cultural-fund.

²⁰ www.copyright.com.au/admin-fees

Information about revenue, expenses and distribution of licence fees is included in each year's Annual Report.

The Annual Report, including the auditor's report, is made available to the public on the corporate website, made available to members, provided to the Minister for Communications and the Arts, and tabled in Parliament.²¹

Copyright Agency provides, on request, information to members about entitlement to payment, taking into account privacy and confidentiality obligations.

STAFF TRAINING (CLAUSE 2.7)

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

Copyright Agency's procedures for staff awareness of the Code include:

- induction training for new staff on the Code requirements;
- policy documents implementing Code requirements on the company's intranet; and
- periodic updates to staff on Code requirements.

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

EDUCATION AND AWARENESS (CLAUSE 2.8)

(a) Each collecting society will engage in appropriate activities to promote awareness among Members, Licensees and the general public about the following matters:

(i) the importance of copyright;

(ii) the role and functions of collecting societies in administering copyright generally; and

(iii) the role and functions of that collecting society in particular;

and will make information about these matters available, on reasonable request, to Members, Licensees and the general public.

(b) In deciding what activities are appropriate for the purposes of paragraph (a), a collecting society will take into account the following factors:

(i) its size;

(ii) the number of Members it has;

(iii) the number of Licensees it has;

(iv) the amount of revenue it collects annually; and

(v) the possibility of undertaking activities jointly with another collecting society.

(c) Without limiting paragraph (a) or any other obligation in this Code, each collecting society will produce and make available appropriate information about the following:

²¹ www.copyright.com.au/annual-reports

- (i) the eligibility criteria for membership of the collecting society;**
- (ii) the benefits of membership of the collecting society;**
- (iii) the responsibilities of Members under the Constitution of the collecting society and any Membership Agreement;**
- (iv) any policies and procedures of the collecting society that affect Members;**
- (v) the benefits to Licensees of obtaining a licence from the collecting society;**
- (vi) the responsibilities of Licensees under a licence granted by the collecting society, and under the Copyright Act 1968 and other applicable laws; and**
- (vii) any policies and procedures of the collecting society that affect Licensees.**

Education and awareness activities conducted by Copyright Agency for its members, licensees and other stakeholders include:

- information on the corporate website and other websites managed by Copyright Agency;²²
- eNewsletter to members and other stakeholders ('Creative Licence');
- Canvas eNews to visual arts stakeholders;
- social media channels, including Copyright Agency's Facebook pages²³ and Twitter account;
- presentations at Copyright Agency events and other events;²⁴
- 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).

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.

Information on the website relating to membership includes:

- membership terms and conditions;²⁵ and
- information about distributions, including distribution policy, information about each distribution (such as the data used), and forthcoming distributions.

Information on the website relating to licensing includes:

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

²² Including rightsportal.com.au and resaleroyalty.org.au

²³ facebook.com/CopyrightAgencyLimited; facebook.com/ResaleRoyalty; facebook.com/CulturalFund; twitter.com/CopyrightAgency

²⁴ Copyright and other events are listed on our website: www.copyright.com.au/events

²⁵ www.copyright.com.au/membership-terms

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.

REPORTING BY DECLARED COLLECTING SOCIETIES (CLAUSE 2.9)

(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.**

Copyright Agency's annual reports provide the information set out in clause 2.9(a).

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 (CLAUSE 3)

(a) Each collecting society will develop and publicise procedures for:

(i) dealing with complaints from Members and Licensees; and

(ii) resolving disputes between the collecting society and:

A. its Members; and/or

B. its Licensees.

(b) The procedures developed under paragraph (a) will apply to any complaint about a matter covered by the Code which adequately identifies the nature of the complaint and the identity of the person complaining.

(c) The procedures developed under paragraph (a) will comply with the requirements of Australian Standard ISO 10002 - 2006 – Customer Satisfaction. In developing its procedures, a Collecting Society will have particular regard to the following principles:

(i) The procedures should define the categories of complaints and disputes they cover and explain the way in which each will be dealt with.

(ii) Information on how to make complaints should be readily accessible to Members and Licensees.

(iii) Each collecting society should provide reasonable assistance to a Member or Licensee in the formulation and lodgement of a complaint.

(iv) The procedures should recognise the need to be fair to both the person complaining and the collecting society to which the complaint relates.

(v) The procedures should specify by position who in the first instance will handle complaints on behalf of the collecting society.

(vi) The procedures should indicate time frames for the handling of complaints and disputes.

(vii) Each collecting society should provide a written response to a complaint that is made in writing.

(viii) Each collecting society should establish appropriate alternative dispute resolution procedures.

(ix) Each collecting society will ensure that adequate resources are made available for the purpose of responding to complaints and resolving disputes.

(d) Each collecting society will regularly review its complaint handling and dispute resolution procedures to ensure that they continue to comply with the requirements of this Code.

Copyright Agency has developed procedures for management of complaints and disputes that meet the requirements of Clause 3 of the Code. There is information about those procedures on our website.²⁶

We also have a client service charter, which is published on our website.²⁷

PUBLICITY AND REPORTING (CLAUSE 4)

(a) The collecting society will:

(i) take appropriate steps to publicise this Code and the fact that it has agreed to be bound by it; and

(ii) make copies of the Code available to Members, Licensees and the general public on request.

(b) Each collecting society will include in its Annual Report a statement on its compliance with this Code.

The Code is available on the Copyright Agency website, as is information about the annual review of compliance with the Code, the Code Reviewer's reports, and the triennial review of the Code.²⁸

Copyright Agency alerts members and other stakeholders to the Code and its annual review in a number of ways including on its website,²⁹ and monthly eNewsletter 'Creative Licence'.³⁰

Copyright Agency includes reference to its compliance with the Code in its annual reports.

²⁶ copyright.com.au/client-service-standards

²⁷ copyright.com.au/service-charter

²⁸ www.copyright.com.au/code-of-conduct

²⁹ www.copyright.com.au/code-review-2013

³⁰ www.copyright.com.au/enews-june-2013

COMPLAINTS SUMMARY

Below is an anonymised summary of matters that may be regarded as complaints for the purposes of the Code:

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

We have provided documentation regarding each matter in the annexure to this report, provided on a confidential basis to the Code Reviewer to assist him to make an assessment about our compliance with the Code.

COMPLAINTS IN 2017–18

Matter	Date	Issue	Resolution	Date resolved
#1	4/7/2017	<ol style="list-style-type: none"> 1. Decrease in payments since 2015. 2. Change in distribution process from 2018 for images copied with text. 	Copyright Agency has provided a series of reports and explanations, but the member wishes to discuss these matters further. The member will meet with Copyright Agency's CEO later in 2018.	–
#2	23/11/2017	Absence of recent payments.	<ol style="list-style-type: none"> 1. Review of payments followed by discretionary payment to member 2. Review of allocation processes for journal articles 	22/4/2018
#3	6/7/2017	Pursuit of infringement claim on member's behalf for unlicensed use of images.	Settlement with company that used member's images.	8/11/2017
#4	26/6/2018	Termination arrangements for licence with private business school.	Licence terminated. Ongoing communication between Copyright Agency and licensee regarding notice period for terminating a licence.	–
#5	31/5/2018	Follow up by debt collection agency for non-payment of invoice by public relations firm for licence for 2018–19.	Licence terminated, and revised invoice sent to licensee for termination notice period. Licensee happy with outcome, and indicated willingness to renew licence in the future when its financial circumstances allow.	31/5/2018
#6	28/5/2018	Reference to prospective licensee's past use of newspaper content, and whether it may have been unauthorised, in email to prospective licensee regarding purchase of a Copyright Agency business licence.	Escalation of concern to Director of Commercial Licensing, followed by email to prospective licensee apologising for the reference and clarifying the licence options.	25/6/2018

Matter	Date	Issue	Resolution	Date resolved
#7	12/4/2018	Termination arrangements for a business licence. The licensee agreed to the licence in 2015 as part of the settlement of a copyright infringement matter, on which the licensee had received legal advice.	Copyright Agency: <ol style="list-style-type: none"> 1. terminated the agreement without the notice period required by the contract; 2. referred an unpaid amount due under the licence while it was in place to a debt collection agency; and 3. reviewed its approach for companies that may have having infringed copyright in the past, to focus on the benefits of a Copyright Agency licence. 	7/5/2018

FOLLOW UP TO 2016–17 REPORT

In his report on compliance for 2016–17, the Code Reviewer required Copyright Agency to provide follow up reports regarding two complaints.

The following is a summary. We have provided documentation in the confidential annexure for the Code Reviewer.

Matter	Follow up required	Resolution
#2	Outcome of review of distribution processes and systems	The first phase of the review was completed in August 2017, and the subsequent phase is ongoing. In response to concerns raised by the member, Copyright Agency has: <ol style="list-style-type: none"> 1. introduced a process whereby members receive information before a forthcoming distribution that is based on survey data about the extent to which their content appears in the dataset for the forthcoming distribution compared to previous years, as an indicator of whether the payment from the forthcoming distribution is likely to be lower or higher than previous years; 2. created an information sheet for members on how surveys are conducted in schools and universities; and 3. created an information sheet for members on how survey data is used to distribute licence fees from schools and universities.
#3	Response to letter of 27 July 2017 and subsequent developments	Copyright Agency's CEO met with the member's CEO on 20/9/2017, and emailed a letter responding to the member's concerns on 26/9/2017.