



COPYRIGHT AGENCY LIMITED®

Copyright Agency's procedure for dispute resolution between members

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More information

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Disputes between members

Copyright Agency Limited has found that disputes arise from time to time between members regarding who controls the rights in works and, consequently, to whom Copyright Agency should distribute money for any copying.

Copyright Agency's Board has approved a Disputed Allocation Resolution Procedure (DARP) to help members resolve disputes between themselves and other rightsholders over competing claims for payments from Copyright Agency's distributions.

The Disputed Allocations Resolution Procedure aims to resolve who Copyright Agency should pay money to for the copying of a work and how those amounts should be shared among the rightsholders. The procedure does not attempt to resolve the overall issue of who owns copyright in the work.

Other disputes

This procedure is only applicable to disputes between members. Copyright Agency licensees and members who wish to make a complaint regarding any aspect of our operations can access our Complaints Handling procedure. If your complaint still remains unresolved you can then choose to enter our Dispute Resolution procedure for members and licensees.

Further information can be found on the *Complaints Handling procedure* and *Dispute Resolution procedure between Copyright Agency and its members or licensees* information sheets.

Why has Copyright Agency implemented this procedure?

Copyright Agency's role is to administer the reproduction and communication rights of its members. However, Copyright Agency plays no role in the negotiation of these rights between authors and publishers. We can only administer the rights as they have been agreed between the parties.

There are often no clear contracts between authors and publishers, or a contract only covers part of the range of rights (for example, publication and republication, ignoring the reproduction right).

Some disputes arise when more than one member claims money from our distributions for the copying of the same work or the members do not agree on their share of the payment.

Members may still negotiate a resolution between themselves or take legal action to assist their claims. However, DARP means that Copyright Agency can now take a more proactive approach to help members resolve these disagreements.

What is the process?

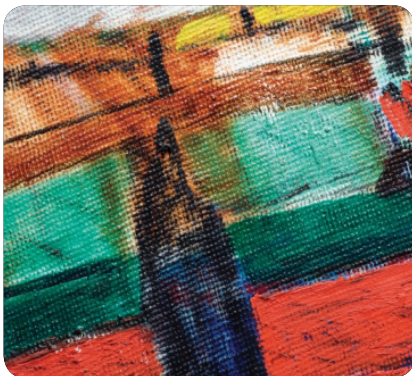
Once Copyright Agency becomes aware of a dispute between members all money for copying of the works under dispute is placed in suspense. Copyright Agency will not distribute any money for the copying of those works while they are in dispute.

Copyright Agency then looks at the claims of both members to confirm they are not trivial. This means that the members need to notify Copyright Agency in writing of their claim and to supply some documentary evidence to support the claim (which may include a statutory declaration in particular where there is no written agreement between the members).

Where the dispute concerns entitlement to a Copyright Agency allocation of \$2,000 or more, Copyright Agency may offer funded mediation or expert determination of the disputed entitlement, where both parties agree to participate and be bound by



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the outcome. Copyright Agency's Board may, at its discretion and irrespective of the consent of the parties, determine a disputed allocation based on external expert advice.

Other options

The parties may also elect to refer the dispute to an independent expert at their cost. Copyright Agency has established a panel of solicitors and barristers expressly for this purpose. The members must agree that any decision made by this expert is binding and that they will bear their own costs in the arbitration.

The members then have to submit their cases in writing, along with any evidence they have. Members also have an opportunity to present their case in person.

What do you need to do?

If you have a disputed claim with another Copyright Agency member, then your first step is to advise us in writing. You must write to:

Disputes Officer
Copyright Agency Limited
Level 15, 233 Castlereagh Street
Sydney NSW 2000

Your letter should outline the details of your claim and include some documentary evidence in support of your claim. From here, Copyright Agency will initiate the process.

Who is Copyright Agency?

Copyright Agency Limited provides simple ways for people to reproduce, store and share words, images and other creative content, in return for fair payment. In doing so, it connects the creators, owners and users of copyright material.

Code of Conduct

Copyright Agency is a signatory to the Code of Conduct for Copyright Collecting Societies (the Code). It is designed to ensure that the rights of all members and licensees are clearly stated, and that the operations of collecting societies are transparent and accessible.

The Code includes requirements for the Complaints Handling and Dispute Resolution procedures that collecting societies must follow. The Code and these procedures are available from Copyright Agency's website and on request.