

Proposition in DOCITA Supplementary IPCR Submission - 16 March 2000	Screenrights position with respect to Part VA Administration
<p>1. Single society model reduces incentive to price competitively [pg 1]</p>	<p>This criticism shows a fundamental misunderstanding of the statutory licence. Declared societies have the right to collect equitable remuneration which does not necessarily equate to market rates and in Screenrights experience the Copyright Tribunal tends to interpret equitable remuneration not as the market rate but a rate informed by notions of fairness to both users and owners.</p> <p>The declared single society model does not allow societies to unilaterally set prices. All rates of remuneration are subject to the jurisdiction of the Copyright Tribunal. Under the sampling systems for both schools and universities, current prices arise from determinations of the Copyright Tribunal in 1997 (\$2.60 CPI adjusted per student for schools) and in 1999 (\$5.50 CPI adjusted per student for universities). In terms of value this should be put into context. What this means is that Australian schools can copy the 100,000's of hours of broadcast material on free to air channels and pay television and radio broadcasts every year for a quarter of the price of a cinema ticket per student. They can then show or play these copies an unlimited number of times, or include them within library holdings. If this is not a "reasonable" price for access to this educational resource, it is hard to see what would be.</p>
<p>2. Single society model reduces incentive to distribute efficiently [pg 1]</p>	<p>We reject this proposition. Screenrights core function is to distribute remuneration collected to relevant copyright owners. Screenrights has no mandate to make allocation to "creators" or "authors" per se. The obligation to distribute funds in an efficient, timely and accurate manner is central to Screenrights obligations as a declared society and as a trustee. Given the diverse nature of rightsholders in the audio visual context, this is a significant task.</p> <p>Screenrights distributes to all eligible copyright owners whose works are copied from a broadcast by an educational institution under Part VA. Unlike the current Public Lending Right Scheme there is no prerequisite for a recipient under Part VA to make a claim. Moreover as a declared society Screenrights takes its duty as a trustee extremely seriously. Hence Screenrights devotes considerable resources to the efficient distribution of funds. Indeed Screenrights recently showcased its rights distribution soft ware "Right track" to DoCITA. This software is capable of making micro payments to any category of rightsholders in an efficient and accurate manner.</p>

<p>3. DoCITA has not available to it information required to assess the competitive performance of societies [pg 2]</p>	<p>Screenrights takes exception to this proposition. Screenrights is happy to provide any information requested of it so long as it does not identify individual payments to members. Screenrights acts completely transparently as per our corporate governance commitments contained in our Annual Report. Copies of these Annual Reports are tabled in parliament and are sent to all stakeholders including DoCITA. If addition information is required, this can be provided upon request.</p> <p>Other sources of data available to DoCITA include:</p> <ul style="list-style-type: none"> • Equitable Remuneration Determinations of the Copyright Tribunal in 1997 and 1999 • A 1999 NSW Supreme Court (Equity division) declaratory Judgment, in its supervisory role over Screenrights as Trustee • The Simpson Report • Information made available to the Simpson IDC • Numerous formal submissions made either directly to Government, or to Government inquiries - most recently in respect of Simplification of the Copyright Act, the Jurisdiction of the Copyright Tribunal and the Digital Agenda Reforms • The full provision of information on ad hoc request by DoCITA - most recently in respect to the issue of retransmissions over the internet. <p>As evidenced by the points raised above Screenrights also provides updates to the Attorney-General's office and department and regular updates to Docita and to the Minister for Communications, Information Technology and the Arts.</p>
<p>4. Often significant, unidentified proportions of distributable funds may be retained for extensive periods [pg 4]</p>	<p>This is simply not the case. Screenrights Annual Reports clearly state the amount remaining to be distributed from each relevant year. Under the Attorney Generals guidelines the declared society has up to six years to distribute royalties. The undistributed royalties then roll over into the next years funds. In reality the vast majority of royalties are distributed quickly. Given the diverse nature of programs that are broadcast such as for example, the news from Iran, it is often difficult to contact rightsholders and receive appropriate warranties from rightsholders. Despite these difficulties Screenrights is assiduous in identifying rightsholders from around the world and paying them royalties.</p> <p>With regards to the undistributed amounts form each year, Screenrights Annual Reports identify for all funds collected by Screenrights under Part VA for any accounting period:</p> <ul style="list-style-type: none"> • The amount collected • The amount actually distributed to copyright owners over the 6years from finalisation of a period's Distributable Amount collection

	<p>For the 1991, 1992 and 1993 periods these amounts comprised 94%, 95.4% and 96.3% respectively. In many cases the remaining amounts are undistributed due to identified potential rightsholders not believing that they have clear chain of title in which to claim these rights.</p>
<p>5. A single society has a monopoly in negotiating remuneration [pg 4]</p>	<p>All negotiations are conducted in the knowledge by all participants that failure to reach agreement enlivens the jurisdiction of the Copyright Tribunal. A "monopoly" position strictly speaking is one in which the a supplier is the sole supplier of a good or service and may refuse supply unless some price it unilaterally sets is met. Screenrights has no ability to refuse supply (ie Screenrights can not refuse to accept a remuneration notice) nor may Screenrights unilaterally set a price. Further, a single society model creates an equal bargaining position from which to obtain an equitable price.</p>
<p>6. Societies' affect on competition in related markets is not matched by payments to rights holders [pg 5]</p>	<p>What market existed for the comprehensive supply of broadcast programs to educational institutions prior to the enactment of Part VA? Educational institutions largely sought the creation of Part VA because copies of broadcast programming were sought for educational purposes but no market mechanism existed for their general obtainment. The enactment of Part VA effectively created a market and an exchange of value where none previously existed. Screenrights is unaware of any private supplier of audio-visual content which has comprehensively obtained the rights to licence educational institutions to reproduce the programming. Any ad hoc voluntary licensing of audio-visual material to educational institutions may still occur under the terms of Part VA.</p>
<p>7. Lack of data indicates a lack of transparency or accountability needed to achieve competitive outcomes [pg 6]</p>	<p>Screenrights is unaware of one complaint as to lack of candour or incomplete disclosure by Screenrights in responding to any request for information by a Government department or a Government inquiry. If DoCITA has reason to believe that such complaints exists, Screenrights would be keenly interested in receiving any details DoCITA may have. Screenrights would be surprised and concerned if such complaints had been made to DoCITA and not forwarded to Screenrights so that Screenrights could have investigated and responded to the complaint.</p> <p>As outlined above, Screenrights strongly disputes the DoCITA does not have available to it data sufficient to fully assess the performance of Screenrights. However, DoCITA's conclusion from this supposed lack of data is that Screenrights' operations are not sufficiently transparent and Screenrights itself is not sufficiently accountable. In addition to the power in the Attorney-General to revoke Screenrights declaration if he or she is of the view Screenrights, inter alia, " is not functioning adequately" , Screenrights notes that:</p> <ul style="list-style-type: none"> • As required by the Copyright Act, Screenrights annual report (including full financial statements) are laid before the Commonwealth Parliament annually

	<ul style="list-style-type: none"> • As a public company limited by guarantee, Screenrights lodges annual returns and accounts with the ASIC annually • As provided in the company's Constitution Screenrights member's voting entitlement for Board positions are in part determined by a formula based upon the quantum of distributions made to it over the previous accounting period and all postal ballots are duly audited • By virtue of its role as arbiter of the " price" of any licence and the terms of any sampling or record-keeping under Part VA, the Copyright Tribunal necessarily acts as a point of frequent scrutiny over Screenrights operations • As a trustee of funds collected, Screenrights activities fall within the purview of a Court exercising equitable jurisdiction • As a body making decisions under Commonwealth legislation, Screenrights activities are subject to the operation of the Administrative Decisions (Judicial Review) Act • Implicit in Screenrights history of full cooperation with Government in providing information is what should be an obvious inference that if DoCITA were to request the provision of any information, this would be provided unless there were some legal or practical impediment to its provision
<p>8. No data on proportion of payments going to Australians vis a vis offshore [pg 6]</p>	<p>Although DoCITA in its submission refers to other parties' submissions to the IPCRC, no reference is made to Screenrights extensive submission. We refer to Screenrights submission, in which the following passages appear:</p> <p><i>" An important international norm of copyright law is that of Art 5(3) of the Berne Convention which in part provides "when the author is not a national of the country of origin of the work for which he is protected under this Convention, he shall enjoy in that country the same rights as national authors." Discrimination against the works of foreign nationals, where those works fall under the protection of the Berne Convention, amounts to violations of both Berne and TRIPS. Part VA contains no such discrimination The majority of funds collected by Screenrights under Part VA are remitted to Australian-based rights holders. This is a function of the nature of programming copied by the Australian educational sector. Thus, for the years 1991 to 1997 only 26% of the total distributable amount has been distributed overseas."</i></p> <p>It ought be noted that if a statutory licence under the Copyright Act adopted a form similar to the parochial nature of the Public Lending Right Scheme (in which only Australian are eligible recipients) Australia would unambiguously violate the Berne Convention and TRIPS.</p>

	<p>In addition, by introducing collective administration of copyright in audio-visual material in Australia, Screenrights has been able to represent Australian rights holders in the collection of royalties owing to them by societies in other territories including North America and Europe. This creates a clear reciprocal benefit for rights holders.</p>
<p>9. No data on collection as to specific work so no information on the extent payment matches use [pg 6]</p>	<p>Screenrights regards the amount of a particular payment to a particular author as forming commercially confidential information of the rights holder. This principle is expressed within Screenrights Distribution Policy. Individual payment information is held in trust by Screenrights and would only be disclosed with the express consent of the rights holder beneficiary in question. However, information of a more general nature is available. For example, for every year of operation of sampling systems AC Nielsen (the independent survey authority) produces an independent report setting out the results under sampling. These reports are made available to Screenrights and to the educational institutions effected by the sampling. If DoCITA would like access to any of these reports, please contact Screenrights.</p> <p>Screenrights notes that the Public Lending Right Committee does not provide in its annual reports a specific detailing of how much any particular author or publisher actually receives under the scheme, or how much was paid in respect of a book. The Report merely indicates in alphabetical order the top 100 paid authors and publishers for the year. Although the "highest scoring books" are listed in score order, the list is qualified by the statement that the inclusion of a title "does not imply that the author has submitted a PLR claim" .. It is unlikely in any event that a FOI application by a third party would yield this information without the consent of the relevant PLR recipients.</p>
<p>10. Not sufficient data to assess society's efficiency based upon collections to expenses ratios [pg 7]</p>	<p>Screenrights believes that the collections to expenses ratio is a fundamental reporting tool of copyright societies and reports its collections to expenses ratio openly and clearly in the front page of its Annual Reports and highlights the ratio in the letter accompanying the Report.</p> <p>Moreover, Screenrights is somewhat mystified by the proposition contained in the DoCITA submission relating to how one should judge the "efficiency" of a collecting society. As "efficiency" is a subjective concept, one would imagine that the three assessment criteria DoCITA suggest would provide objective guidance. Oddly, however, the second of three criteria is: "the <u>efficiency</u> with which [collecting societies] make payments to all of their members" .</p> <p>This appears a somewhat circular means to assess efficiency. The first criteria is the societies' "administrative costs" .. For Screenrights, this is contained within every annual report in the "Distribution Statement of Trust Royalties and Interest" .. The third criteria is the extent to which use, collection from users and payments to rightsholders all match. Use is monitored under sampling or record keeping agreements. In respect of sampling, annual reports are prepared by AC Nielsen as explained above. Copies of these agreements and reports are available to DoCITA</p>

	<p>on request. Collections are determined under sampling by Copyright Tribunal determinations (explained above) and are determined under record keeping by the agreement itself. Payments are made to rights holders in accordance with the Screenrights Constitution and Distribution Policy. Again, these documents are available to DoCITA on request, and have been annexed to earlier submissions including Screenrights' submission to the IPCRC. The information relating to criteria 1 and 3 is readily available to DoCITA - and always has been.</p>
<p>11. Administrative costs were not compared in Simpson with a "comparable body" such as the Public Lending Right Scheme [pg 7]</p>	<p>The proposition that Part VA and the Public Lending Right Scheme (or Screenrights activities and those of the Public Lending Right Committee) are "comparable" is not sustainable. Any "comparison" indicates only that the two are completely different:</p> <ul style="list-style-type: none"> • No resources are required under the PLR scheme for the determination and collection of licence fees from users as funds are simply allocated from consolidated revenue; under Part VA, funds are collected from educational institutions often entailing negotiation, litigation or the conduct of Copyright Tribunal determinations. The cost of collecting revenue is one of Screenrights most significant expenses but does not exist for the PLR scheme. • As payments made under the PLR scheme are so appropriated and are not directly paid for by individual libraries, the scheme operates on the basis of the (paid) cooperation of libraries in collecting data; under Part VA the collection of data requires either the constant monitoring of an independent survey authority (sampling) or is unreliable (record keeping - discussed below at 20). • Under the PLR scheme only those Australian creators or Australian publishers who have made a claim are eligible for receipt of payment; unlike Part VA there is no requirement to seek out copyright owners globally. • The PLA scheme is predicated upon a prospective beneficiary having to make a claim as a precondition on receiving payment; under Part VA there is no comparable precondition upon prospective beneficiaries who must be identified and located by Screenrights itself. <p>The nature of the differences between the two, might suggest the cost of Part VA administration would be a multiple of PLR administration. This is not the case. Over the period from 1993-1994 to 1997-1998, Screenrights expenses to collection ratio was 14.9%. Over the same period, the average cost of administering the PLR scheme as a proportion to the total cost of the Scheme was 10.8%.</p>
<p>12. No independent "case study" which confirms society payments match usage [pg 7]</p>	<p>Under Screenrights Distribution Policy, payment to rightsholders is based entirely on the minutes of reported copying by an educational institution. On request, Screenrights will gladly explain more fully to DoCITA the methodology employed by Screenrights in its distribution procedures, and the strict nexus between payment and use they embody.</p>

<p>13. Societies given an effective monopoly position through a statutory licence [pg 8]</p>	<p>For a remunerated exception such as that contained in Part VA to overcome the very problem for which it was created - users having to deal with a multiplicity of rights holders and risking infringement when clearances can not be obtained - simplicity is required. This calls for a single reference point for both users and owners to administer the exception.</p> <p>Screenrights is that single reference point, but any abuse of its position is prevented by the supervision of its members, the Commonwealth Parliament, the Copyright Tribunal and the Courts.</p> <p>DoCITA do not propose a workable practical alternative which would increase competition.</p>
<p>14. No strong incentive for societies to extend membership, especially to individual creators [pg 8]</p>	<p>Screenrights disputes that it is in any way disinclined to seek out an individual copyright owner, or a beneficiary entitled to receive small amounts, subject to a general requirement under the Distribution Policy that any single entitlement exceed \$200 prior to a payment being triggered. As a matter of practice, amounts under \$200 are still paid to identified rights holders. The PLR scheme has a \$50 threshold.</p> <p>Contrary to DoCITA's submission, Screenrights takes an extremely active role in identifying the relevant rights holders. Screenrights does not rely on rights holders registering titles, but rather takes the approach of identifying and tracking down copyright owners through exhaustive research. In addition, Screenrights gives rights holders the ability to register as a means of simplifying and accelerating the identification process. This is in contrast to the PLR scheme, where only registered rights holders are paid.</p>
<p>15. Visual artists in particular benefit little from collective administration [pg 8]</p>	<p>Screenrights operates Part VA under a Copyright Act which provides in section 67 that " the copyright in an artistic work is not infringed by the inclusion of the work in a cinematograph film or in a television broadcast if its inclusion in the film or broadcast is only incidental to the principal matters represented in the film or broadcast" . Given the distribution task Screenrights undertakes - payment of remuneration to underlying rights owners whose copyright would, but for the Part VA licence, be infringed by educational copying - payments to visual artists where their works are included within a television program is problematic. Screenrights has sought to overcome the difficulties created by section 67 so that under its Distribution Policy television programs copied under Part VA are reviewed by an independent art consultant to determine which have artistic works as a " principal matter" .. In respect of such programs, an allocation of 22.1% of the total royalties allocated to that program is made. Pursuant to this policy, Screenrights has recently distributed over \$180,000 to Vi\$copy.</p> <p>Screenrights would like to take the opportunity to quote from a letter of 18 April 2000 from the Hon. Peter McGauran MP, Minister for the Arts and the Centenary of Federation:</p>

	<p>" Thank you for your facsimile letter of 3 March 2000, providing an update on the treatment of royalties to rights owners in artistic works as identified as part of the educational royalties collected by Screenrights. I was pleased to note that \$180,000 for artistic royalties over the period 1991 from 1999 inclusive has been confirmed and subject to the identification of the rights owner, will be distributed by ViScopy.</p> <p>" Screenrights establishment of a mechanism for ongoing program identification and oversight by the visual arts working party demonstrates an effective management process and commitment to addressing this issue responsibly."</p> <p>Hence, Screenrights is somewhat surprised by the strength of DoCITA's expressed concern for visual artists benefiting " little from the collection of secondary rights" .</p>
<p>16.. Societies are averse to distributing to individual creators, as this entails high administrative costs [pg 8]</p>	<p>Screenrights refers to its comments above at 14, and adds that it has reinforcing statutory, corporate and equitable duties to seek out and distribute to all relevant copyright owners whose subject matter has been copied under Part VA. Screenrights is in no way averse to distributing to any rights holder who is legally entitled. To the contrary, Screenrights goes to extraordinary lengths to identify all relevant rights holders. Moreover, Screenrights has developed in-house a highly sophisticated rights management system which enhances efficiency and specifically enables payments of any amount to any category of rights holder.</p> <p>If DoCITA has information or complaints to the effect that Screenrights is in breach of any of those duties by being averse to distribute to certain classes of copyright owners, Screenrights would be interested in receiving the details as a matter of urgency.</p>
<p>17. Public Lending Right scheme achieves lower administrative costs than societies and distributes to individual creators directly [pg 9, fn 9]</p>	<p>Comparison between Part VA administration and the PLR scheme is neither a useful nor logical exercise for the reasons noted above at 11.</p>
<p>18.. Sampling does not accurately distribute funds to creators and in particular prejudices small rights holders [pg 10]</p>	<p>The accuracy of Screenrights sampling systems, which have been conducted by the survey authority AC Nielsen (formerly AGB-McNair) since Screenrights' inception, were considered by Justice Sheppard as President of the Copyright Tribunal in 1997. He found that the " evidence satisfies me that the sampling system which is used is appropriate."</p> <p>Screenrights has established independently designed and monitored sampling systems in multiple educational sectors each of which monitors copying across a representative pool of institutions in the relevant sector for 365 days of the year.</p>

	<p>Screenrights questions whether DoCITA bases its assertion on anything other than anecdote and impression. Screenrights notes that the PLR scheme relies upon sampling.</p>
<p>19. Record keeping, in contrast to sampling, does provide an accurate basis upon which funds may be distributed [pg 10]</p>	<p>Screenrights refers DoCITA to the following finding of Justice Burchett in the 1999 Universities Determination, where in respect to Universities which had elected record keeping his Honour was satisfied that " true and complete records were not maintained" .</p> <p>Screenrights is of the firm view that record keeping as currently practiced by some institutions, such as the universities, is inherently flawed and does not reflect levels of copying, as found by Justice Burchett. Screenrights has gathered prima facie evidence of copyright infringement by several universities under record keeping. Moreover, Screenrights supports the Copyright Law Review Committees recommendation in the Report on the Jurisdiction and Procedures of the Copyright Tribunal, that the Copyright Act be amended to remove the anomaly whereby the Tribunal does not have jurisdiction over the systems of record keeping used by institutions copying under Part VA.</p>
<p>20. AG's Guidelines have the effect of not encouraging declared societies to distribute funds [pg 11]</p>	<p>Screenrights considers this assertion offensive to the Attorney-General's department. Screenrights supports the Guidelines provided by the Attorney-General's department; Screenrights find that they continue to be of considerable assistance to Screenrights day-to-day administration of Part VA. Guideline 18 provides a minimum trust period of four years, after which the remaining funds are to be rolled-over into the then current period. Where roll-over has occurred by Screenrights this has been in respect of 6% (1991), 4.6% (1992) and 3.7% (1993) of the amount collected for that period. Screenrights is at a loss to understand DoCITA's assertion as to how the Guidelines provide any incentive to Screenrights not to distribute in a timely manner. Moreover, Screenrights asserts its record of distributing collected funds withstands any scrutiny.</p>
<p>21. Declared societies " are open to financial gain" by retention of collected funds [pg 11]</p>	<p>Screenrights, a non-profit organisation, regards this as an extremely offensive assertion. Whatever interest is earned upon undistributed funds is credited to the Distributable Amount for the period in which it is earned, in accordance with Guideline 18 from the Attorney-General's department. The only beneficiaries are copyright owners whose works are copied in the period in which any interest is credited. Screenrights refutes absolutely the assertion of that it is motivated to not distribute copyright owners fund for the society's " own financial gain" .</p>
<p>22. Members rights are ineffective [pg 13]</p>	<p>Screenrights takes very seriously its obligations to treat all members equally. Hence, Screenrights has a transparent consultative process which it employs prior to changing its Distribution Policy. For example, Screenrights has undertaken extensive consultation procedures with regards to the valuation of the sound recording right and the methodology for payment of artistic works.</p>

	<p>Screenrights refers to the list of review mechanisms contained at 11 above and notes a member has available to it rights as a member under Screenrights Constitution, under Corporations Law, under Trust law and under the Administrative Decisions (Judicial Review) Act. If a member can not action those rights, this is a consequence of matters beyond Screenrights control such as court fees and legal fees. (Screenrights notes that in 1996 the Government raised the application fee for a Federal Court action from \$300 to \$500 for individuals and to \$1,200 for companies.) Also contained within Screenrights submission to the IPCRC was the Screenrights Complaints Handling Procedure Guidelines. Article 4 of these internal guidelines provides a 14 day period in which Screenrights will respond in writing to a complaint.</p>
<p>23. " Long history of concern" from users (who perceive their payments are too high) and rights holders (who perceive their distributions are too low) about the monopoly power of collecting societies [pg 14]</p>	<p>In respect to users, in 1997 before the Copyright Law Review Committee's Forum on Access to Copyright Materials, Professor Raoul Mortley, Chair of the Australian Vice-Chancellor's Committee on Intellectual Property made the following statement:</p> <p><i>" Licence fees. We are constantly concerned with this in the universities. We negotiate with the Copyright Agency Limited. The Audio-Visual Copyright Society [Screenrights] have arrangements. It has always seemed to me that the paying of licence fees has some good effects. If this has been the means of settling the balance between the ownership of the material and the need to disseminate it then we have seen it work. The universities are paying more. This means students are getting more copies. More is being read and circulated. So in a sense this commercial solution has opened up a lot of movement which has been to the benefit of everybody and I have always taken the view that if we see through our sampling processes the copying behaviour multiplying greatly in the universities and we are paying more - well this is probably the kind of thing we should be doing in the universities and the way we should be spending our money."</i></p> <p>In respect of owners in the 1999 Determination evidence tendered by the Australian documentary film-maker James Gerrand (accepted and relied on by the Tribunal) explained:</p> <p><i>" Screenrights royalties, with other potential revenue sources, act as an incentive to produce documentaries of educational value. In the early years of the operation of the Screenrights scheme, I regarded Screenrights royalties as an unexpected bonus. Now I have come to expect returns from this source and the potential for Screenrights royalties influences production decisions."</i></p> <p>The film maker gave evidence that a documentary produced by him, " The Last God King" , earned approximately \$23,000 in distributions under Part VA. The production cost of the documentary was approximately \$350,000</p>

<p>24.. Reference to WIPO comment regarding need for protective mechanisms in the context of monopoly concerns [pg 16]</p>	<p>Through supervision by Parliament, Copyright Tribunal and the Courts (both in Equity and under judicial review of administrative actions) various mechanisms which exist with respect to Part VA administration. Screenrights would be interested to learn if Mihaly Ficsor would, in light of this existing supervision of Screenrights, perceive a need for any further mechanisms " to offer protection against the misuse of monopoly position" by Screenrights.</p>
<p>25. North American collective administration of the public performance right in musical works suggests multiple societies and competition viable in Australia [pg 16, 19]</p>	<p>In a 1996 European Commission Report which formed a precursor to the current TRIPS violation dispute against the USA by the EU (a complaint supported by Australia), the Commission noted that notwithstanding the multiple number of societies, their ability to license the public performance of music was in a " straight jacket" . Consequently, licensing tariffs were low in the US when compared to those in the EU. The report also noted that in spite of the high market share of EU music played on US radios, less than 5% of the US performance rights organisations' was remitted to the EU.</p> <p>This was considered to be due to those societies' use of " royalty distribution and calculation methods that disadvantage foreign artists" .</p>
<p>26. Territorially-based societies " appear somewhat dated" ; suggestion of competition between national societies [pg 19]</p>	<p>Screenrights wonders whether it is the education sector's and DoCITA's preferred outcome that educational institutions in Australia negotiate with (say) a collecting society emanation of the Motion Pictures Association of America in respect of acts of educational broadcast copying in Australia? Does DoCITA believe this would be in the interests of Australian users or rights holders?</p>
<p>27. Movement towards electronic copyright administration systems will decrease reliance on collective administration [pg 20]</p>	<p>Screenrights is surprised by the DoCITA reference to ECMS technology without reference to technical copy protection measures (" TCPMs"). With the imminent introduction of digital broadcasting, the incentive for copying under Part VA will most likely increase. At the same time, however, the digital nature of the broadcast signal will provide the copyright owner with technological means to prevent any such copying at all. It will provide for the embedding of information such as "free to copy", "copy once", or "copy never" within a digital broadcast, which must be obeyed by a compliant receiver. At present, supply for copying under Part VA does not form one of the " permitted purposes" under the Digital Agenda Bill for the supply of a circumvention device. An important question of access and policy which arises here is whether educational institutions, wishing to copy for educational purposes content from a " copy never" digital broadcast signal, should be precluded from the benefits of the Part VA licence. In an environment of digital locks, compulsory licences may not be as otiose as DoCITA may presently imagine.</p>
<p>28. Dutch view that new technologies suggest less Government involvement in collective administration [pg 21]</p>	<p>Screenrights refers to its comments at 28 above as an illustration of the potential for there to be increased reliance upon compulsory licences in a digital environment.</p>

<p>29.. Intellectual property legislation should not mandate a particular model of copyright administration [pg 21]</p>	<p>Screenrights disagrees. There may be settings in which socially optimal outcomes require some limited intervention in guaranteeing access to copyright subject matter to certain classes of users, subject to the payment of equitable remuneration to rights holders. Screenrights can see no means other than legislative to bring this about.</p>
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