

## **RETRANSMISSION ROYALTIES**

On 19 December 2005, the Australian Parliament amended the Copyright Act (1968) to recognise a director as an owner of copyright in a film along with a producer and writer. Although it did not grant directors full financial entitlements, it did provide a limited right to royalties from the retransmission of a film in Australia. This means that if a film you have directed has screened on free to air television then simultaneously retransmitted on pay TV in Australia, you are entitled to a royalty from Screenrights. (The term film covers all screen content whether it be a TV series, TV mini-series, TV film, feature or short film).

Unfortunately, these rights can be assigned to another entity such as a producer, broadcaster or distributor. To ensure directors get the royalty they are entitled to, we suggest that all directors include the clause on page 2 of this document in their contracts (with version **1.** to receive 100% or version **2.** to receive a minimum of 50%). This will ensure there is no dispute when royalties are due.

If you are successful in retaining retransmission rights, we recommend that directors register their work with Screenrights directly, through ASDACS or a nominated agent. ASDACS will absorb Screenrights charges (administration fee and GST), as well as represent you should there be dispute over a retransmission right claim; any payments will be included with your international royalty payments. Please note that you are entitled to international royalties even if you have not retained Australian retransmission rights.

Please do not change or amend the clauses and if the producer changes or amends the clauses please consult the guild or your lawyer.

**SEE PAGE 2 FOR THE CLAUSE TO BE INSERTED**

## RETRANSMISSION RIGHTS CLAUSE

### 1. Director to receive 100%

The Director is entitled to (and, to the extent necessary, the Producer assigns to the Director and agrees to obtain in favour of the Director an assignment from any third party):

- (a) all retransmission rights in the Film as a “cinematograph film” under Part VC of the Copyright Act 1968 (Cth) or similar provisions under Australian or other law (**Retransmission Rights**);
- (b) all payments from Retransmission Rights distributed by any collecting society authorised to distribute such payments (currently, Screenrights); and
- (c) all other payments resulting from “secondary rights” (including, without limitation, for private copying and statutory or voluntary licences) granted to directors of cinematograph films either now or in the future under Australian or other law or that result from any collective bargaining agreement, and that are generally administered by or through a collecting society charged with the collection and distribution of such payments (including through Screenrights and ASDACS, the Australian Screen Directors Authorship Collecting Society Limited).

The Producer warrants that:

- (a) it will make no claim on payments from Retransmission Rights or other “secondary rights” that is inconsistent with the rights of the Director resulting from this clause;
- (b) to the best of its knowledge, no other person or entity is entitled to payments from Retransmission Rights; and
- (c) it will not grant rights to any third party that are inconsistent with this clause.

### 2. Director to receive 50%

The Director is entitled to (and to the extent necessary, the Producer assigns to the Director and agrees to obtain in favour of the Director an assignment from any third party):

- (a) 50% of the retransmission rights in the Film as a “cinematograph film” under Part VC of the Copyright Act 1968 (Cth) or similar provisions under Australian or other law (**Retransmission Rights**);
- (b) 50% of all payments from Retransmission Rights distributed by any collecting society authorised to distribute such payments (currently, Screenrights); and
- (c) all other payments resulting from “secondary rights” (including, without limitation, for private copying and statutory or voluntary licences) granted to directors of cinematograph films either now or in the future under Australian or other law or that result from any collective bargaining agreement, and that are generally administered by or through a collecting society charged with the collection and distribution of such payments (including through Screenrights and ASDACS, the Australian Screen Directors Authorship Collecting Society Limited).

The Producer warrants that:

- (a) it will make no claim on payments from Retransmission Rights or other “secondary rights” that is inconsistent with the rights of the Director under this clause;
- (b) to the best of its knowledge, no other person is entitled to more than 50% of the payments from Retransmission Rights; and
- (c) it will not grant rights to any third party that are inconsistent with this clause.