

PUBLIC EXHIBITION OF MOTION PICTURES IN AUSTRALIA.

The information contained in this document is intended to provide guidelines for the public performance of motion pictures in venues other than recognised commercial cinemas in Australia (those venues generally utilising 35mm film prints supplied by licensed film distributors, and typically seen in the daily papers as Hoyts, Greater Union, Village, Reading, Wallis and various other independent operators and groups). We hope that the contents will provide useful information on the use and availability of motion pictures beyond the scope of regular cinemas, as well as providing related information such as censorship, the use of scene clips and other issues in an attempt to address the numerous FAQ's that are raised with us.

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- **Who is Roadshow non-theatrical?**

Roadshow non-theatrical film & video hire (a division of the Village Roadshow entertainment group) is a commercial distributor of motion picture film and videos, operating under licence, representing various film studios including Warner Bros, Buena Vista International (inc. Walt Disney), Universal Pictures, Paramount Pictures, MGM, United Artists, 20th Century Fox, and numerous other Australian and overseas producers and distributors. Specialising in the area of *non-theatrical* (an industry term to indicate venues not primarily engaged in the commercial showing of film and video) and public performance, Roadshow will provide for a fee, the actual supply of copies of film or videos or DVD's for public exhibition, or in certain circumstances grant a license to groups/organisations to exhibit materials acquired themselves (for those films & videos for which Roadshow represent the copyright holder).

As the commercial representative of so many studios & producers, Roadshow is more likely to be the authority to gain access to public performance rights and information. Other groups, many of which are also listed in this document, may have limitations on what they can provide and/or authorise.

Roadshow's general list of clients would include pubs, clubs, aircraft, trains, hotels & motels, schools, libraries, churches, Australian military bases, buses, prisons, hospitals, mining camps, oil rigs, ships, film societies and numerous other non-specific yet ultimately "public" venues.

Contact Details:

Sales & Despatch/Warehouse:

NSW / SA / ACT / VIC / TAS

Head office: Sales - 4th Floor, 235 Pyrmont St, Pyrmont, NSW, 2009 / GPO Box 2581, Sydney, NSW, 2001

Ph: 02 9552 8685 Fax: 02 9566 0105

Warehouse – AML Theatrical, Unit 3, 706 Mowbray Rd, Lane Cove, NSW, 2066

Ph: 02 9429 7363 Fax: 02 9429 7364

QLD / NT

Sales/Warehouse - Unit 1/11 Parkview Street, Milton, QLD, 4064

Ph: 07 3369 6610 Fax: 07 3369 8870

WA

Sales/Warehouse - Artistralia Pty Ltd, 155 Claisbrook Road, East Perth, WA, 6004

Ph: 08 9227 1571 Fax: 08 9227 1516

All Email enquiries should be directed to publicperformance@roadshow.com.au

Note: Roadshow non-theatrical was at one stage known as "Reel Movies", this is the same company.

Australia's international responsibilities

Australia is a member of the World Intellectual Property Organisation (WIPO) and is a signature to various international agreements whereby the copyright interests of one country are protected by all others. In basic terms this means that action can be taken against any person or company in Australia who infringes the copyright law in relation to films produced in countries outside of Australia. Likewise of course, films produced in Australia are protected in overseas countries.

Copyright Act.

Copyright law in Australia is contained in the *Copyright Act 1968* (The “Act”) and in decisions of courts. The Act provides details of those materials protected under the Act, including the moving images and sounds in a motion picture.

Public exhibition.

Owners of copyright have exclusive rights to do certain things with their material, including copying, or the showing or playing in public. To screen a motion picture (film) in any format (eg. 35mm or 16mm; DVD, video-cassette; laser disc; use of any form of electronic transmitting device) in public, you generally need permission from

- the owner of copyright in the moving images and sound
- the owner of copyright in the music on the soundtrack.

This applies whether a film or video is shown or intended to be shown in its complete form or in part thereof.

Generally, the major film distribution companies chose to assign their non-theatrical/public performance rights through industry specialists in the field, providing general guidelines for the exploitation of their film, whilst retaining the right to make any final determination on whether a particular exhibition is permitted.

What constitutes a screening in public?

For the purposes of copyright, a screening of a film outside the home is generally regarded as in *public*. This extends to screenings in pubs, clubs, hotels/motels, restaurants/cafes, nightclubs, shopping centres, factories, buses/coaches, trains, ferries, and numerous other such like institutions and organisations. Whether the exhibition is for non-profit, such as churches, permission from the copyright holder is still required, and further, it cannot be assumed that permission will be granted as any decision is at the sole discretion of the copyright holder or his licensed representative.

Public performance as applied to educational institutions.

The Act provides for permission to be automatically granted for films and videos shown in a classroom situation provided that a literary, dramatic or musical work is

- performed in class, or otherwise in the presence of an audience, and
- so performed by a teacher in the course of giving educational instruction, not being instruction for profit or by a student in the course of receiving such instruction.

Organisations providing some form of educational instruction for the primary purposes of commercial gain or profit are not so protected under the *Act* in so far as any exclusion from copyright. In such cases, normal copyright permission as applies to public exhibition needs to be obtained.

Films shown in a classroom situation for the purpose of entertainment, such as what may apply in the circumstance of rained out sports days, before and after school care, industrial disputes, etc., are not included in the spirit of educational exceptions, and normal permission and any applicable fees must be sought. Similarly, in *boarding schools* where any film is shown for entertainment in a group situation (or piped to individual rooms via any closed circuit diffusion system), permission would be required. Securing material for video libraries for these types of performance does not constitute approval. (Refer next section.)

Public performance and the role of home video libraries.

A home video library is not authorised to permit/license a film for public performance. Whilst it may be a venue for the physical supply of a video or DVD, not with standing any fee paid to the home video library, permission and possible additional fees would be required by the licensed public performance distributor, collection society or agency. Such permission may not necessarily be given, in which case the use of the video library material cannot be used for the public performance in question.

Privately owned and purchased material

The purchase of film material (16mm, vhs, dvd etc) only provides ownership of the facility to play the film (ie film tape and packaging), it does not include any rights to the copyright other than for personal use. Any activity such as public exhibition or duplication would be a breach of copyright unless permission is sought and given by the owner of the copyright.

Application of Act in its relationship to copyright warnings on video cassettes.

Most DVD's (and laserdiscs & video cassettes etc) carry warnings related to unauthorised public performance and duplication. Such warnings may vary from one distributor to another however the message is essentially the same, performance in any venue other than the domestic home is subject to approval from the copyright holder or his licensed representative.

Penalties for copyright infringements.

An infringement for unauthorised public performance can involve

- person or persons who screen the film publicly
- person or persons who authorise the performance but do not have such rights.
- person or persons who provide premises for unauthorised performance.

A copyright owner whose rights are infringed may seek orders from a court, including financial compensation. An infringement for commercial purposes is a criminal offence and may be subject to prosecution. By example, if permission from the copyright holder or his properly licensed representative is not sort and/or granted, Federal Court proceedings for a claim of unlimited costs and damages and, under certain circumstances, a criminal conviction penalty of \$302,500 for a company (\$60,500 and/or 5 years imprisonment for an individual) may be undertaken. Section 132, Subsection 5 of the Copyright Act refers.

Use of unauthorised material via the use of a diffusion or cabling devise would be a breach of copyright. Similarly, use of unauthorised material on a bus or coach would also be a breach of copyright, implicating not only the owners of the vehicle but quite possibly the driver. These are just two examples of potential copyright abuse in a commercial environment.

Australian Federation Against Copyright Theft (AFACT)

The Australian Federation Against Copyright Theft (AFACT) represents the majority of theatrical, non theatrical and audio visual licensees in Australia, to assist in the protection of their intellectual property rights (Copyright and Trade Marks). AFACT is associated with the Motion Pictures Association of America whose members consist of the following film studios:

- Buena Vista Pictures Distribution Inc
- Metro-Goldwyn-Mayer Studios Inc

- Paramount Pictures Corporation
- Sony Pictures Entertainment Inc
- Twentieth Century Fox Film Corporation
- Universal City Studios LLLP
- Warner Bros Entertainment Inc

Village Roadshow is currently a member of AFACT.

This "protection of intellectual property rights" normally takes place by the receipt of information concerning film piracy or other illegal activities, such as unauthorised public performances. The information is analysed and if necessary investigations will be initiated to confirm the allegations. The type and volume of any proven illegal activity is then taken into account when deciding whether to issue a formal warning; refer for civil litigation or provide evidence to police for criminal proceedings.

AFACT is a respected expert in the field of copyright and film piracy as it specifically relates to Australia and other territories in our region. They can be contacted via:

- Phone:(02) 9383 4312
- Free call: 1800 251 996
- Email: info@afact.com.au
- P.O. Box 515, Mona Vale, NSW, 1660

Availability of material for public performance.

The availability of copyrighted material in any environment is generally at the discretion of the copyright holder, having taken into account any and all commercial interests related to the distribution of the material to its various revenue generating markets. This may mean that a film that is available to one market at a particular time, may not necessarily be available to another market until a different time. The release of a film is generally staggered through its various markets through the use of "release windows", thus allowing the copyright holder to effectively market and maximise revenue from cinema, home-video, pay/free TV and other mediums. Non-theatrical & public performances are similarly structured according to the wishes of the copyright holder.

***** It cannot simply be assumed that because a film is generally available (ie film prints, cassettes, DVD's and other such devices) that permission for a public performance will be granted. The copyright holder, directly or through his representative, will provide the final decision on any application.*****

- Fees applicable for public performance.

A fee will be determined after assessing the individual merits of each case, taking into account factors such as venue, expected audience numbers, the calibre of film and other non-specific items such as any minimum requirements that may be expected by the copyright holder. In certain circumstances a "percentage of the gross takings" may be considered appropriate.

Note: Fees paid to Roadshow or other distributors do not include any fees relating to what may be due to APRA for the exploitation of the musical works contained in the soundtrack associated with the exhibition of the film. Separate fees would need to be negotiated with APRA (see separate reference to APRA on page 6)

- Advertising restrictions for non-theatrical performances

Generally, non-theatrical engagements are restricted to “closed” screenings, meaning groups or gatherings that do not openly admit members of the general public. Advertising is to be limited to the members of the group and/or within the venue in which the screening will take place, and should not be published in such a manner that would indicate that the screening is open to persons outside the group. Advertising of a more general nature would require the permission of the copyright holder or representative.

Additional collection societies/agencies as applies to public exhibition.

- *Australasian Performing Rights Association Ltd (APRA)*

APRA provides permission to communicate, broadcast or perform musical works in public. Such permission extends to the musical works (only) contained on the soundtrack of a film or video. APRA collects fees for such authorisation, on behalf of its members, who include composers, songwriters, music publishers, and other music copyright owners. APRA has offices in most capital cities, visit their website www.apra.com.au or ring 1800 882 772

***Note:** Payments to APRA relate only to the musical works contained in the soundtrack, and do not infer that rights are also granted to show the film in public, such rights still being required to be sought separately from the copyright holder or representative.*

- *National Film and Video Lending Service of Australia (NFVLS)*

The collection of 16mm films, videos, laser discs and DVD's is managed by *ScreenSound Australia* in Canberra and distributed to registered borrowers throughout Australia. Borrowers are restricted to non-profit organisations, film societies, cultural groups, educational and government bodies, libraries, museums and galleries. ScreenSound may provide materials to groups outside these guidelines provided the user has appropriate authorisation from the copyright holder, but they (ScreenSound) are not obligated to do so (provide the materials). Phone number 1800 012 175, or or email nfvls@screensound.gov.au.

- *SBA Music*

SBA Music specialise in the provision of music content (audio and video) and sports footage (bloopers and extreme). SBA are licensed to supply their products to businesses such as hotels, clubs, bars, cafes, restaurants and others. SBA Music holds the required dubbing licenses from the owners of the copyrights (ARIA) and the publishing houses (AMCOS) to reproduce music. Phone number (02) 9660 8999 or 1800 025 687, or visit their website www.sbamusic.com.au

- *Screenrights aka Audio-Visual Copyright Society Ltd (AVCS)*

A collecting society for owners of copyright in audio-visual works, undertaking rights management for film and television producers, agents, screenwriters, music interests and other copyright owners. It collects royalties from *educational institutions* and *government bodies (local, State, Federal)* for the copying of television and radio programs, distributing these royalties to relevant copyright owners in Australia and overseas. This arrangement does not extend to the copying of pre-recorded cassettes, such action would be considered an infringement of copyright unless proper permission is obtained from the copyright holder. Phone number (02) 9904 0133, or visit www.avcs.com.au

- **ScreenSound Australia**

ScreenSound Australia is the National Film and Sound Archive and is a signatory to FIFA (the International Federation of Archives). Their role primarily is one of preservation so they collect films (regardless of format) for this purpose but do not licence them for lending. From July 2004 they are also acting on behalf of the National Film and Video Lending Service (NFVLS). Phone number 1800 067 274 or visit their website www.screensound.gov.au

Clip licensing

The use of film clips for any purpose requires permission from the copyright holder, regardless of whether an advertisement for the individual film product (eg TV commercial, cinema trailer etc) or the use of library footage for some unrelated product or purpose. In this latter case, such requests are generally required to be made direct to the major studios or producers as local representatives may not have the right to grant such authority under their distribution agreements. Examples could be the selection of a scene featuring an image to promote an unrelated product such as a motor car or drink etc., or footage to be used in events, award programs or for inclusion in a film, television or stage production

Major studio clip licensing divisions are listed below

- **Julie Heath**
Director, Warner Bros Clip & Still Licensing,
4000 Warner Blvd, Building 11,
Burbank, CA 91522 USA
Tel 0011 1 818 954 1853
Fax 0011 1 818 954 3817
e-mail: julie.heath@warnerbros.com
- **Universal Studios Media Licensing,**
100 Universal City Plaza, 1440/15
Universal City, CA 91608 USA
Tel 0011 1 818 777 6600
Fax 0011 1 818 866 2399
E-mail: medialicensing@unistudios.com
- **Andy Bandit, Deborah Marriott, Trinh Dang**
Fox Clip Licensing Department,
P.O. Box 900,
Building 2121, 13th Floor
Beverly Hills, CA, 90213-0900
Tel 0011 1 310 369 4001
Fax 0011 1 310 369 4647
Information Line 0011 1 310 369 3605
E-mail foxclips@fox.com
- **Larry McCallister**
Senior Director, Licensing
Paramount Film Clip Licensing
5555 Melrose Ave.
Marathon Building/Room 4200
Los Angeles, CA 90038
Tel 0011 1 323 956 5184
Fax 0011 1 323 862 2231
E-mail larry_mccallister@paramount.com
Web <http://www.paramount.com/filmcliplicensing/>

Clip licensing (cont.)

- Rebecca Herrera-Burch
Executive Director of Clip+Still Licensing
MGM / UA
2500 Broadway Street
Santa Monica, CA 90404
Tel 0011 1 310 449 3572
Fax 0011 1 310 449 3277
E-mail clipstill@mgm.com
Web www.mgmstills.com
- Margarita Harder,
Director, Film Clip Licensing,
Sony Pictures Entertainment,
Sony Pictures Plaza, Suite 1016,
10202 West Washington Boulevard,
Culver City, CA 90232
Tel 0011 1 310 244 7306
Fax 0011 1 310 244 1358
Web <http://www.sonypictures.com/corp/cliplicensing.html>
- Jenny Wong,
Director,
Business & Legal Affairs
BVI & BVHE Asia Pacific,
Ph: 0011 1 852 2203 2102
Fax: 0011 1 852 2203 1023
Jenny.Wong@disney.com

Censorship.

All films to shown in public are required to be submitted for censorship classification. Full details on the application and affect of Australian censorship standards can be found on the Office Of Film & Literature Classification Board website – www.oflc.gov.au – however basic information on each category is detailed below.

It is the responsibility of the exhibitor to make any persons viewing a film aware of the censorship rating of the film, and to carry out the necessary restrictions to access that may apply to MA & R rated categories.



This is a category which is considered suitable for all viewers.

The G classification symbol does not necessarily indicate that the film is one that children will enjoy. Some G films contain themes or story-lines that are of no interest to children.

Parents should feel confident that children can watch material in this classification without supervision. Material classified G will not be harmful or disturbing to children. Whether or not the film is intended for children, the treatment of themes and other classifiable elements will be careful and discreet.



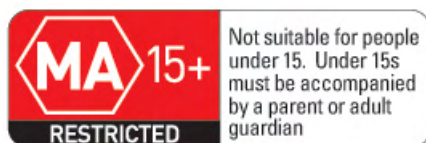
The PG classification signals to parents that material in this category contains depictions or references which could be confusing or upsetting, to children without adult guidance. Material classified PG will not be harmful or disturbing to children.

Parents may choose to preview the material for their children: some may choose to watch the material with their children. Others might find it sufficient to be accessible during or after the viewing to discuss the content.



The Mature category is advisory and not legally restricted. However, material in this category cannot be recommended for those under 15 years.

Films classified M contain material that is considered to be potentially harmful or disturbing to those under 15 years. Depictions and references to classifiable elements may contain detail. However, the impact will not be so strong as to require restriction.



***The MA category is legally restricted.** Children under fifteen will not be allowed to see MA films in the cinema or hire them on video unless in the company of a parent or adult guardian.

Material classified MA deals with issues or contains depictions which require a mature perspective. This is because the impact of individual elements or a combination of elements is considered likely to be harmful or disturbing to viewers under 15 years of age.



The R category is legally restricted to adults. Material which is given a restricted classification is unsuitable for those under 18 years of age. Material classified R deals with issues or contains depictions which require an adult perspective.

The classification is not intended as a comment on the quality of the material. Some material may be offensive to some sections of the adult community. Material which promotes or incites or instructs in matters of crime and/or violence is not permitted.

The details contained in this document were correct at the time of creation. Updated versions will be prepared and made available from time to time however no responsibility will be taken for information that may have changed during the period from one edition to the next.

Further, this document does not intend to represent any of the companies & agencies mentioned other than that of Roadshow. Whilst we are confident of its accuracy, further clarification from others may be sought.