

# Form A

Commonwealth of Australia

Competition and Consumer Act 2010 — subsections 88 (1A) and (1)

AUST. COMPETITION &  
CONSUMER COMMISSION  
SYDNEY

06 DEC 2011

## EXCLUSIONARY PROVISIONS AND ASSOCIATED CARTEL PROVISIONS: APPLICATION FOR AUTHORISATION

To the Australian Competition and Consumer Commission:

Application is hereby made under subsection(s) 88 (1A)/88 (1) of the *Competition and Consumer Act 2010* for an authorisation:

- to make a contract or arrangement, or arrive at an understanding, a provision of which would be, or might be, a cartel provision within the meaning of Division 1 of Part IV of that Act and which would also be, or might also be, an exclusionary provision within the meaning of section 45 of that Act.
- to give effect to a provision of a contract, arrangement or understanding that is, or may be, a cartel provision within the meaning of Division 1 of Part IV of that Act and which is also, or may also be, an exclusionary provision within the meaning of section 45 of that Act.
- to make a contract or arrangement, or arrive at an understanding, where a provision of the proposed contract, arrangement or understanding would be, or might be, an exclusionary provision within the meaning of section 45 of that Act.
- to give effect to a provision of a contract, arrangement or understanding where the provision is, or may be, an exclusionary provision within the meaning of section 45 of that Act.

*(Strike out whichever is not applicable)*

PLEASE FOLLOW DIRECTIONS ON BACK OF THIS FORM

### 1. Applicant

#### (a) Name of Applicant:

A91285 Viscopy Limited (ACN 069 759 922) (**Viscopy**)

Copyright Agency Limited (ACN 001 228 799) (**Copyright Agency**)

This application is to be read and determined together with the application in Form B (together the **Application**) and the submission supporting the Application (the **Supporting Submission**), which are lodged with this form.

#### (b) Description of business carried on by applicant:

Please see the Supporting Submission.

FILE No:

DOC: D11/2357459

MARS/PRISM:

**(c) Address in Australia for service of documents on the applicants:**

C/- Carolyn Oddie  
Allens Arthur Robinson  
Level 28  
Deutsche Bank Place  
126 Phillip Street  
Sydney NSW 2000

**2. Contract, arrangement or understanding**

**(a) Description of the contract, arrangement or understanding, whether proposed or actual, for which authorisation is sought:**

Viscopy and Copyright Agency seek authorisation from the Commission to make and give effect to certain provisions in the Services Agreement between the two parties.

For more detail please see the Supporting Submission.

**(b) Description of those provisions of the contract, arrangement or understanding described at 2 (a) that are, or would or might be, exclusionary provisions and (if applicable) are, or would or might be, cartel provisions:**

Please see the Supporting Submission.

**(c) Description of the goods or services to which the contract, arrangement or understanding (whether proposed or actual) relate:**

Please see the Supporting Submission.

**(d) The term for which authorisation of the provision of the contract, arrangement or understanding (whether proposed or actual) is being sought and grounds supporting this period of authorisation:**

Authorisation is sought for a period of five years as that is the term of the Services Agreement.

For more detail please see the Supporting Submission.

**3. Parties to the proposed arrangement**

**(a) Names, addresses and descriptions of business carried on by other parties or proposed parties to the contract or proposed contract, arrangement or understanding:**

None.

**(b) Names, addresses and descriptions of business carried on by parties and other persons on whose behalf this application is made:**

Viscopy Limited  
1 Blackfriars Street  
Chippendale NSW 2008

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

For more detail please see the Supporting Submission.

**4. Public benefit claims**

**(a) Arguments in support of application for authorisation:**

Please see the Supporting Submission.

**(b) Facts and evidence relied upon in support of these claims:**

Please see the Supporting Submission.

**5. Market definition**

**Provide a description of the market(s) in which the goods or services described at 2 (c) are supplied or acquired and other affected markets including: significant suppliers and acquirers; substitutes available for the relevant goods or services; any restriction on the supply or acquisition of the relevant goods or services (for example geographic or legal restrictions):**

Please see the Supporting Submission.

**6. Public detriments**

**(a) Detriments to the public resulting or likely to result from the contract arrangement or understanding for which authorisation is sought, in particular the likely effect of the contract arrangement or understanding, on the prices of the goods or services described at 2 (c) and the prices of goods or services in other affected markets:**

Please see the Supporting Submission.

**(b) Facts and evidence relevant to these detriments:**

Please see the Supporting Submission.

**7. Contracts, arrangements or understandings in similar terms**

**(a) This application for authorisation may also be expressed to be made in relation to other contracts, arrangements or understandings or proposed contracts, arrangements or understandings, that are or will be in similar terms to the abovementioned contract, arrangement or understanding:**

**(b) Is this application to be so expressed?**

No.

**(c) If so, the following information is to be furnished:**

**(i) description of any variations between the contract, arrangement or understanding for which authorisation is sought and those contracts, arrangements or understandings that are stated to be in similar terms:**

Not applicable.

- (ii) Where the parties to the similar term contract(s) are known — names, addresses and descriptions of business carried on by those other parties:

Not applicable.

- (iii) Where the parties to the similar term contract(s) are not known — description of the class of business carried on by those possible parties:

Not applicable.

## 8. Joint Ventures

- (a) Does this application deal with a matter relating to a joint venture (See section 4J of the *Competition and Consumer Act 2010*)?

No.

- (b) If so, are any other applications being made simultaneously with this application in relation to that joint venture?

Not applicable.

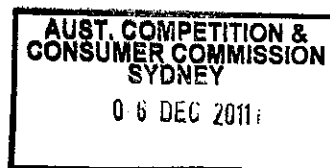
- (c) If so, by whom or on whose behalf are those other applications being made?

Not applicable.

## 9. Further information

- (a) Name, postal address and telephone contact details of the person authorised by the applicant seeking authorisation to provide additional information in relation to this application:

C/- Carolyn Oddie  
Allens Arthur Robinson  
Level 28  
Deutsche Bank Place  
126 Phillip Street  
Sydney NSW 2000



Dated..... 6 December 2011 .....

Signed on behalf of the applicants

.....  
(Signature)

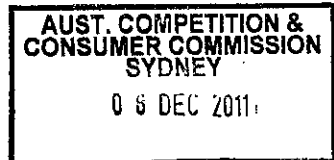
.....  
(Full Name)

.....  
(Organisation)

.....  
(Position in organisation)

## Form B

Commonwealth of Australia



*Competition and Consumer Act 2010 — subsections 88 (1A) and (1)*

### **AGREEMENTS AFFECTING COMPETITION OR INCORPORATING RELATED CARTEL PROVISIONS: APPLICATION FOR AUTHORISATION**

To the Australian Competition and Consumer Commission:

Application is hereby made under subsection(s) 88 (1A)/88 (1) of the *Competition and Consumer Act 2010* for an authorisation:

- to make a contract or arrangement, or arrive at an understanding, a provision of which would be, or might be, a cartel provision within the meaning of Division 1 of Part IV of that Act (other than a provision which would also be, or might also be, an exclusionary provision within the meaning of section 45 of that Act).
- to give effect to a provision of a contract, arrangement or understanding that is, or may be, a cartel provision within the meaning of Division 1 of Part IV of that Act (other than a provision which is also, or may also be, an exclusionary provision within the meaning of section 45 of that Act).
- to make a contract or arrangement, or arrive at an understanding, a provision of which would have the purpose, or would or might have the effect, of substantially lessening competition within the meaning of section 45 of that Act.
- to give effect to a provision of a contract, arrangement or understanding which provision has the purpose, or has or may have the effect, of substantially lessening competition within the meaning of section 45 of that Act.

*(Strike out whichever is not applicable)*

PLEASE FOLLOW DIRECTIONS ON BACK OF THIS FORM

#### **1. Applicant**

##### **(a) Name of Applicant:**

A91286 Viscopy Limited (ACN 069 759 922) (***Viscopy***)

Copyright Agency Limited (ACN 001 228 799) (***Copyright Agency***)

This application is to be read and determined together with the application in Form A (together the ***Application***) and the submission supporting the Application (the ***Supporting Submission***), which are lodged with this form.

##### **(b) Short description of business carried on by applicant:**

Please see the Supporting Submission.

**(c) Address in Australia for service of documents on the applicant:**

C/- Carolyn Oddie  
Allens Arthur Robinson  
Level 28  
Deutsche Bank Place  
126 Phillip Street  
Sydney NSW 2000

**2. Contract, arrangement or understanding**

**(a) Description of the contract, arrangement or understanding, whether proposed or actual, for which authorisation is sought:**

Viscopy and Copyright Agency seek authorisation from the Commission to make and give effect to certain provisions in the Services Agreement between the two parties.

For more detail please see the Supporting Submission.

**(b) Description of those provisions of the contract, arrangement or understanding described at 2 (a) that are, or would or might be, cartel provisions, or that do, or would or might, have the effect of substantially lessening competition:**

Please see the Supporting Submission.

**(c) Description of the goods or services to which the contract, arrangement or understanding (whether proposed or actual) relate:**

Please see the Supporting Submission.

**(d) The term for which authorisation of the contract, arrangement or understanding (whether proposed or actual) is being sought and grounds supporting this period of authorisation:**

Authorisation is sought for a period of five years as that is the term of the Services Agreement.

Please see the Supporting Submission.

**3. Parties to the proposed arrangement**

**(a) Names, addresses and descriptions of business carried on by other parties or proposed parties to the contract or proposed contract, arrangement or understanding:**

None.

**(b) Names, addresses and descriptions of business carried on by parties and other persons on whose behalf this application is made:**

Viscopy Limited  
1 Blackfriars Street  
Chippendale NSW 2008

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

For more detail please see the Supporting Submission.

**4. Public benefit claims**

**(a) Arguments in support of authorisation:**

Please see the Supporting Submission.

**(b) Facts and evidence relied upon in support of these claims:**

Please see the Supporting Submission.

**5. Market definition**

**Provide a description of the market(s) in which the goods or services described at 2 (c) are supplied or acquired and other affected markets including: significant suppliers and acquirers; substitutes available for the relevant goods or services; any restriction on the supply or acquisition of the relevant goods or services (for example geographic or legal restrictions):**

Please see the Supporting Submission.

**6. Public detriments**

**(a) Detriments to the public resulting or likely to result from the authorisation, in particular the likely effect of the contract, arrangement or understanding, on the prices of the goods or services described at 2 (c) and the prices of goods or services in other affected markets:**

Please see the Supporting Submission.

**(b) Facts and evidence relevant to these detriments:**

Please see the Supporting Submission.

**7. Contract, arrangements or understandings in similar terms**

**This application for authorisation may also be expressed to be made in relation to other contracts, arrangements or understandings or proposed contracts, arrangements or understandings, that are or will be in similar terms to the abovementioned contract, arrangement or understanding.**

**(a) Is this application to be so expressed?**

No.

**(b) If so, the following information is to be furnished:**

**(i) description of any variations between the contract, arrangement or understanding for which authorisation is sought and those contracts, arrangements or understandings that are stated to be in similar terms:**

Not applicable.

- (ii) Where the parties to the similar term contract(s) are known — names, addresses and descriptions of business carried on by those other parties:

Not applicable.

- (iii) Where the parties to the similar term contract(s) are not known — description of the class of business carried on by those possible parties:

Not applicable.

## 8. Joint Ventures

- (a) Does this application deal with a matter relating to a joint venture (See section 4J of the *Competition and Consumer Act 2010*)?

No.

- (b) If so, are any other applications being made simultaneously with this application in relation to that joint venture?

Not applicable.

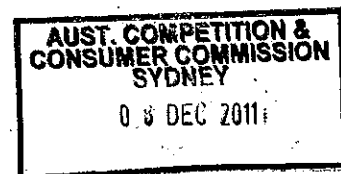
- (c) If so, by whom or on whose behalf are those other applications being made?

Not applicable.

## 9. Further information

- (a) Name and address of person authorised by the applicant to provide additional information in relation to this application:

C/- Carolyn Oddie  
Allens Arthur Robinson  
Level 28  
Deutsche Bank Place  
126 Phillip Street  
Sydney NSW 2000



Dated..... 6 December 2011 .....

Signed on behalf of the applicants

.....  
(Signature)

.....  
(Full Name)

.....  
(Organisation)

.....  
(Position in organisation)



# **Application for authorisation Supporting submission to the Australian Competition and Consumer Commission**

**Viscopy Limited  
Copyright Agency Limited**

6 December 2011

Allens Arthur Robinson  
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## Table of Contents

<b>1.</b>	<b>Executive summary</b>	<b>3</b>
1.1	The Applicants	3
1.2	Conduct for which authorisation is sought	3
1.3	Public benefits arising from the proposed conduct	3
<b>2.</b>	<b>Copyright and collective administration – overview</b>	<b>4</b>
2.1	The objectives of copyright law	4
2.2	Australian copyright law	4
<b>3.</b>	<b>The Applicants</b>	<b>5</b>
3.1	Viscopy	5
3.2	Copyright Agency	8
3.3	Copyright Agency and Viscopy membership	11
3.4	Copyright Agency and Viscopy respective expertise	12
<b>4.</b>	<b>The proposed Services Agreement</b>	<b>13</b>
4.1	Background	13
4.2	Objectives	14
4.3	Services provided	14
4.4	Confidential	15
<b>5.</b>	<b>Conduct to be authorised</b>	<b>15</b>
5.1	Proposed conduct	15
5.2	Period of authorisation	16
<b>6.</b>	<b>Framework for balancing public benefit and detriment</b>	<b>16</b>
6.1	The relevant market	16
6.2	Other participants in the relevant markets	16
6.3	The counterfactual	17
<b>7.</b>	<b>Public detriment</b>	<b>18</b>
7.1	Summary	18
7.2	Commissions paid	18
7.3	Licence terms	19
7.4	Lessening of competition	20
<b>8.</b>	<b>Public benefits</b>	<b>21</b>
8.1	Summary of public benefits	21
8.2	Improvement in the collective administration of copyright	22
8.3	Increased availability and access to copyright, and improved licensing services	23
8.4	Cost savings	24
8.5	Improved services for members and users of copyright	26
8.6	Provision of other services for the benefit of visual artists	27
<b>9.</b>	<b>Conclusion</b>	<b>27</b>

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## 1. Executive summary

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### 1.1 The Applicants

Viscopy Limited (**Viscopy**) and Copyright Agency Limited (**Copyright Agency**) (together the **Applicants**) are two copyright collecting societies that provide services to visual artists and licensees of artistic works.<sup>1</sup>

### 1.2 Conduct for which authorisation is sought

The Applicants have entered into a Services Agreement under which Copyright Agency will provide various services to Viscopy and Viscopy members. While Viscopy will retain an independent Board, the Services Agreement will result in Copyright Agency fully managing and administering the day-to-day operations of Viscopy's business.

The Applicants make this authorisation application as it is possible that certain provisions within the Services Agreement, if made and given effect to, may otherwise contravene ss44ZZRF, 44ZZRG, 44ZZRJ, 44ZZRK and s45 of the *Competition and Consumer Act 2010* (Cth) (the **CCA**). The Applicants seek authorisation, pursuant to ss88(1A)/88(1) of the CCA to engage in the following conduct:

- (a) jointly discuss and negotiate common terms and conditions for the services provided by the Applicants to their respective members and licensees under the Services Agreement, including:
  - (i) fees or commission levels charged; and
  - (ii) the scope of the services provided by both or either of the Applicants;
- (b) make and give effect to contracts, arrangements or understandings between the Applicants containing common terms and conditions upon which the Applicants will provide services to their respective members and licensees under the Services Agreement including:
  - (i) fees or commission levels charged; and
  - (ii) the scope of the services provided by both or either of the Applicants; and
- (c) in relation to any agreements between either of the Applicants and members entered into during the period of any authorisation, continue to give effect jointly to the provisions of such agreements over their term.

### 1.3 Public benefits arising from the proposed conduct

The conduct for which authorisation is sought is likely to result in the following public benefits:

- (a) the creation of a 'one stop shop' for visual artists and licensees;

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<sup>1</sup> 'Artistic works' is defined in s10 of the *Copyright Act 1968* (Cth) to mean 'a painting, sculpture, drawing, engraving or photograph, whether the work is of artistic quality or not'. In this submission, references to 'artistic works' are to the works

- (b) an improvement in the quality of services provided to visual artists, including through the provision of educational services, lobbying and policy reform advocacy;
- (c) visual artists earning more as a result of cost savings by Viscopy and Copyright Agency and an increase in licensing activity, including through:
  - (i) an increase in the coverage of existing licences; and
  - (ii) the development of an online image bank; and
- (d) an improvement in the quality of services provided to licensees, including through increased opportunities for licensing through a larger available repertoire.

The Applicants submit that the proposed conduct:

- (a) will result in benefits to the public that will outweigh any public detriment constituted by any lessening of competition. There is a very narrow area of potential overlap in the licensing activities of the Applicants. In practice, because of their respective expertise, the Applicants do not compete to provide services for licensees and compete to provide services to visual artists in only a very limited area; and
- (b) is likely to result in such a benefit to the public that the provisions within the Services Agreement should be permitted to be made and the conduct contemplated by it should be allowed to take place.

In seeking authorisation the Applicants do not admit that the Services Agreement contravenes the CCA and do not acknowledge that there is any requirement for authorisation.

## 2. Copyright and collective administration – overview

### 2.1 The objectives of copyright law

It is generally accepted that the policy objectives of copyright are to encourage creativity and to enable access to the products of creative labour. To that end, there is a worldwide system of collective administration of certain rights in specific types of copyright material, whereby copyright owners are adequately compensated for certain uses of their works, and members of the public are able to obtain licences for the use of those works from central clearing houses.

### 2.2 Australian copyright law

Under Australian copyright law, there is also a complex system of statutory or compulsory licensing for certain sectors, for which it is recognised that collective administration is the only practical form of administration. Copyright Agency is declared under the *Copyright Act 1968* (Cth) (the **Copyright Act**), to be the collecting society for various of those statutory licences.

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included in the definition of 'artistic works' in the *Copyright Act* and references to 'visual artists' are references to the artists who create 'artistic works'.

The Copyright Tribunal of Australia has jurisdiction over the terms of statutory licences (including remuneration), and the sampling systems that are referred to in the *Copyright Act*. It also has jurisdiction over the distribution arrangements of certain collecting societies (including Copyright Agency), voluntary licence schemes offered by collecting societies, and in certain circumstances over the declaration of collecting societies under statutory licence schemes.

### 3. The Applicants

#### 3.1 Viscopy

Viscopy was incorporated in 1995 following a recommendation of the Federal Government's Review of Australian Copyright Collecting Societies (the ***Simpson Report***) to the Commonwealth Government that there was a need for the collective administration of copyright in the works of visual artists. In response to this report, the Commonwealth Government provided a \$1 million grant over a three year period for the establishment of Viscopy.

Viscopy is a voluntary, not-for-profit copyright collecting society which provides a centralised means of assisting visual artists to get a return on their artistic works by:

- (a) granting licences to organisations and individuals in Australia and New Zealand who wish to reproduce or communicate copies of artistic works the copyright in which is owned or controlled by Viscopy members or members of affiliated societies;
- (b) distributing royalties received pursuant to such licences and licences administered by other collecting societies to Viscopy members and affiliated societies;
- (c) educating visual artists on the copyright protections available to them; and
- (d) lobbying and advocating for the interests of visual artists. Viscopy is an associate member of International Federation of Reproduction Rights Organisations (***IFRRO***) and its Chief Executive is a member of the International Authors' Forum working group. Viscopy is also a member of International Society of Authors and Composers (***CISAC***).

Viscopy represents the interests of approximately:

- (a) 8,000 Australian and New Zealand visual artists and their beneficiaries. Approximately half of Viscopy's Australian members are Indigenous visual artists; and
- (b) more than 40,000 international visual artists and beneficiaries in Australian and New Zealand territories through reciprocal agreements with 43 visual arts rights management agencies around the world.

Viscopy's members are predominantly 'fine' artists, photographers and cartoonists. Membership of Viscopy is voluntary and free. Viscopy charges artists an administration fee deducted as a proportion of the royalties it collects, to cover the costs of providing its services. Members can elect which of the income streams facilitated by Viscopy they wish

to collect through Viscopy. Currently, the administration fee is 25% for royalties Viscopy collects in Australia and New Zealand and 10% for royalties collected from overseas. Since 2003/2004, Viscopy's principal funding source has been the commission on the royalties it collects for members (including affiliated members) and affiliated bodies.

Viscopy's membership agreement (a standard form is provided at Attachment 1) enables it to license exclusively the works of its members and affiliated societies. While Viscopy's membership agreement is expressed to be exclusive, the exclusivity is the result of requests by licensees who seek exclusive use of artistic works for their own commercial purposes.

Viscopy receives revenue from the following sources:

- (a) **Voluntary transactional licences:** Viscopy provides direct licensing services to organisations and individuals in Australia and New Zealand who wish to reproduce or communicate copies of artistic works controlled by Viscopy through its membership or affiliation agreements. Viscopy provides licensing services to a broad range of customers for the use of artistic works in books, on websites, greeting cards and posters, in newspapers, magazines, television, exhibition catalogues, merchandise, novelty products, advertising and film; and
- (b) **Voluntary blanket licences:** Viscopy has, from time to time, entered into blanket licences with certain licensees under which licensees are permitted to reproduce and communicate any and all artistic works controlled by Viscopy for an annual flat fee. At the date of filing this submission, Viscopy offers this service but is not currently licensing its repertoire under any such blanket licences.

Viscopy also collects money from other collecting societies from their licensing activities under:

- (a) **Statutory licences:** Rights in artistic works are also licensed collectively under statutory schemes established under the Copyright Act. The statutory licences allow educational and government uses of copyright material in return for equitable remuneration and include:
  - (i) the educational statutory licence contained in Part VB of the Copyright Act, administered by Copyright Agency, for the copying and communication of published literary, dramatic, musical and artistic works (for example, works in books, magazines, newspapers and the internet by educational institutions);
  - (ii) the government statutory licence for use of text and images under s183 of the Copyright Act, administered by Copyright Agency;
  - (iii) copying of broadcasts for use as educational resources in educational institutions and re-transmission of broadcasts – administered by Screenrights, the Audio Visual Copyright Society Limited; and
  - (iv) the government statutory licence under s183 for copying from television and radio, administered by Screenrights;

- (b) **licence schemes and licences administered by foreign collecting societies;**  
and
- (c) the **Resale Royalty Scheme for Visual Artists** under which artists receive royalties on certain resales of their work – administered by Copyright Agency under the *Resale Royalty Right for Visual Artists Act 2009* (Cth). Copyright Agency collects royalties from the resale of artistic works and distributes these royalties to artists.

Both Viscopy and Copyright Agency tendered to the Australian Government to administer the artists' Resale Royalty scheme, with Copyright Agency being appointed by the Australian Government as the sole administrator of the scheme. Viscopy has not tendered for any other statutory scheme since it was established in 1995.

Under the statutory licences and scheme referred to above, Copyright Agency and Screenrights administer the licences and distribute equitable remuneration to their respective members and affiliated societies. Viscopy is a member of both Copyright Agency and Screenrights and offers its members the option of appointing Viscopy as their agent to collect royalties from Copyright Agency and Screenrights. On receipt of payments from Copyright Agency and Screenrights, Viscopy distributes the remuneration to its members and affiliated societies. As set out below, Copyright Agency (and Screenrights) make their respective distributions following deduction of their expenses; Viscopy members also pay a commission to Viscopy.

In 2010/2011, Viscopy booked revenue of approximately \$3.225 million with more than \$1.482 million for distribution to its members. A copy of Viscopy's 2010/2011 Financial Statements and Directors' Report is provided at Attachment 2.

In addition to the rights management services that Viscopy provides to its members, Viscopy also provides a number of other services. For example, Viscopy provides a broad range of copyright education services to visual artists around Australia, including delivering copyright education to Aboriginal and Torres Strait Islander artists in urban, regional and remote communities. In 2011, Viscopy continued to expand its delivery of the national education program for Indigenous artists.

In 2010, Viscopy established the annual John Fries Memorial Prize for emerging visual artists with donations from the Fries family.

Viscopy is also actively involved in current debates and law reform initiatives that affect visual artists, some key examples of which are set out below:

- (a) Viscopy worked closely with the Australian Institute of Professional Photography, the Australian Society of Commercial and Magazine Photographers and the Australian Copyright Council to have s35(5) of the *Copyright Act* amended in 1998 to give photographers ownership of copyright in their commissioned photographs.
- (b) Viscopy was instrumental in having s135ZM of the *Copyright Act* amended to provide that owners of copyright in artistic works receive share of the remuneration payable when illustrations are reproduced. Following that amendment in 2000, Viscopy worked closely with Copyright Agency to improve the collection of survey

data on the copying of artistic works and on the distribution of the resulting Illustration Fund.

- (c) Viscopy advocated strongly to ensure that artists' interests were taken into consideration in the significant copyright reforms of 2000, the digital agenda amendments and the moral rights provisions. Significantly, Viscopy helped to ensure that the blanket waiver provision in the draft moral rights legislation did not proceed.
- (d) Viscopy identified the fact that artists were not receiving income from the Part VA statutory licence and was instrumental in persuading Screenrights to amend its scheme of allocation to allow artists to share in the remuneration received from educational institutions along with other creators and rights owners. Visual artists also now share in other income streams collected by Screenrights.
- (e) From the outset of its operations, Viscopy established reciprocal relationships with foreign sister societies and, as a result, was the first agency in Australia to repatriate international copyright income to Australian visual artists for photocopying, broadcasting and cable retransmission;
- (f) Viscopy worked with successive Governments over many years to further the cause of a resale royalty right for artists resulting, finally, in the introduction of legislation in 2009. Viscopy played a particularly important role in making the case for the benefits a resale royalty right would have for Aboriginal and Torres Strait Islander artists.
- (g) Viscopy pays affiliation fees to and is an active member of the Australian Copyright Council.

Viscopy continues to advocate on behalf artists for other reforms that have not yet occurred including:

- (h) the repeal of inequitable provisions in the Copyright Act, including the public sculpture and incidental filming exceptions;
- (i) the introduction of protection for Indigenous cultural intellectual property rights;
- (j) clarification of copyright law with respect to orphan works;
- (k) the introduction of an artists' resale royalty right in New Zealand; and
- (l) the repeal of the commissioning rule provisions in the New Zealand *Copyright Act*.

Further information on Viscopy is available at <http://www.viscopy.org.au/>.

### 3.2 Copyright Agency

Copyright Agency is a not-for-profit copyright collecting society representing the interests of Australian authors, journalists, visual artists, surveyors, photographers and newspaper, magazine and book publishers.

Copyright Agency was established in 1974 with the support of the Australian Society of Authors, the Australian Publishers Association (then called the Australian Book Publishers Association), and the Australian Copyright Council, but did not set up an office until 1986. During that period, through a combination of litigation and political lobbying, Copyright

Agency and its members established the liability of educational institutions for photocopying of works protected by copyright, and the Commonwealth Government enacted the statutory licence for educational copying. Copyright Agency administered that scheme.

Today Copyright Agency is a declared society for the purposes of the educational statutory licence contained in Part VB of the *Copyright Act*, and the government copying provisions set out in section 183 of the *Copyright Act* insofar as they relate to text and images. Copyright Agency also administers the Resale Royalty Scheme for Visual Artists. Copyright Agency licenses the copying and communication of print material by corporations, local councils, associations, religious organisations, funeral directors and crematoria.

Copyright Agency currently represents more than 20,000 members. In 2010/2011 Copyright Agency distributed more than \$121 million to its members and affiliated societies.

The core of Copyright Agency's business is the administration of the statutory licences.

Under the statutory licences, Copyright Agency is obliged to collect royalties for non-members as well as for members, and to hold on trust money collected for non-members until they have been located and have become members (membership is a prerequisite for collection under the Attorney General's guidelines for declared collecting societies).

Membership of Copyright Agency is voluntary and free. Copyright Agency allocates licence fees in accordance with its Constitution, after deducting its expenses. Members can elect which of the revenue streams they wish to collect through Copyright Agency. It is a term of Copyright Agency's declaration that it present its accounts to the Attorney General. A copy of Copyright Agency's 2010/2011 Financial Statement, Directors' Report and Annual Review is provided at Attachment 3. In 2010/2011, expenditure as a percentage of revenue was less than 13.4%. Copyright Agency has affiliation agreements with 34 reproduction rights collecting societies throughout the world, pursuant to which Copyright Agency administers the rights in copyright works published overseas.

Copyright Agency allocates 1.5% of its income to cultural development.

Copyright Agency is engaged in the following businesses:

- (a) **Statutory licences:** Under the *Copyright Act*, Copyright Agency has been appointed by the Attorney General and the Copyright Tribunal of Australia respectively to administer the statutory licences for educational and government copying and communication of published literary, dramatic, musical and artistic works. As outlined above, the Copyright Act permits the copying and communication of published literary, dramatic, musical and artistic works in return for the payment of equitable remuneration, which in the absence of agreement is determined by the Copyright Tribunal of Australia. Copyright Agency negotiates with licensees in relation to the amount of equitable remuneration payable and the records of activity that must be maintained, and determines a scheme of allocation for the amounts collected. Copyright Agency distributes equitable remuneration in



accordance with its schemes of allocation, to members (including Viscopy) and affiliated societies.

- (b) **Voluntary transactional licences:** Copyright Agency has a transactional licensing business through its Copyright Express service. The service applies principally to text works. Copyright Agency has recently launched on an online licensing service, RightsPortal ([rightsportal.copyright.com.au](http://rightsportal.copyright.com.au)), which enables transactional licensing online. Again, the service relates principally to text works, and only to artistic works that accompany text works.
- (c) **Voluntary blanket licences:** For certain sectors that are not covered by the terms of a statutory licence, Copyright Agency is authorised by its members and affiliated societies to negotiate licences and collect licence fees for distribution to those members and affiliated societies that have elected to participate in the schemes. These include blanket licences available to local councils, corporations, media monitors, associations and churches wishing to copy and communicate works controlled by Copyright Agency members and affiliated societies.
- (d) **Resale Royalty Scheme for Visual Artists:** In 2010, Copyright Agency was appointed by the Commonwealth Government to administer the artists' Resale Royalty scheme. Copyright Agency is required to use its best endeavours to collect and distribute royalties due under the scheme to rightsholders. Unlike the statutory licence schemes, a rightsholder does not need to be a Copyright Agency member to receive payment. By agreement with the Australian Government, Copyright Agency deducts no more than 10% of a royalty towards its administration costs.

Where Copyright Agency does not have contact and payment details for a rightsholder who is a Viscopy member, it pays the rightsholder via Viscopy. Viscopy does not deduct a further administrative fee for paying a resale royalty to a member. Further information about the Resale Royalty scheme is available at <http://www.resaleroyalty.org.au/>.

Copyright Agency was a founding member of the IFRRO, and Copyright Agency's Chief Executive is a member of the IFRRO Board and Chair of the Education and Enforcement Taskforce. Senior Executives of Copyright Agency hold positions on various IFRRO Committees. Copyright Agency became a member of the International Confederation of Societies of Authors and Composers (**CISAC**) in 2011.

In addition to Copyright Agency's licensing activities, Copyright Agency provides a number of services to its members. These include:

- (a) conducting proceedings in the Federal Court of Australia and in the Copyright Tribunal of Australia in order to confirm liability for the use of Copyright Agency's members' works and the value of the rights that Copyright Agency licenses. Since Copyright Agency's establishment, it has been involved in a number of cases resulting in either a determination of the entitlement of its members to receive payment, or the amount of that payment. These cases include *NSW Department of Education v Moorhouse* (1975) 133 CLR 1, *De Garis & Moore v Neville Jeffress Pidler Pty Limited* 18 IPR 292, *Copyright Agency Limited v Department of*



*Education of NSW* 4 IPR 5, *Copyright Agency Limited & Ors v Victoria University of Technology* 30 IPR 140, *Copyright Agency Limited v University of Adelaide & Ors*, *Copyright Agency Limited v Queensland Department of Education & Ors*, and *Copyright Agency Limited v State of NSW* [2008] HCA 35;

- (b) a range of activities to educate members about copyright and about Copyright Agency's activities. Copyright Agency communicates with its members, stakeholders and the broader community using a range of avenues, including *CALendar* and the Copyright Agency website. *CALendar* is a quarterly newsletter distributed to Copyright Agency members, key licensees and government representatives, featuring updates on copyright developments, licensing revenue, distribution information and other general articles on relevant topics such as licensing. Copyright Agency maintains an updated website through which it makes available general copyright information, corporate information on Copyright Agency and specific information sheets for members, licensees and other interested stakeholders;
- (c) making submissions to government on copyright related policy issues;
- (d) Copyright Agency staff often participate in industry and stakeholder conferences to provide information on Copyright Agency licences and services to stakeholders;
- (e) Copyright Agency holds free annual member and stakeholder seminars. These events allow Copyright Agency to inform members about relevant updates to the business and copyright in general. In addition, Copyright Agency runs separate information session on any emerging issues that will affect its stakeholders. Multiple interstate events were held early in 2010 on developments in the Google Book Settlement, and more recently on the requirements of the Resale Royalty scheme being managed by Copyright Agency ;
- (f) Copyright Agency regularly sponsors industry initiatives through its Cultural Fund. In 2009/2010, for example, Copyright Agency funded an e.lit initiative to develop a program in which authors can engage with students in NSW via Web 2.0 technologies, supported the Charles Sturt University Journalism Internship Program, and worked with the Arts Law Centre of Australia on the Wills and Administration Toolkit, a project designed to assist Indigenous artists to manage their intellectual property rights, and has recently committed to funding the National Association for the Visual Arts to provide a range of education services over the next three years; and
- (g) Copyright Agency pays affiliation fees to and is an active member of the Australian Copyright Council.

Further information about Copyright Agency is available at [www.copyright.com.au](http://www.copyright.com.au), [www.resaleroyalty.org.au](http://www.resaleroyalty.org.au) and [www.rightsportal.copyright.com.au](http://www.rightsportal.copyright.com.au)

### 3.3 Copyright Agency and Viscopy membership

Under the statutory licences Copyright Agency collects licence fees for owners of copyright in all artistic works, as defined in the *Copyright Act*. These include works of fine art, cartoons, photographs, illustrations, and works such as diagrams, charts and plans.

Viscopy's members can choose to appoint Viscopy to distribute the statutory licence fees collected for them by Copyright Agency or choose to collect statutory licence income from Copyright Agency (by becoming a member), rather than pay Viscopy a 25% commission in addition to Copyright Agency's operating costs. Copyright Agency and Viscopy have recently taken steps to provide additional information to artists about this choice, at the request of the Arts Law Centre of Australia.

A rightsholder does not need to be a Copyright Agency member to receive resale royalties. Copyright Agency must use its best endeavours to locate and pay a rightsholder for whom it has collected a royalty. Copyright Agency has acquired contact information for more than 8,000 artists and estates and encourages artists and estates to provide their contact and payment details to assist efficient payment to them if a royalty is collected in the future. Where Copyright Agency does not have contact details for a rightsholder who is a Viscopy member, it pays the royalty via Viscopy. Viscopy does not take a commission for such payments.

### 3.4 Copyright Agency and Viscopy respective expertise

The collective, practical and efficient management of copyright (particularly under statutory licences) is complex, with large costs associated with copyright management systems, surveys of copying, and distribution of fees. Each of these areas of administration requires a high level of expertise and expensive dedicated infrastructure. Copyright Agency has this expertise and infrastructure in place.

As is noted above, statutory licences require collection by the society for the relevant use of all works in the category for which the society is declared (although individual copyright owners can deal directly with licensees if the licensee agrees). Part VB of the *Copyright Act* does permit declaration of different collecting societies for different classes of members, but that has not occurred – largely because it is more efficient for one organisation to negotiate and collect fees and usage data on behalf of other societies. Accordingly, works represented by other collecting societies, including Viscopy, can fall within the class of works that Copyright Agency manages as the declared collecting society.

For the class of works where Copyright Agency is the declared society, it administers the statutory licence including on behalf of other societies representing categories of works within the class. This includes societies without the infrastructure to carry out comprehensive surveys and distributions, such as Viscopy, but also includes established societies such as AMCOS (which represents copyright owners in musical works and relevantly the rights in print music), which is a much larger and established society.

There are two very clear advantages of having a single society administer a statutory licence:

- (a) the clear efficiencies of using the established copyright management and distribution systems; and
- (b) the benefits to the users of copyright material in that they only have to deal with one 'licensor'.

Copyright Agency processes millions of usage records provided by licensees in order to both calculate the volume of usage by the licensee and to identify the rightsholders (including writers, artists and publishers) whose works have been used.

Copyright Agency has developed sophisticated systems and processes in order to efficiently conduct its business, including processing of usage data, allocation of payments to rightsholders, identification of rightsholders, and management of membership and repertoire data. It has invested millions of dollars in these systems, including a range of recent significant enhancements that enable: online member applications and management of member accounts; receipt and processing of payment share information to enable direct payment to multiple rightsholders in a single work; more sophisticated data processing, including in relation to the identification of works and allocation of payments; and an online licensing portal for both transactional and blanket licences.

In 2004 the Copyright Tribunal of Australia considered an application by Australian Spatial Copyright Collections Limited to be declared as the collecting society under the s183 government statutory licence, for certain works in respect of which Copyright Agency was the declared society. The application was unsuccessful.<sup>2</sup>

Copyright Agency's transactional licensing currently applies to news text works.

Viscopy's expertise, on the other hand, is in the management of transactional licensing for the (usually) high quality reproduction of artistic works. This expertise requires detailed knowledge of its repertoire and its constituency, including its 4,000 Indigenous members and international partners. It also requires detailed understanding of Viscopy's licensees' business models as well as long-standing relationships with the sectors into which Viscopy licenses its repertoire, namely key cultural institutions, fine art auction house and publishing sectors. Importantly, Viscopy's staff have specific expertise in valuing and enforcing transactional licences. Viscopy does not have the infrastructure or resources that would enable it to administer a statutory licence scheme within educational institutions or governments. It does, however, have a detailed knowledge of the artistic works and artists it represents, the parameters of licences they are willing to grant and the value of those transactional licences.

As noted earlier, in addition to the rights management services that Viscopy provides to its members, Viscopy expertise is also in providing a broad range of copyright education services to visual artists around Australia, including delivering copyright education to Aboriginal and Torres Strait Islander artists in urban, regional and remote communities.

## **4. The proposed Services Agreement**

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### **4.1 Background**

Viscopy wishes to provide services to its members in the most efficient and cost effective manner possible, and to expand the delivery of certain services to members. To that end, Viscopy has sought to obtain certain services from Copyright Agency and the Applicants

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<sup>2</sup> See [2004]ACopyT1.

have entered into the Services Agreement (which is expressed to be subject to authorisation by the ACCC). A copy of the Services Agreement is provided on a confidential basis at Attachment 4.

Under the Services Agreement, Viscopy's employees and selected assets will be transferred to Copyright Agency. However, Viscopy will:

- (a) continue to exist as an independent entity, with its own Board of Directors;
- (b) retain its separate membership database and agreements;
- (c) retain its separate licensing agreements; and
- (d) retain its international agreements with affiliates.

## **4.2 Objectives**

The objectives of the Services Agreement are to:

- (a) minimise the administration charges payable by visual artists under the statutory licence schemes;
- (b) streamline payment arrangements under the Resale Royalty scheme;
- (c) increase the material available to be licensed under Copyright Agency's voluntary licences by enabling Copyright Agency to license works controlled by Viscopy members, thus increasing the number of artistic works available for use and also increasing licence fees payable to visual artists when their works are used;
- (d) increase the material available to be licensed by Viscopy under its voluntary licences by enabling Viscopy to license artistic works in Copyright Agency's repertoire, thus increasing the number of artistic works available for use and also increasing licence fees payable to visual artists when their works are used;
- (e) combine repertoires and resources to establish a critical base from which to develop new licensing schemes for the works of visual artists, including online licensing services associated with an image bank of artistic works;
- (f) centralise administrative functions to reduce overhead costs for visual artists;
- (g) maintain and improve the level of high-quality information and training available to visual artists; and
- (h) maintain and improve the level of principal policy advocacy for visual artists in international and local policy making.

## **4.3 Services provided**

Under the Services Agreement, Copyright Agency will provide various services to Viscopy and Viscopy members such that Copyright Agency will fully manage and administer the day-to-day operations of Viscopy's business. The services Copyright Agency will provide include:

- (a) licensing;
- (b) data management;
- (c) record keeping;

- (d) sampling;
- (e) distribution;
- (f) finance / treasury;
- (g) reporting, including the preparation of the Viscopy annual report and any reports to international peak bodies in consultation with the Viscopy Board and summaries of operations under the Services Agreement;
- (h) membership;
- (i) compliance (including the *Code of Conduct for Copyright Collecting Societies* complaints/reporting);
- (j) back office or administration usually undertaken by Viscopy in the course of operating the Viscopy business; and
- (k) management.

The provision of services under the Services Agreement will be monitored and directed as necessary by a committee comprising representatives from Copyright Agency and Viscopy.

#### **4.4 Confidential**

### **5. Conduct to be authorised**

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#### **5.1 Proposed conduct**

The Applicants seek authorisation, pursuant to ss88(1A)/88(1) of the CCA, to engage in the following conduct:

- (a) jointly discuss and negotiate common terms and conditions for the services provided by the Applicants to their respective members and licensees under the Services Agreement, including:
  - (i) fees or commission levels charged; and
  - (ii) the scope of the services provided by both or either of the Applicants;
- (b) make and give effect to contracts, arrangements or understandings between the Applicants containing common terms and conditions upon which the Applicants will provide services to their respective members and licensees under the Services Agreement including:
  - (i) fees or commission levels charged; and
  - (ii) the scope of the services provided by both or either of the Applicants; and
- (c) in relation to any agreements between either of the Applicants and members entered into during the period of any authorisation, continue to give effect jointly to the provisions of such agreements over their term.

## 5.2 Period of authorisation

The Applicants seek authorisation for five years. The Applicants seek this period as it is the term of the Services Agreement.

## 6. Framework for balancing public benefit and detriment

### 6.1 The relevant market

Section 90 of the CCA requires the ACCC to consider whether conduct for which authorisation is sought will result in a benefit to the public which outweighs any detriment to the public through a lessening of competition. The ACCC must balance the public benefits of the conduct for which authorisation is sought against any detriment flowing from any lessening of competition in the relevant market caused by the conduct. Whether the conduct is likely to result in any lessening of competition, or is in fact pro-competitive, requires an assessment of the relevant market that will be affected by the conduct.

The Applicants submit that in this matter it is not necessary to comprehensively define the relevant market as the public benefits will outweigh the public detriments regardless of the precise market definition. As described below, it may be perceived that there is a degree of minimal potential overlap in the provision of certain services provided by the Applicants. The Applicants are of the view that the relevant area of competition is that for the acquisition and supply by licence or otherwise of rights in artistic works in Australia.

In practice, Copyright Agency does not conduct the type of transactional licensing services that Viscopy provides, and accordingly, Copyright Agency and Viscopy provide licensing services to very different client groups.

### 6.2 Other participants in the relevant markets

Copyright in artistic works is owned by the artist or someone to whom the artist has assigned the rights. This means that a large number of visual artists choose to license their works directly to licensees.

Artists also have a number of other avenues to obtain revenue through licensing of their artistic works, for example, organisations such as Getty Images and Bridgeman Art Library.

#### **Getty Images<sup>3</sup>**

Getty Images was the first company to license imagery online and now provides customers with 24.7 million images, microstock, footage and music based on a range of licensing models, as well as various digital media management tools. All services are provided at a cost.

Getty Images offers the following goods and services:

- (a) 'Rights Managed' images which are licensed based on usage, with some Rights Managed images available for exclusive usage;

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<sup>3</sup> Information below from <http://company.gettyimages.com/>



- (b) 'Royalty-Free' images, provided to customers at a cost which is calculated according to image size, rather than image use. Once purchased, a Royalty Free image can be edited and distributed as a customer chooses. Similarly, Getty Images also sells royalty free footage, which can be edited and reused indefinitely by customers;
- (c) a 'Rights and Clearance' service, available to clients who wish to check the legality of any images; and
- (d) a range of editing services.

### ***Bridgeman Art Library***

Founded in 1972, the Bridgeman Art Library works with museums, art galleries and artists to make images from over 8,000 collections and more than 29,000 artists available for reproduction.

Museums and public and private collections around the world allow the Bridgeman Art Library (under a relevant agreement) to license their works. While some art-holders grant the right to license specific artworks, others place their entire catalogue with Bridgeman for administration.

Bridgeman then assists with the reproduction and cataloguing of the works under its care.

Once a work is chosen by a customer, Bridgeman arranges for reproduction licensing, while offering free advice on how to clear an artist's copyright (where additional permission is needed).

Upon receiving payment, 50% of the reproduction fee is passed on to the owners of the artwork.

## **6.3 The counterfactual**

Over 15 years of operation, Viscopy has developed a recognised brand, considerable expertise and industry knowledge. In particular, it has devoted considerable resources to developing relationships with its more than 4,000 Indigenous Australian artist members and its licensee customers in Australia's major cultural institutions and auction house sector.

The Applicants submit that, absent authorisation Viscopy and Copyright Agency will continue to provide separate services, meaning that rights holders and licensees are unlikely to receive the benefits outlined above as neither Viscopy nor Copyright Agency are able to provide these benefits without entering into the proposed Services Agreement. There will be continued considerable duplication of resources and obvious continuing increased administration costs.

In addition, if authorisation for the proposed conduct is not granted, Viscopy will need to reduce the scope of its operations. As noted by Viscopy's auditors, in Viscopy's Financial Report for the period ending 30 June 2011, Viscopy's status as a going concern is dependent on either a significant reduction in its costs and levels of service in the short term, or entering into an agreement such as the Services Agreement.

The full extent of any reduction in the scope of Viscopy's operations is yet to be determined. However, at first instance, in February 2012 Viscopy will relocate from its

current premises in Chippendale in which it currently operates the Blackfriars off Broadway gallery, to a sub-leased section of Copyright Agency's premises.

Other reductions in scope that Viscopy will be forced to consider include:

- (a) a significant reduction in the delivery of membership services to Indigenous artists in urban, regional and remote Australian communities. Viscopy is a Sydney-based organisation and delivery of these services is resource intensive;
- (b) a significant reduction in the delivery of membership services to other artists, particularly those in regional areas;
- (c) a review of its expenditure on active participation in the development of international copyright policy within the peak copyright forums. For example, Viscopy is an active participant in the development of international copyright policy and debate through its membership of IFRRO and CISAC and has strong relationships with its international visual art counterpart societies. Viscopy's participation in these forums represents a benefit to its members as Viscopy is able to advocate on their behalf; and
- (d) a reduction in the scope of the domestic advocacy and educational services that Viscopy provides, as discussed above.

Absent authorisation, Viscopy will incur higher administrative costs than would be the case if authorisation was granted. To cover these costs, Viscopy may be required to increase its commission levels and licensing fees.

A reduction in the scope of Viscopy services may result in less efficient copyright clearances. Accordingly, licensees may be faced with the possibility of infringing rights or choosing not to license works at all.

The Applicants submit that if Viscopy were forced to significantly reduce its services and increase its commission and licensing fees, this would be a clear detriment to visual artists and to licensees of artistic works. Collective management of copyright must have the confidence of all stakeholders, including licensees.

## **7. Public detriment**

### **7.1 Summary**

The Applicants submit that there will be little or no public detriment result from the conduct contemplated by the Services Agreement. On the contrary, the Services Agreement will result in significant public benefit which is described later in this submission.

### **7.2 Commissions paid**

Under the Services Agreement, the Committee may determine the commissions paid by Viscopy members for the collection and distribution of copyright and statutory licensing royalties. As the Committee will comprise representatives of Copyright Agency as well as the Chair of Viscopy, it is arguable that the Services Agreement might be said to be an



agreement that has the purpose or effect of fixing, controlling or maintaining prices for goods or services.<sup>4</sup>

The Applicants submit that rather than causing public detriment, the determination of the commissions paid by Viscopy members by the Committee will result in a public benefit. As noted above, the Services Agreement actually results in significantly decreased administration costs paid by Viscopy members, with obvious resulting benefits.

### 7.3 Licence terms

The Services Agreement provides that Copyright Agency will provide 'licensing services' to Viscopy, including negotiating the price for which voluntary licences will be granted to individuals or organisations who wish to reproduce or communicate copies of artistic works. Viscopy currently charges licence fees based on a tariff that is reviewed from time to time and adjusted for CPI increases. Licensing customers that use a large repertoire of works over extended periods of time, such as fine art auction houses or cultural institutions, are encouraged to enter into contracts with Viscopy under which they pay discounted licensing charges.

Copyright Agency has voluntary blanket licensing arrangements with customers for the use of literary and artistic works. Copyright Agency's and Viscopy's licences are subject to the jurisdiction of the Copyright Tribunal of Australia, which includes the jurisdiction to refer matters to mediation. In respect of applications relating to voluntary licence schemes, the ACCC must be advised of any application to the Copyright Tribunal, and may appear as a party to the proceedings (section 157B). In addition, the Tribunal must have regard to the ACCC Guidelines if so requested by a party (section 157A). As stated above, Copyright Agency's voluntary licences have traditionally been of a blanket nature, granted to organisations that wish to use large quantities of works controlled by Copyright Agency with the ease of access provided by a blanket licence, compared to the transactional licences involving detailed negotiation with artists and licensees such as are administered by Viscopy.

While it is arguable that the Applicants may potentially compete for members' repertoires for the purposes of voluntary transactional licensing of members' works, there is no evidence that they have or have had any intention to do so. For example, Viscopy and Copyright Agency do not set their administration charges or licensing fees by reference to each other.

The Applicants submit that this is because of the very different core competencies that each of them has developed, as described above. The Applicants' respective voluntary licensing activities relate to different uses of material. For example, Viscopy licenses members' art works to auction houses for reproduction in catalogues and communication online, while Copyright Agency licenses commercial corporations to make multiple copies of journal and newspaper articles that may contain illustrations, and to email those copies internally and to clients.

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<sup>4</sup> Prohibited under ss44ZZRF, 44ZZRG, 44ZZRJ, 44ZZRK of the CCA.

Accordingly, although the Applicants may, in a hypothetical future, offer substitutes for each others' voluntary licensing services, the different repertoires of works and the distinct uses for which each organisation licenses artistic works indicate that they do not currently compete in provision of voluntary licensing services and are unlikely to do so in the future.

The Applicants submit that any public detriment arising from their proposed conduct will be minimal because:

- (a) the Applicants are both not for profit organisations that operate in the public interest and are not driven by profit making goals;
- (b) as outlined above, the Applicants do not currently compete in the provision of voluntary licensing services; and
- (c) the Applicants are regulated in a manner that prevents them from pricing licences at unreasonably high prices. The Applicants are regulated by:
  - (i) the *Code of Conduct for Copyright Collecting Societies* which provides that 'licence fees for the use of copyright material will be fair and reasonable'. Further, the Code influences the Applicants' conduct through the threat of a public adverse report by the Code Reviewer.<sup>5</sup> Accordingly, the Applicants will not have the ability or incentive to unreasonably increase licence fees under the Services Agreement; and
  - (ii) the Copyright Tribunal, in relation to statutory licences and voluntary licence schemes, which prevents Copyright Agency from imposing unreasonable terms under its licence schemes. As noted above, the Tribunal is able to refer matters to mediation, is required to take ACCC Guidelines into account, and may admit the ACCC as a party to any proceedings involving voluntary licence schemes.

#### 7.4 Lessening of competition

Viscopy and Copyright Agency are the predominant collecting societies for visual artists in Australia. However, the Applicants submit that even though they both provide some similar services, the proposed Services Agreement will not result in a substantial lessening of competition for the following reasons.

##### ***Voluntary licensing services***

As discussed above, while the Applicants each provide voluntary licensing services to visual artists, the licensees to whom Viscopy and Copyright Agency provide services are different as are the nature of the licences themselves.

Viscopy provides copyright licensing services to customers for the use of standalone artistic works in books, on websites, greeting cards and posters, in newspapers, magazines, television, exhibition catalogues, merchandise, novelty products, advertising and film. These are transactional licences for specific works, negotiated on a case by case

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<sup>5</sup> ACCC Determination (27 September 2007), 'Applications for Revocation and Substitution of authorisations lodged by the Phonographic Performance Company of Australia Ltd in respect of collective licensing arrangements' at p34.



basis. Similar services are provided by prominent image banks, and under Creative Commons licences.

Copyright Agency administers the copying and communication of print material by corporations, associations, religious organisations, and funeral directors and crematoria. These uses are of multiple works, which may not be identified at the time of entering into the relevant licence. The artistic works illustrate other printed material.

Consequently, a visual artist who wished to license the reproduction and communication of his or her work on a website, subsequently copied and communicated by a corporation would need to acquire licensing services from Viscopy and Copyright Agency.

In addition, after the Services Agreement has been given effect to, Getty Images and Bridgeman Art Library, among others, will continue to compete for the provision of voluntary licensing services for artistic works.

Accordingly, the proposed Services Agreement will not result in a substantial lessening of competition for the provision of voluntary licensing services.

#### ***Statutory licensing and administration services***

As discussed above, Viscopy acts as payment agent for some recipients in the following statutory schemes in Australia:

- (a) reproduction and communication by educational institutions of works in (predominantly) books, magazines and newspapers – administered by Copyright Agency;
- (b) reproduction and communication by governments of works in (predominantly) books, magazines and newspapers – administered by Copyright Agency; and
- (c) copying of broadcasts for use as educational resources in schools, colleges and universities – administered by Screenrights; and
- (d) the Resale Royalty scheme under which artists receive royalties on certain resales of their work – administered by Copyright Agency.

Viscopy does not itself administer any statutory licensing scheme. Under the statutory licences, Copyright Agency and Screenrights distribute equitable remuneration to Viscopy, which in turn pays those royalties to its members in accordance with the information provided by Copyright Agency and Screenrights.

The Services Agreement will not alter the availability of statutory licensing income for visual artists and is likely to reduce the cost to artists of recovering this income.

## **8. Public benefits**

### **8.1 Summary of public benefits**

The Applicants consider that the proposed Services Agreement is likely to result in the following public benefits, discussed in detail below:

- (a) increased access to copyright materials, with an improvement in the quality of the copyright collection services provided by the Applicants to licensees of copyright in artistic works;
- (b) increased repertoire of artistic works available to licensees of artistic works, noting that Copyright Agency has a KPI under the Services Agreement to increase Viscopy's membership, and that the societies will each license the repertoire of the other;
- (c) reduced administration costs for visual artist licensors;
- (d) improved services for members and users of copyright including new licensing opportunities and development of an online image bank; and
- (e) the provision of other services for the benefit of visual artists including educational services, lobbying and policy reform advocacy.

## 8.2 Improvement in the collective administration of copyright

Copyright is a form of intellectual property and is the means by which society recognises and rewards creativity and innovation.<sup>6</sup> The Copyright Act grants exclusive rights to copyright owners, including for literary, dramatic and musical works:

- (a) the right to reproduce the work in a material form;
- (b) the right to publish the work;
- (c) the right to perform the work in public;
- (d) the right to communicate the work to the public; and
- (e) the right to make an adaption of the work (the rights in paragraphs (a), (b) and (d) also apply to artistic works)<sup>7</sup>

The collective administration of copyright is often the most effective method of managing certain aspects of these rights, both for the owners of the rights and those that need access to them.<sup>8</sup> Collecting societies, such as the Applicants, grant licences to use copyright material, collect royalties from users of copyright material and distribute revenue to owners of copyright. As will be explained in more detail below, collecting societies provide an important service, which furthers the public interest by:

- (a) encouraging creativity by ensuring rights holders are adequately compensated for the use of their works; and
- (b) facilitating access to those works.<sup>9</sup>

Without the presence of collecting societies, there is a risk that:

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<sup>6</sup> ACCC Determination (27 September 2007), 'Applications for Revocation and Substitution of authorisations lodged by the Phonographic Performance Company of Australia Ltd in respect of collective licensing arrangements' at p10.

<sup>7</sup> s31 of the Copyright Act.

<sup>8</sup> S Simpson (July 1995), *Review Of Australian Copyright Collecting Societies A Report To The Minister For Communications And The Arts and the Minister For Justice* at p11.

<sup>9</sup> ACCC (November 2006), 'Copyright licensing and collecting societies: a guide for copyright licensees' at p5.

- (a) copyright would be infringed as users will take the risk that individual rights holders will not seek to enforce their respective rights as they are unlikely to have the financial means by which to do so; and
- (b) potential users will choose not to license works as they may take the view that it is too difficult and time consuming to locate the artist and negotiate a licence agreement with him or her.

For the reasons given below, the Services Agreement will provide an improvement in the collective administration of copyright by the Applicants. This will result in benefits to the members of Viscopy and Copyright Agency, as well as individuals and organisations that wish to reproduce or communicate copies of artistic works.

### **8.3 Increased availability and access to copyright, and improved licensing services**

As was recognised in the Simpson Report referred to above, prior to the establishment of Viscopy, there was no organisation that centrally licensed the extensive repertoire of artistic works created by a group of visual artists in Australia and New Zealand. As a result, unless visual artists licensed their works individually, they were not remunerated for the reproduction or communication of their works. The prohibitive costs of enforcement and litigation, together with the difficulty of detecting infringements, mean that individual copyright owners such as visual artists are generally not in a position to enforce their copyright.

The services provided by the Applicants ensure that artistic works are readily available to be reproduced or communicated by licensees in exchange for reasonable compensation. The services offered by the Applicants encourage creativity in the field of visual arts in Australia, by providing an environment which includes a reasonable return for creativity and effort and which protects copyright. Copyright Agency and Viscopy therefore provide an essential service that furthers the public interest in copyright (noting that there is also a public benefit in ensuring that laws are upheld). Copyright Agency and Viscopy:

- (a) encourage creativity, by ensuring that members are adequately compensated for use of their works; and
- (b) facilitate access to those works.

An environment where visual creativity is recognised, protected and properly rewarded encourages this creativity in Australian society. The general community benefits from these cultural and creative activities.

The proposed Services Agreement is likely to result in increased access to copyright because objectives of the arrangement include:

- (a) each Applicant contributing its respective repertoire of its members' works to the voluntary licensing schemes offered by the other Applicant, thereby:
  - (i) increasing the coverage of existing licences; and
  - (ii) providing additional licensing revenues for their members;
- (b) the Applicants contributing their respective repertoires of artistic works (via the mechanism of a sublicense of the Viscopy repertoire to Copyright Agency, and by

Viscopy joining Copyright Agency for voluntary licences) and resources to consolidate a critical base from which to provide a 'one stop shop' for artistic works licences. As a result of the Services Agreement, the Applicants will also be able to develop new licensing schemes for visual artists;

- (c) the development of a business case for an online image bank of artistic works and an associated online licensing system. The Applicants' current services do not include the provision of images of their respective members' artistic works to licensees. While the Applicants grant copyright licences to licensees for the use of their members' artistic works, licensees are required to source high resolution images from third parties or create such images themselves. It is intended that online licensing associated with an image bank featuring high resolution images of members' artistic works would enable licensees to access high resolution reproductions together with the requisite copyright licence from a single source. Similar image banks are successfully marketed by other visual art collecting societies in Europe, as well as by commercial organisations such as Getty Images and Bridgeman. For example, see: <http://www.vegap.es/EN/GestionDeDerechos/BancoDelimagenes>. The Applicants believe that they would be able to achieve similar success to the benefit of artists and licensees. Viscopy does not have the resources, and Copyright Agency does not have the artistic expertise, to develop the image bank or the licensing system alone. Copyright Agency will be required under the Services Agreement to develop the business case for providing such online licensing services.

#### 8.4 Cost savings

##### ***Administrative costs***

It is more efficient for Copyright Agency to administer the licensing services offered by both Copyright Agency and Viscopy than it is for each of the societies to do so individually.

The Services Agreement involves substantial efficiencies and benefits in that only one body will incur administrative costs. [

##### **Confidential information excluded**

]

Currently, in its statutory function, Copyright Agency administers the licence for the whole repertoire of works controlled by Copyright Agency and Viscopy as well as works the copyright in which is owned by non-members, deducts its operating costs, processes the distribution and passes the distribution money and information to Viscopy to distribute to its members after deducting its own commission.

The Services Agreement will operate to combine administrative functions to reduce overhead costs including rent, employee remuneration, membership communications, insurance, plant and equipment and other operational overheads.

After initial costs for integrating Viscopy's systems and processes with those of Copyright Agency, including membership data and payment systems, Copyright Agency and Viscopy expect that Viscopy members will see a real benefit in the reduced costs of administering



the Viscopy business, brought about by the economies of scale of the Copyright Agency infrastructure.

Under the *Copyright Act*, Copyright Agency has been appointed by the Attorney General and the Copyright Tribunal of Australia respectively to administer the statutory licence for educational and government use of (among other things) artistic works. As described above, Viscopy is a member of Copyright Agency and receives distributions of equitable remuneration from Copyright Agency, along with distribution data to enable Viscopy to make payments to its members. Copyright Agency deducts its costs of operation from the amounts collected from licensees, and Viscopy also charges its members a commission.

The Services Agreement will ensure that fees pass through the least number of hands to reach the visual artist, minimising deductions and ensuring a more speedy payment. This is of great benefit to visual artists, for whom even relatively small amounts of money often can be of great significance.

The administrative efficiencies created by the Services Agreement also have the further public benefit of increasing public (and in particular, licensee) confidence in the efficiency of the statutory licences. In particular, there has been a degree of confusion (including internationally) regarding the fact that there are two societies administering rights in artistic works.

Copyright Agency also has the infrastructure to deliver an online licensing portal that will reduce the burden for galleries and auction houses seeking to comply with copyright laws.

***Administrative costs under services managed by Copyright Agency for Artists, including the Resale Royalty scheme***

Access to Viscopy's database will enable Copyright Agency to more efficiently distribute resale royalties collected for rightsholders who are Viscopy members.

***Negotiation costs***

The Services Agreement will result in a single body administering the repertoires of both Viscopy and Copyright Agency members. This benefits the public as a one-stop-shop as it:

- (a) is less time consuming and less expensive for licensees negotiating to reproduce or communicate copies of artistic works; and
- (b) creates clarity in the marketplace.

***Weighing the public benefit of costs savings accruing to Copyright Agency and Viscopy members***

As outlined above, the Services Agreement will result in the significant reduction of the cost of collecting and distributing statutory and other copyright royalties. This will enable a corresponding increase in the royalties paid to members for the use of their works.

As described earlier, it will be necessary for Copyright Agency to incur some additional costs in the discharge of its obligations under the Services Agreement. These costs will be met by capped licensing service charges. It is anticipated that after initial costs, the costs of delivering the Viscopy services will reduce significantly. This will result in a substantial benefit to Viscopy members, who currently are charged a commission of 25% (in addition

to any costs deducted by Copyright Agency for its collection and allocation of licence fees payable under statutory licences).

In *Qantas Airways Limited*, the Australian Competition Tribunal held that:

*Benefit to the public is to be given a broad definition which, in addition to group interests, takes into account (with appropriate weighting) individual interests to the extent that such interests are considered by society to be worthy of inclusion and measurement.*<sup>10</sup>

In assessing the benefits to Viscopy and Copyright Agency members, it must be remembered that Australian visual artists are among the poorest of creators, earning an average of \$10,000 per annum from their creative activity and any other arts-related activities they undertake.<sup>11</sup>

In 2009/2010, Viscopy distributed royalties to more than 700 Australasian and 350 international artist members with the average payment being \$1,214. These royalties can represent significant additional revenues to visual artists and increased payments to artists that result from the Applicants' Service Agreement will seek to ensure that these artists receive the maximum possible income.

Adopting the ACCC's reasoning in its determination of APRA's 2006 authorisation application, the encouraging of continued activity by Viscopy and Copyright Agency members leads to 'enhanced creative and cultural activity which can be enjoyed by all Australians' and therefore 'significant weight should be accorded to those cost saving the benefits of which accrue primarily to Viscopy members'.<sup>12</sup>

## 8.5 Improved services for members and users of copyright

Changes to technology and to copyright law have created a need for commercial initiatives to address the challenges of licensing copyright works in the digital environment.

Significant investment is required to ensure that the Applicants can effectively serve their members in a digital environment and ensure that their rights are protected and appropriately remunerated by users.

Under the Services Agreement Copyright Agency will make available to Viscopy technology systems that attempt to ensure that it is best able to serve its members in the digital sphere. These systems include:

- (a) a member portal and new business operating system which provides a comprehensive interface with members, allowing them to interact with Viscopy and view information pertinent to their membership;
- (b) development a 'rightsportal' to assist in making Viscopy's operations more efficient and to maximise benefits to members. For example, the rightsportal allows

<sup>10</sup> *Qantas Airways Limited* [2004] ACompT 9 at 51.

<sup>11</sup> D Throsby and A Zednik (2010) *Do you really expect to get paid? An economic study of professional artists in Australia*.

<sup>12</sup> ACCC Determination (8 March 2006), 'Applications for Revocation and Substitution and Applications for Authorisation lodged by Australasian Performing Right Association Limited in respect of the standard arrangements for the acquisition and licensing of the performing rights in its music repertoire' at p69.

automated licensing which significantly reduces costs in managing income streams; and

- (c) systems which will allow the Applicants to effectively implement direct distribution to members and investment in technology that will give the Applicants a greater capacity to adapt to a fast, changing landscape, allowing them to identify and apply technologies that more effectively detect and monitor the use of copyright material.

Further, the Services Agreement will result in Copyright Agency continuing to develop the business case for Viscopy's online image bank service.

## **8.6 Provision of other services for the benefit of visual artists**

As discussed above, in addition to the licensing services that the Applicants provide to their respective members, both Viscopy and Copyright Agency provide a wide range of other services. These additional services are intended to promote copyright awareness, provide visual artists with a public voice in key policy debates and encourage and promote the visual arts in Australia.

The Services Agreement will reduce the administrative costs in implementing other licensing services, thereby increasing the funds available for allocation to these services. These services provide a significant public benefit as they promote and encourage the visual arts.

As previously recognised by the ACCC, the encouraging of continued activity by visual artists leads to enhanced creative and cultural activity which can be enjoyed by all Australians. Therefore, significant weight should be accorded to those cost savings the benefits of which accrue primarily to visual artists.<sup>13</sup>

## **9. Conclusion**

To the extent that there is any lessening of competition as a result of the Services Agreement, the Applicants submit that the benefits to the public flowing from the Services Agreement outweigh the detriment. The public benefits resulting from the Services Agreement are such that the Services Agreement should be allowed to be made and given effect to.

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<sup>13</sup> ACCC Determination (8 March 2006), 'Applications for Revocation and Substitution and Applications for Authorisation lodged by Australasian Performing Right Association Limited in respect of the standard arrangements for the acquisition and licensing of the performing rights in its music repertoire' at p69.



# ATTACHMENT 1

Viscopy Ltd ACN 069 759 922

Australia and New Zealand's Visual Arts Rights Management Organisation

viscopy

## VISCOPY MEMBERSHIP APPLICATION

### STEP 1: PERSONAL DETAILS

Family Name: \_\_\_\_\_ First Name: \_\_\_\_\_  
Other Names: \_\_\_\_\_ Pseudonym: \_\_\_\_\_  
Date of Birth: \_\_\_\_\_ Sex (M/F): \_\_\_\_\_ Are you an Aboriginal or Torres Strait Islander? Yes ☐ No ☐  
Nationality: \_\_\_\_\_  
Name of Copyright Holder if not the Artist: \_\_\_\_\_ ☐  
Business or Company Name: \_\_\_\_\_  
ABN and/or tax file Number: \_\_\_\_\_ Are you registered for GST? Yes ☐ No ☐  
Street Address: \_\_\_\_\_ Postcode: \_\_\_\_\_  
Telephone: ( ) \_\_\_\_\_ Fax: ( ) \_\_\_\_\_ Mobile: \_\_\_\_\_  
Email Address: \_\_\_\_\_ Web Site: \_\_\_\_\_  
Artform(s): \_\_\_\_\_  
Bank Account Details: Account Name: \_\_\_\_\_ Bank: \_\_\_\_\_  
Branch: \_\_\_\_\_ BSB: \_\_\_\_\_ Account No: \_\_\_\_\_

### STEP 2: CHOOSE TYPE OF RIGHTS MANAGEMENT (Please TICK ONE BOX)

#### STATUTORY LICENSING ONLY ☐

You may be entitled to receive statutory royalties paid by educational institutions, governments and cable re-transmitters under the Australian Copyright Act. Statutory Rights Membership means that we will collect and pay statutory royalty income that falls due to you.

#### COPYRIGHT LICENSING ONLY ☐

Viscopy administers all the rights in your artworks including reproduction, publication and communication, except for statutory licensing. This gives Viscopy permission to license the reproduction of your artwork to the widest range of potential clients, including businesses, public galleries, broadcasters, film and video producers publishers, museums, galleries, auction houses and educational institutions and governments.

#### STATUTORY LICENSING AND COPYRIGHT LICENSING ☐

Viscopy administers all your copyright. Most member artists choose Viscopy to administer both statutory licensing and copyright licensing on their behalf.

STEP 3: Signed by artist or copyright holder \_\_\_\_\_ Date \_\_\_\_\_

STEP 4: Post or fax your signed form to: 1 Blackfriars St, Chippendale NSW 2008 Australia Fax: 02 9310 3864

THE VISCOPY ANNUAL REPORT is available from the Viscopy website [www.viscopy.org.au](http://www.viscopy.org.au)

Please tick the appropriate box if you would ALSO like us to send you a:

digital copy ☐ hard copy ☐

## COPYRIGHT LICENSING MEMBERSHIP

### Terms and conditions

- A. You are the owner of the copyright in the artistic works created by you before, and during the life of this Agreement, unless specified in Schedule 1 of this Agreement or further notified to VISCOPY in writing.
- B. As a member of Viscopy you grant an exclusive licence to Viscopy to collect and distribute all remuneration due to you from the exploitation of rights set out in Clause 1 of this Agreement except for those works listed in Schedule 2 which are expressly excluded from the licence.

### IT IS AGREED

1. You grant Viscopy an exclusive world-wide licence (the "Licence") to collect all remuneration due to you for the exercise of (but not limited to) the following rights in artistic works in which you own copyright:
  - (a) reproduction in material form;
  - (b) publishing communication to the public, including electronic transmission, making available online and broadcasting;
  - (c) sub-licence rights referred to in (a) and (b); and
  - (d) any other rights which Viscopy may administer under articles 5(d) and 5(e) of its Constitution.
2. The Licence does not allow Viscopy to collect remuneration due to you for the use of artistic works in which you own copyright under statutory licences including:
  - (a) educational reproduction and communication licences;
  - (b) government use licences; or
  - (c) cable television retransmission licences.
3. The Licence is:
  - (a) royalty-free, world wide and continues until you cease to be a member of Viscopy;
  - (b) automatically extended to any new artistic works you create, unless you notify Viscopy in writing to the contrary within 90 days of the creation of new artistic works;
  - (c) not extended to the acts specified in Schedule 3.
4. In consideration of the Licence granted:
  - (a) Viscopy must pay to you all monies received by Viscopy from exploitation of the rights, less an administration fee for reimbursement of administration and operating expenses as determined by Viscopy.
  - (b) Payments will be made no less than twice per annum but otherwise in accordance with Viscopy's payments policy which may be varied from time to time at Viscopy's discretion.
5. The Licence commences on the date of this Agreement and continues until you cease to be a member of Viscopy. Termination of membership requires no less than six months notice in writing to Viscopy.
6. You warrant to Viscopy that the artistic works are of your own authorship, that they are original and that they are not libellous, nor do they infringe copyright or the moral rights of any person.
7. You indemnify Viscopy against any loss whatsoever which Viscopy incurs as a consequence of any breach of any warranty in this Agreement.
8. If any person infringes any of the rights set out in Clause 1 in any artistic works, Viscopy may, at its discretion, bring proceedings with respect of such infringement and you must fully co-operate with Viscopy in such action. Viscopy indemnifies you against legal costs incurred in such proceedings.
9. The Agreement is governed by and construed in accordance with the laws of New South Wales, Australia.

## STATUTORY LICENSING MEMBERSHIP

### Terms and conditions

- A. You are the owner of the copyright in artistic works created by you before, and during the life of this Agreement.
- B. As a member of Viscopy you grant an exclusive licence to Viscopy to collect and distribute all remuneration due to you for the use of your artistic works under statutory licences as set out in this Agreement.

### IT IS AGREED

1. You grant to Viscopy an exclusive world wide licence (the "Licence") to collect all remuneration due to you for the use of artistic works in which you own copyright under statutory licences including but not limited to:
  - (a) educational reproduction and communication licences;
  - (b) government use licences;
  - (c) cable television retransmission licences; and
  - (d) any other statutory licences that may come into existence.
2. In consideration of the Licence granted:
  - (a) Viscopy will use all reasonable endeavours to collect the remuneration and payments due for the exercise of rights set out in Clause 1 and pay to you all moneys received from the exploitation of the rights, less an administration fee for reimbursement of administration and operating expenses as determined by Viscopy.
  - (b) The licence commences on the date of this Agreement and continues until you cease to be a member of Viscopy. Termination of membership requires no less than six months notice in writing to Viscopy.
3. You warrant to Viscopy that the artistic works are of your own authorship, that they are original and that they are not libellous, nor do they infringe copyright or the moral rights of any person.
4. You indemnify Viscopy against any loss whatsoever which Viscopy incurs as a consequence of any breach of any warranty in this Agreement.
5. If any person infringes any of the rights set out in Clause 1 in any artistic works, Viscopy may, at its discretion, bring proceedings with respect of such infringement and you must fully co-operate with Viscopy in such action. Viscopy indemnifies you against legal costs incurred in such proceedings.
6. The Agreement is governed by and construed in accordance with the laws of New South Wales, Australia.

### Schedule 1\*

List all artistic works created by you in which you do not own copyright.

### Schedule 2\*

List any artistic works that you want to exclude from the licence.

### Schedule 3\*

List any commercial uses for which you do not want Viscopy to license your works

**\*PLEASE ATTACH ADDITIONAL SHEETS IF NECESSARY AND RETURN TO VISCOPY**

Viscopy is bound by the Code of Conduct for Copyright Collecting Societies. A copy of the Code of Conduct and the Viscopy Constitution is available for download from the website [www.viscopy.org.au](http://www.viscopy.org.au).

If you would like a hardcopy of these documents sent to you, please contact Viscopy.

# ATTACHMENT 2

**VISCOPY LIMITED**  
**A.B.N. 98 069 759 922**

**FINANCIAL REPORT**  
**FOR THE YEAR ENDED**  
**30 JUNE 2011**

**Liability limited by a scheme approved under  
Professional Standards Legislation**

**VISCOPY LIMITED**  
**A.B.N. 98 069 759 922**

**CONTENTS**

Directors' Report	1
Auditors' Independence Declaration	8
Statement of Comprehensive Income	9
Statement of Financial Position	10
Statement of Changes in Equity	11
Statement of Cash Flows	12
Notes to the Financial Statements	13
Directors' Declaration	23
Auditors' Report	24

**VISCOPY LIMITED**  
**A.B.N. 98 069 759 922**

**DIRECTORS' REPORT**

Your directors present their report on the company for the financial year ended 30 June 2011.

The names of the directors in office at any time during, or since the end of the year are:

**Michael Keighery**

(appointed 23/11/2006; resigned 30 September 2010)

An artist living in the Illawarra Region, Michael is a graduate of Sydney College of the Arts and was for some years a Senior Lecturer at the University of Western Sydney. From 1998 until 2005, Michael was Chair of NAVA and has served on the Boards of many arts organizations including several years as President of the Crafts Council of Australia.

As an artist, Michael is primarily an object maker whose current practice includes performance and video work.

He has exhibited widely around the world and his work is included in the collections of many public and private art collections.

**Joyce Parszos**

(appointed 19/11/2004; retired 30 November 2010)

Joyce Parszos has worked as project director across numerous innovative programs in association with academics, journalists, medical and scientific research professionals, universities, as well as local, state, federal and international governments.

Joyce was the first Public Relations and Development Manager of the Museum of Contemporary Art (MCA) at Circular Quay and as part of a small team played a key role in the seminal phase of the development of this major Australian art institution.

Joyce was also Manager of Public Affairs with the Motor Accidents Authority of NSW, (MAA) 1994 – 2001, and was responsible for the development and management of the MAA's five year Paralympian Program.

Joyce has served as a Director on the Board of the Australian Paralympic Committee (APC) and has also been a national award judge for a number of business and government bodies which recognise excellence and outstanding business achievement in sponsorship/partnership programs.

Joyce is a Director of the Board of the Music and Opera Singers Trust and provides communications and marketing consulting services and currently holds the position of National Director Marketing and Sponsorship with the APC.

**VISCOPY LIMITED**  
**A.B.N. 98 069 759 922**

**DIRECTORS' REPORT**

**Megan Cope**  
(appointed 06/05/2011)

Megan Cope is an emerging Indigenous artist; environment, identity, mapping and decolonizing methodologies are a primary aspect of her practice. She is a descendant from the Quandamooka region (North Stradbroke Island) in South East QLD. Megan's works have been presented in Australia and abroad, including in the ARC Biennial in Brisbane, the Koori Heritage Trust in Melbourne, and Wellington City Gallery in New Zealand. In addition, Megan has managed and curated several art spaces and projects including 'tinygold', Desperate Spaces, the artist handbook So You Want To Be An Artist and she was the Creative Director of the Brisbane Artist Run Initiatives (BARI) Festival from 2009-10.

Megan is a member of the Aboriginal art collective proppaNOW and currently manages the Salt Water Murris Quandamooka - Art Gallery on North Stradbroke Island.

**Timothy Denny CPA**  
(appointed 28/08/2010)

Tim has a Bachelor of Business with a major in Accounting and a joint study in Finance. He has worked in the field of copyright for more than 20 years specialising in the intellectual property held in musical works and currently serves as the Deputy Chief Financial Officer of APRA / AMCOS. In addition to this role, Tim manages the accounting function of the Australian Music Centre.

**Merilyn Fairskye**  
(appointed 23/11/2006)

Merilyn Fairskye is an artist who lives in Sydney. Her early art practise was as a mural painter. For over a decade, her work has thematised light and perception using photomedia, video and public artworks. Recent works have engaged with global networks and communications-saturated environments such as Pine Gap Joint Defence Facility (Connected 2003) and the international airport (Stati d'Animo, 2005-6). Merilyn Fairskye's work is regularly exhibited within Australia and internationally and is represented in many public collections. She has been awarded artist residencies in the USA, Italy, France and Australia, and has been the recipient of Australia Council and Australian Film Commission grants, and a Rockefeller Foundation Fellowship. She teaches in the Photomedia Studio at Sydney College of the Arts, University of Sydney.

She has previously served as President of the IMA, Brisbane and as Co-Chair, Artspace, Sydney.

**VISCOPY LIMITED**  
**A.B.N. 98 069 759 922**

**DIRECTORS' REPORT**

**Katherine Fries**  
(appointed 28/04/2010)

Katherine Fries is a Sydney based artist, working primarily in temporal site-sensitive installations, which she exhibits in national sculpture festivals and Artist-Run-Initiatives. Kath graduated with a BFA Honours from UNSW Collège of Fine Arts and was recently awarded a post-graduate MVA from Sydney College of the Arts, University of Sydney. Alongside her active art practice Kath has also been employed in Sydney and London by a range of visual art organisations and galleries, currently she is working in visual arts education. Kath is a member of Viscopy and has been active in the establishment of the John Fries Memorial Prize for Emerging Artists.

**Desmond Griffin**  
(appointed 23/11/2006)

Des Griffin is presently Gerard Krefft Memorial Fellow, Australian Museum, an honorary position, at the Australian Museum in Sydney; he was director of the Museum from 1976 through 1998. He is also Chairman of the Arts Industry Advisory Committee for the University of Technology, Sydney.

Des graduated with a Masters degree in science from Victoria University, Wellington, New Zealand in 1962 and obtained his PhD from the University of Tasmania in 1966. He joined the Australian Museum in 1966 as an Assistant Curator and was later promoted Senior Research Scientist and then in 1972, Assistant Director.

He was the first President, from 1993 through 1996, of Museums Australia (the single association representing museums of art, history and science).

Des has a long standing interest in the arts and cultural activities generally and has published extensively on many aspects of museums including governance and leadership and relations with communities and with indigenous peoples.

Des was appointed a Member of the Order of Australia (AM) in 1990 in recognition of services to museums.

**Lynette Riley**  
(appointed 21/07/2010)

Lynette has over 30 years working experience, as a teacher and in Aboriginal education and administration within: primary school; high school; TAFE; state office and Universities. Lynette was one of the founding members of the NSW DET Aboriginal Education Unit which created the first Aboriginal Education Policy in 1982, much of which was based on her research under-taken in 1980, whilst completing studies at ACAE. She was extensively involved in establishing the NSW AECG, and co-ordinated the first ever AECG conference in the early 80's. She has also been instrumental in establishing Aboriginal presence in Universities establishing one of the first support programs within Australia at the UNE, Oorala Centre (1986-1992).

**VISCOPY LIMITED**  
**A.B.N. 98 069 759 922**

**DIRECTORS' REPORT**

**Alida Stanley BA LLB (UNSW)**  
(appointed 23/11/2006)

Alida Stanley was nominated by the National Association of Visual Artists and elected to the Viscopy Board of Directors and Viscopy Finance Committee in November 2006. Following her graduation from the University of New South Wales Law School in 1998, Alida worked as a Solicitor in Mallesons Stephen Jaques' telecommunications practice group and then in the intellectual property and information technology practice group. In 2000 Alida moved to New York where she worked in the law firm of Weil, Gotshal & Manges LLP specialising in intellectual property and information technology transactions, competition and regulatory law. Upon returning to Sydney in 2005, Alida worked as the Senior Solicitor at the Arts Law Centre of Australia representing artists and arts organisations and as a Solicitor in the Office of General Counsel at The University of Sydney. Alida is currently the chief executive at Viscopy. Alida is a passionate supporter of the arts in Australia.

**Jeremy Thorpe**  
(appointed 27/06/2007)

Jeremy is a regulatory economist and a partner at PwC. One of his areas of specialisation is in the economic analysis of copyright issues. Such work includes: the determination of appropriate level and structure of copyright licences and royalty rates; the assessment of the impact of piracy; the valuation of copyright industries; and the assessment of costs and benefits associated with changes to copyright law. Jeremy is currently completing a PhD in law from the University of Technology Sydney, looking at empirical assessment of Australian copyright litigation.

Jeremy serves as chair of the board.

**Christopher Westworth**  
(appointed 28/08/2010)

Chris Westworth is a former partner of Ernst & Young, having worked with the firm in the UK and Denmark before moving to Australia in 1985. He is currently Chairman for the Kolling Foundation and a board member for the Australian Institute of Management (NSW and ACT) and Viscopy. He was also a Former director of Pacific Opera. Chris holds a Bachelor of Law with honours from University of Bristol and both an FCA and MAICD.

Directors have been in office since the start of the financial year to the date of this report unless otherwise stated.

**Company Secretary**

The following person held the position of company secretary at the end of the financial year:  
Ms Virginia Morrison

**Operating Results**

The loss of the company for the financial year amounted to \$151,200.

**VISCOPY LIMITED**  
**A.B.N. 98 069 759 922**

**DIRECTORS' REPORT**

**Significant Changes**

There were no significant changes in the nature of the economic entity's principal activities during the financial year. During the financial year the board has been involved in a strategic review of the operations of the company with a view to engaging in service arrangements in the future that will deliver benefits to members and customers.

**Principal Activities**

Viscopy Limited operates as the dedicated visual arts copyright collection agency in Australia and New Zealand.

Viscopy operates internationally through a business network of visual arts collecting societies to protect and license member artists' work throughout the world.

Viscopy specialises in the international protection and licensing of Aboriginal and Torres Strait Islander artists' copyright.

**After Balance Date Events**

No matters or circumstances have arisen since the end of the financial year which significantly affected or may significantly affect the operations of the company, the results of those operations, or the state of affairs of the company in future financial years.

**Environmental Issues**

The company's operations are not regulated by any significant environmental regulation under a law of the Commonwealth or of a state or territory.

**Meetings of Directors**

	<b>Eligible to Attend</b>	<b>Attended</b>
Merilyn Fairskye	5	4
Katherine Fries	5	4
Desmond Griffin	5	4
Michael Keighery	1	1
Joyce Parszos	3	2
Lynette Riley	5	4
Alida Stanley	5	3
Timothy Denny	4	2
Jeremy Thorpe	5	4
Christopher Westworth	4	2

**VISCOPY LIMITED**  
**A.B.N. 98 069 759 922**

**DIRECTORS' REPORT**

**Dividend**

The provision of the Constitution of the company prohibits the payment of a dividend. Accordingly, no dividend has been paid or declared in this year or since the company's incorporation.

**Options**

No options over issued shares or interests in the company were granted during or since the end of the financial year and there were no options outstanding at the date of this report.

**Members' Guarantee**

The company is limited by guarantee. If the company is wound up, the Constitution states that each member is required to contribute an amount of \$2 towards any outstanding obligations of the company.

**Indemnifying Officer or Auditor**

During or since the end of the financial year the company has given an indemnity or entered into an agreement to indemnify, or paid or agreed to pay insurance premiums as follows:

The company has entered into an agreement to indemnify all the directors against any liability arising from a claim brought by a third party against the company and the directors.

**Proceedings on Behalf of Company**

No person has applied for leave of Court to bring proceedings on behalf of the company or intervene in any proceedings to which the company is a party for the purpose of taking responsibility on behalf of the company for all or any part of those proceedings.

**Non audit Services**

The board of directors, in accordance with the directors' resolution, is satisfied that the provision of non-audit services during the year is compatible with the general standard of independence for auditors imposed by the Corporations Act 2001. The directors are satisfied that the services disclosed below did not compromise the external auditor's independence for the following reasons:

- all non-audit services are reviewed and approved by the directors prior to commencement to ensure they do not adversely affect the integrity and objectivity of the auditor; and
- the nature of the services provided do not compromise the general principles relating to auditor independence as set out in the Institute of Chartered Accountants in Australia and CPA Australia's Professional Statement F1: Professional Independence.

The following fees for non-audit services were paid/payable to the external auditors during the year ended 30 June 2011: \$1,400.

VISCOPY LIMITED  
A.B.N. 98 069 759 922

## DIRECTORS' REPORT

### Auditors' Independence Declaration

A copy of the auditors' independence declaration as required under section 307C of the Corporations Act 2001 follows the directors' report.

Signed in accordance with a resolution of the Board of Directors:

Director:



Christopher Westworth

Director:



Jeremy Thorpe

Dated this 30<sup>th</sup> day of September 2011

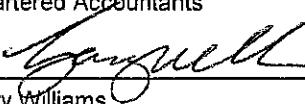
**AUDITORS' INDEPENDENCE DECLARATION  
UNDER SECTION 307C OF THE CORPORATIONS ACT 2001  
TO THE DIRECTORS OF  
VISCOPY LIMITED**

We declare, that to the best of our knowledge and belief, during the year ended 30 June 2011 there have been:

- (i) no contraventions of the auditor independence requirements as set out in the Corporations Act 2001 in relation to the audit; and
- (ii) no contraventions of any applicable code of professional conduct in relation to the audit.

**Name of Firm:** Rosenfeld Kant & Co  
Chartered Accountants

**Name of Partner:**

  
\_\_\_\_\_  
Gary Williams

**Address:** Bondi Junction

**Dated this** 30th **day of** September 2011

**VISCOPY LIMITED**  
**A.B.N. 98 069 759 922**

**STATEMENT OF COMPREHENSIVE INCOME**  
**FOR THE YEAR ENDED 30 JUNE 2011**

	Note	2011 \$	2010 \$
Revenue	2	3,225,364	3,895,584
Distributions to members		(2,287,173)	(2,884,215)
Auditors' remuneration	3	(8,179)	(10,846)
Bad and doubtful debt expenses		(9,616)	-
Depreciation and amortisation expenses	4	(18,380)	(14,850)
Employee benefits expenses		(581,246)	(630,061)
Lease expenses	4	(2,706)	(2,422)
Other expenses		(469,264)	(366,127)
<b>Loss</b>		(151,200)	(12,937)
Retained earnings at the beginning of the financial year		422,918	435,855
Prior year adjustment for over-accrued royalty payable		110,179	-
<b>Retained profit attributable to members of the company</b>		381,897	422,918

The accompanying notes form part of these financial statements.

**VISCOPY LIMITED**  
**A.B.N. 98 069 759 922**

**STATEMENT OF FINANCIAL POSITION**  
**AS AT 30 JUNE 2011**

	Note	2011 \$	2010 \$
<b>ASSETS</b>			
<b>CURRENT ASSETS</b>			
Cash and cash equivalents	6	1,677,714	2,335,271
Trade and other receivables	7	1,420,569	229,475
Other current assets	8	7,396	5,156
<b>TOTAL CURRENT ASSETS</b>		<b>3,105,679</b>	<b>2,569,902</b>
<b>NON-CURRENT ASSETS</b>			
Plant and equipment	9	87,759	106,139
<b>TOTAL NON-CURRENT ASSETS</b>		<b>87,759</b>	<b>106,139</b>
<b>TOTAL ASSETS</b>		<b>3,193,438</b>	<b>2,676,041</b>
<b>LIABILITIES</b>			
<b>CURRENT LIABILITIES</b>			
Trade and other payables	10	2,529,092	1,963,231
Short-term provisions	11	22,448	29,892
<b>TOTAL CURRENT LIABILITIES</b>		<b>2,551,541</b>	<b>1,993,123</b>
<b>TOTAL LIABILITIES</b>		<b>2,551,541</b>	<b>1,993,123</b>
<b>NET ASSETS</b>		<b>641,897</b>	<b>682,918</b>
<b>EQUITY</b>			
Reserves	12	260,000	260,000
Retained earnings		381,897	422,918
<b>TOTAL EQUITY</b>		<b>641,897</b>	<b>682,918</b>

The accompanying notes form part of these financial statements.

**VISCOPY LIMITED**  
**A.B.N. 98 069 759 922**

**STATEMENT OF CHANGES IN EQUITY**  
**FOR THE YEAR ENDED 30 JUNE 2011**

	Note	General reserve \$	Retained earnings \$	Total \$
Balance at 1 July 2009		260,000	435,855	695,855
Loss attributable to members		-	(12,937)	(12,937)
Balance at 30 June 2010		260,000	422,918	682,918
Loss attributable to members		-	(151,200)	(151,200)
Prior year adjustment for over-accrued royalty payable		-	110,179	110,179
Balance at 30 June 2011		260,000	381,897	641,897

The accompanying notes form part of these financial statements.

**VISCOPY LIMITED**  
**A.B.N. 98 069 759 922**

**STATEMENT OF CASH FLOWS**  
**FOR THE YEAR ENDED 30 JUNE 2011**

		2011 \$	2010 \$
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>			
Gross royalties received		1,844,840	3,816,502
Payments to suppliers and employees		(1,205,365)	(1,015,761)
Grants received		120,567	140,189
Interest received		64,264	39,297
Income tax received		-	51,812
Distributions to members		(1,481,863)	(1,979,900)
<b>Net cash provided by operating activities</b>	<b>14</b>	<u>(657,557)</u>	<u>1,052,139</u>
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>			
Payments for furniture and equipment		-	(23,090)
<b>Net cash provided by (used in) investing activities</b>		<u>-</u>	<u>(23,090)</u>
Net increase in cash held		(657,557)	1,029,049
Cash at beginning of financial year		2,335,271	1,306,222
<b>Cash at end of financial year</b>	<b>6</b>	<u>1,677,714</u>	<u>2,335,271</u>

The accompanying notes form part of these financial statements.

**VISCOPY LIMITED**  
**A.B.N. 98 069 759 922**

**NOTES TO THE FINANCIAL STATEMENTS**  
**FOR THE YEAR ENDED 30 JUNE 2011**

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**1 Statement of Significant Accounting Policies**

The financial statements cover Viscopy Limited as an individual entity. Viscopy Limited is a company limited by guarantee, incorporated and domiciled in Australia.

**Basis of Preparation**

The financial statements are general purpose financial statements that have been prepared in accordance with Australian Accounting Standards (including Australian Accounting Interpretations) of the Australian Accounting Standards Board (AASB) and the Corporations Act 2001.

Australian Accounting Standards set out accounting policies that the AASB has concluded would result in financial statements containing relevant and reliable information about transactions, events and conditions. Compliance with Australian Accounting Standards ensures that the financial statements and notes also comply with International Financial Reporting Standards as issued by the IASB. Material accounting policies adopted in the preparation of these financial statements are presented below and have been consistently applied unless otherwise stated.

The financial statements have been prepared on an accruals basis and are based on historical costs, modified, where applicable, by the measurement at fair value of selected non-current assets, financial assets and financial liabilities.

The financial statements were authorised for issue by the directors of the company.

**Going Concern**

The financial statements have been prepared on a going concern basis. The continued use of this basis is materially dependent on the company either significantly reducing its costs and levels of service in the short term or entering into a co-operative venture with another party to allay back office costs. The directors believe that such an arrangement can be achieved and thus the use of the going concern basis is appropriate.

**Income Tax**

The company is exempt from income tax.

**Accounting Policies**

**Plant and Equipment**

Each class of plant and equipment is carried at cost or fair value as indicated less, where applicable, any accumulated depreciation and impairment losses.

**VISCOPY LIMITED**  
**A.B.N. 98 069 759 922**

**NOTES TO THE FINANCIAL STATEMENTS**  
**FOR THE YEAR ENDED 30 JUNE 2011**

---

**Plant and equipment**

Plant and equipment are measured on the cost basis and are therefore carried at cost less accumulated depreciation and any accumulated impairment.

The carrying amount of plant and equipment is reviewed annually by directors to ensure it is not in excess of the recoverable amount from these assets. The recoverable amount is assessed on the basis of the expected net cash flows that will be received from the assets' employment and subsequent disposal. The expected net cash flows have been discounted to their present values in determining recoverable amounts.

Subsequent costs are included in the asset's carrying amount or recognised as a separate asset, as appropriate, only when it is probable that future economic benefits associated with the item will flow to the company and the cost of the item can be measured reliably. All other repairs and maintenance are charged to the statement of comprehensive income during the financial period in which they are incurred.

**Depreciation**

The depreciable amount of all fixed assets is depreciated on a straight line basis over the asset's useful life to the company commencing from the time the asset is held ready for use.

The assets' residual values and useful lives are reviewed, and adjusted if appropriate, at each balance sheet date.

An asset's carrying amount is written down immediately to its recoverable amount if the asset's carrying amount is greater than its estimated recoverable amount.

The depreciable amount of all fixed assets is depreciated on a straight line basis over the asset's useful life to the company commencing from the time the asset is held ready for use.

**Financial Assets**

Financial assets are recognised at the market value of investment. The expected net cash flows from investments have not been discounted to their present value in determining the recoverable amounts, unless otherwise stated.

**VISCOPY LIMITED**  
**A.B.N. 98 069 759 922**

**NOTES TO THE FINANCIAL STATEMENTS**  
**FOR THE YEAR ENDED 30 JUNE 2011**

---

**Cash and Cash Equivalents**

Cash and cash equivalents include cash on hand, deposits held at call with banks, other short-term highly liquid investments with original maturities of three months or less.

**Employee Benefits**

Provision is made for the company's liability for employee benefits arising from services rendered by employees to balance date. Employee benefits expected to be settled within one year together with benefits arising from wages and salaries and annual leave which will be settled after one year, have been measured at the amounts expected to be paid when the liability is settled plus related on-costs

**Revenue and Other Income**

Revenue from the collection of royalties is recognised upon delivery of service to the customer.

Interest revenue is recognised on a proportional basis taking into account the interest rates applicable to the financial assets.

Grant revenue is recognised when expenditure of the grant is incurred.

All revenue is stated net of the amount of goods and services tax (GST).

**VISCOPY LIMITED**  
A.B.N. 98 069 759 922

**NOTES TO THE FINANCIAL STATEMENTS  
FOR THE YEAR ENDED 30 JUNE 2011**

	2011 \$	2010 \$
<b>2 Revenue and Other Income</b>		
<b>Revenue</b>		
Royalties received	3,040,533	3,828,935
Other revenue:		
Interest received	64,264	39,298
Grants received	120,567	27,351
	<u>184,831</u>	<u>66,649</u>
Total revenue	<u>3,225,364</u>	<u>3,895,584</u>
<b>Interest revenue from:</b>		
Interest on Royalty Funds	64,264	36,390
Interest-ATO	-	2,908
Total interest revenue on financial assets not at fair value through profit or loss	<u>64,264</u>	<u>39,298</u>
<b>3 Auditors' Remuneration</b>		
Auditors Remuneration - Fees	<u>8,179</u>	<u>10,846</u>
<b>4 Loss for the year</b>		
<b>Expenses</b>		
Depreciation of plant and equipment	18,380	14,850
Leasing charges	2,706	2,422

**VISCOPY LIMITED**  
A.B.N. 98 069 759 922

**NOTES TO THE FINANCIAL STATEMENTS  
FOR THE YEAR ENDED 30 JUNE 2011**

	2011 \$	2010 \$
<b>5 Income Tax</b>		
Viscopy Limited is exempt from income tax.		
<b>6 Cash and Cash Equivalents</b>		
Cash at Bank	1,677,606	2,335,292
Petty Cash	108	199
Electronic Clearing Account	-	(220)
	<u>1,677,714</u>	<u>2,335,271</u>
<b>Reconciliation of cash</b>		
Cash at the end of the financial year as shown in the statement of cash flows is reconciled to the related items in the statement of financial position as follows:		
Cash and cash equivalents	<u>1,677,714</u>	<u>2,335,271</u>
	<u>1,677,714</u>	<u>2,335,271</u>
<b>7 Trade and Other Receivables</b>		
<b>Current</b>		
Royalty Debtors	1,430,569	234,875
Less Prov'n for Doubtful Debts	(10,000)	(10,000)
	<u>1,420,569</u>	<u>224,875</u>
Loans to Employees Unsecured	-	4,600
	<u>1,420,569</u>	<u>229,475</u>
<b>8 Other Current Assets</b>		
<b>Current</b>		
Prepayments	<u>7,396</u>	<u>5,156</u>

**VISCOPY LIMITED**  
**A.B.N. 98 069 759 922**

**NOTES TO THE FINANCIAL STATEMENTS**  
**FOR THE YEAR ENDED 30 JUNE 2011**

	2011 \$	2010 \$
<b>9 Plant and Equipment</b>		
<b>PLANT AND EQUIPMENT</b>		
<b>Plant and Equipment:</b>		
At cost	120,938	120,937
Accumulated depreciation	(33,179)	(14,798)
<b>Total Plant and Equipment</b>	<u>87,759</u>	<u>106,139</u>

**Movements in Carrying Amounts**

Movement in the carrying amounts for each class of plant and equipment between the beginning and the end of the current financial year.

	Office Equipment \$	Furniture & Fittings \$	Total \$
Balance at 1 July 2010	16,766	89,373	106,139
Additions	-	-	-
Depreciation	(6,447)	(11,933)	(18,380)
Balance at 30 June 2011	<u>10,319</u>	<u>77,440</u>	<u>87,759</u>

**10 Trade and Other Payables**

<b>Current</b>		
Trade Creditors	35,523	49,035
Other Creditors	48,952	179,468
GST Payable	13,750	10,906
Royalties Payable	2,430,867	1,723,821
	<u>2,529,092</u>	<u>1,963,231</u>

**VISCOPY LIMITED**  
A.B.N. 98 069 759 922

**NOTES TO THE FINANCIAL STATEMENTS  
FOR THE YEAR ENDED 30 JUNE 2011**

	2011 \$	2010 \$
<b>11 Provisions</b>		
<b>Analysis of Total Provisions</b>		
Current		
Provision for Holiday Pay	22,448	29,892
	Short-term Employee Benefits	
Opening balance at 1 July 2010	29,892	
(Decrease in) provisions during the year	(7,444)	
	22,448	
<b>12 Reserves</b>		
General Reserve	260,000	260,000

**13 Related Party Transactions**

Transactions between related parties are on normal commercial terms and conditions. These terms and conditions are no more favourable than those available to other parties unless otherwise stated.

There are no transactions with related parties.

**VISCOPY LIMITED**  
**A.B.N. 98 069 759 922**

**NOTES TO THE FINANCIAL STATEMENTS**  
**FOR THE YEAR ENDED 30 JUNE 2011**

	2011 \$	2010 \$
<hr/>		
<b>14 Cash Flow Information</b>		
<b>Reconciliation of Cash Flow from Operations with Loss</b>		
Loss	(151,200)	(12,937)
<b>Non-cash flows in profit</b>		
Depreciation	18,380	14,851
Furniture & equipment written off	-	5,578
<b>Changes in assets and liabilities</b>		
(Increase) in prepayments	(2,240)	(1,335)
(Increase) in trade and other receivables	(1,191,093)	(780)
Decrease in income taxes receivable	-	51,812
(Decrease)/Increase in provisions	(7,444)	13,738
Increase in trade and other payables	565,860	981,212
Increase in prior year adjustment	110,180	-
	<u>(657,557)</u>	<u>1,052,139</u>

**VISCOPY LIMITED**  
**A.B.N. 98 069 759 922**

**NOTES TO THE FINANCIAL STATEMENTS**  
**FOR THE YEAR ENDED 30 JUNE 2011**

	2011	2010
	\$	\$

**15 Financial Risk Management**

The company's financial instruments consist only of deposits with banks, short-term investments and accounts receivable and payable.

The company does not have any derivative instruments at 30 June 2011.

**Net Fair Values**

The net fair values assets and other liabilities have been valued using the net fair value approximates of their carrying value. No financial assets and financial liabilities are readily traded on organised markets in standardised form. Financial assets where the carrying amount exceeds net fair values have not been written down as the company intends to hold these assets to maturity.

The aggregate net fair values and carrying amounts of financial assets and financial liabilities are disclosed in the balance sheet and in the notes to the financial statements.

Aggregate net fair values of financial assets and financial liabilities at balance date:

	2011	2010
	Net Fair Value	Net Fair Value
	\$	\$
<b>Financial Assets</b>		
Cash and cash equivalents	1,577,714	2,335,271
Trade and other receivables	1,420,569	229,475
<b>Total Financial Assets</b>	<u>3,098,283</u>	<u>2,564,746</u>
<b>Financial Liabilities</b>		
Trade and other payables	(2,529,092)	(1,963,231)
<b>Total Financial Liabilities</b>	<u>(2,529,092)</u>	<u>(1,963,231)</u>

All carrying amounts are reflected at fair value

VISCOPY LIMITED  
A.B.N. 98 069 759 922

NOTES TO THE FINANCIAL STATEMENTS  
FOR THE YEAR ENDED 30 JUNE 2011

	2011	2010
	\$	\$

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**16 Company Details**

The registered office of the company is:

1 Blackfriars Street  
Chippendale NSW 2008

The principal place of business is:

1 Blackfriars Street  
Chippendale NSW 2008

**17 Members' Guarantee**

The entity is incorporated under the *Corporations Act 2001* and is an entity limited by guarantee. If the entity is wound up, the constitution states that each member is required to contribute a maximum of \$2 each towards meeting any outstandings and obligations of the entity.

VISCOPY LIMITED  
A.B.N. 98 069 759 922


DIRECTORS' DECLARATION

The directors of the company declare that:

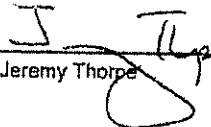
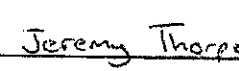
1. The financial statements and notes are in accordance with the Corporations Act 2001 and:
  - (a) comply with Accounting Standards, which, as stated in accounting policy Note 1 to the financial statements, constitutes explicit and unreserved compliance with International Financial Reporting Standards (IFRS); and
  - (b) give a true and fair view of the financial position as at 30 June 2011 and of the performance for the year ended on that date of the company.
2. In the directors' opinion there are reasonable grounds to believe that the company will be able to pay its debts as and when they become due and payable.

This declaration is made in accordance with a resolution of the Board of Directors.

Director:

  
\_\_\_\_\_  
Christopher Westworth

Director:

   
\_\_\_\_\_  
Jeremy Thorpe

Dated this 30<sup>th</sup> day of September 2011

**INDEPENDENT AUDITOR'S REPORT  
TO THE MEMBERS OF VISCOPY LIMITED  
A.B.N. 98 069 759 922**

**Report on the Financial Report**

We have audited the accompanying financial report of Viscopy Limited which comprises the statement of financial position as at 30 June 2011 and the statement of comprehensive income, statement of changes in equity and statement of cash flows for the year ended on that date, a summary of significant accounting policies, other explanatory information and the directors' declaration.

**Directors' Responsibility for the Financial Report**

The directors of the company are responsible for the preparation and fair presentation of the financial report that gives a true and fair view in accordance with Australian Accounting Standards (including Australian Accounting Interpretations) and the Corporations Act 2001 and for such internal control as the directors determine is necessary to enable the preparation of the financial report that is free from material misstatement, whether due to fraud or error. In Note 1, the directors also state, in accordance with Accounting Standard AASB 101: Presentation of Financial Statements, that the financial statements comply with International Financial Reporting Standards (IFRS).

**Auditors' Responsibility**

Our responsibility is to express an opinion on the financial report based on our audit. We conducted our audit in accordance with Australian Auditing Standards. These Auditing Standards require that we comply with relevant ethical requirements relating to audit engagements and plan and perform the audit to obtain reasonable assurance whether the financial report is free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial report. The procedures selected depend on the auditors' judgment, including the assessment of the risks of material misstatement of the financial report, whether due to fraud or error. In making those risk assessments, the auditors consider internal control relevant to the entity's preparation and fair presentation of the financial report in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the directors, as well as evaluating the overall presentation of the financial report.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

**Independence**

In conducting our audit, we have complied with the independence requirements of the Corporations Act 2001. We confirm that the independence declaration required by the Corporations Act 2001, provided to the directors of the company, would be in the same terms if provided to the directors as at the date of this auditor's report.

**INDEPENDENT AUDITOR'S REPORT  
TO THE MEMBERS OF VISCOPY LIMITED  
A.B.N. 98 069 759 922**

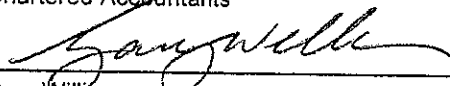
**Auditors' Opinion**

In our opinion:

- (a) the financial report of Viscopy Limited is in accordance with the Corporations Act 2001, including:
  - (i) giving a true and fair view of the company's financial position as at 30 June 2011 and of its performance for the year ended on that date; and
  - (ii) complying with Australian Accounting Standards and the Corporations Regulations 2001; and
- (b) The financial report also complies with International Financial Reporting Standards as disclosed in Note 1.

**Name of Firm:** Rosenfeld Kant & Co  
Chartered Accountants

**Name of Partner:**

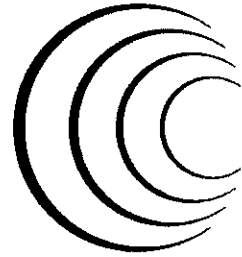
  
Gary Williams

**Address:** Bondi Junction

**Dated this** 30th **day of** September 2011



# ATTACHMENT 3



**COPYRIGHT AGENCY LIMITED**  
ABN 53 001 228 799

Directors' Report and Financial Report  
For the year ended 30 June 2011

## TABLE OF CONTENTS

Directors' report .....	1 - 7
Auditor's independence declaration .....	8
Financial report	
Statement of comprehensive income .....	9
Statement of financial position .....	10
Statement of changes in accumulated funds .....	11
Statement of cash flows .....	12
Notes to financial statements .....	13 - 23
Directors' declaration .....	24
Independent auditor's report .....	25 - 26
Trust account statement .....	27
Notes to trust account statement .....	28
Independent auditor's report - trust account statement .....	29 - 30

**COPYRIGHT AGENCY LIMITED**  
**ABN 53 001 228 799**

**DIRECTORS' REPORT**

The directors present their report together with the financial report of Copyright Agency Limited (CAL) for the year ended 30 June 2011 and auditors report thereon.

**Directors' names**

The names of the directors in office at any time during or since the end of the year are:

Bronwyn Bancroft

Anthony Bertini

James Bradley resigned 25 November 2010

Jeremy Fisher appointed 25 November 2010

Libby Gleeson, AO

Alexander Grant

Brian Johns, AO

Rodney Martin

Malcolm Knox

Lucrezia Russell

Martin Spears

The directors have been in office since the start of the year to the date of this report unless otherwise stated.

**Results and review of operations**

The surplus of the company for the year after providing for income tax amounted to \$2,846,246.

Operating costs of the company are reimbursed from the trust account held on behalf of the company's members. During the year, the company has invested \$3,011,048 in developing software which has been recognised as an intangible asset of the company at balance date. The reimbursement of these costs is included as revenue and the resulting asset will be amortised over its useful life to reflect the benefits to the company and its members. As the amortisation expenses are recognised, the company's accumulated funds will progressively return to historical levels. The company's practice to only hold cash and cash equivalents to cover forecast expenses remains unchanged.

During the year the company also continued its commitment to pay distributions to members on a more timely basis, subject to the its underlying principles and policies on equity, and the result is that the trust account balance has reduced significantly again this year.

**Significant changes in state of affairs**

There were no significant changes in the company's state of affairs that occurred during the financial year, other than those referred to elsewhere in this report.

**COPYRIGHT AGENCY LIMITED**  
**ABN 53 001 228 799**

**DIRECTORS' REPORT**

**Principal activities**

The principal activity of the company during the year was that of a copyright collecting society.

No significant change in the nature of these activities occurred during the year.

**After balance date events**

No matters or circumstances have arisen since the end of the financial year which significantly affected or may significantly affect the operations of the company, the results of those operations, or the state of affairs of the company in future financial years.

**Likely developments**

The company expects to maintain the present status and level of operations.

**Environmental regulation**

The company's operations are not regulated by any significant environmental regulation under a law of the Commonwealth or of a State or Territory.

**Dividends paid, recommended and declared**

The company is limited by guarantee. No dividends are permitted to be paid under the constitution of the company.

**COPYRIGHT AGENCY LIMITED**  
**ABN 53 001 228 799**

**DIRECTORS' REPORT**

**Information on directors and company secretary**

<b>Bronwyn Bancroft</b>	Director
Qualifications	Dip. VComms, Master of Studio Practice, MVA (Painting)
Experience	Australian artist who has served on the boards of Viscopy, the National Indigenous Arts Advocacy Association, the National Gallery of Australia, the Museum of Contemporary Art and Designer Aboriginals Pty Ltd.
Special responsibilities	Independent Director since 20 November 2008. Member of CAL's Branding and Cultural Fund Committees.
<b>Anthony Bertini</b>	Director
Qualifications	BA
Experience	Chairman of Thumper One Pty Ltd, a corporate advisory firm investing in and incubating new technologies in three key sectors: ICT, Clean Tech and Medical Devices. Former publisher of IPC Magazines Australia and founder of Hyro Ltd. Current directorships include The Biennale of Sydney, Wavefront Biometrics Pty Ltd and Hydrogen Assist Pty Ltd.
Special responsibilities	Independent director since May 2010. Member of CAL's Audit and Finance and IT Strategy Committees.
<b>James Bradley</b>	Director
Qualifications	BA (Hons) LLB GDLP
Experience	Author and critic.
Special responsibilities	Australian Society of Authors appointed Director 2004 - 2010.
<b>Jeremy Fisher</b>	Director
Qualifications	DCA, MA, BA, Dip DesStud, Dip Ed
Experience	Author, Senior Lecturer in Writing, School of Arts, University of New England, former Executive Director of the Australian Society of Authors.
Special responsibilities	Australian Society of Authors appointed Director since 2010. Member of CAL's IT Strategy, Cultural Fund and Branding Committees.
<b>Libby Gleeson, AO</b>	Director
Qualifications	BA (HONS), DIP ED, CERT TESOL
Experience	Former high school and tertiary education teacher, widely published writer of children's and youth literature. Adjunct Professor, Faculty of Education and Social Work, University of Sydney; a director of Bookmite Pty Limited since 1996 and OzAuthors 2000-04; former Treasurer and Chair of the Australian Society of Authors. AM, 2007 for services to literature and literacy education; winner of the 2005 Meritorious Service to Public Education and Training Award.
Special responsibilities	Australian Society of Authors appointed Director since 2005. Member of CAL's Cultural Fund and Branding Committees.

**COPYRIGHT AGENCY LIMITED**

**ABN 53 001 228 799**

**DIRECTORS' REPORT**

<b>Alexander Grant</b>	Chair
Qualifications	BA
Experience	Chief Executive, Hardie Grant Publishing; former CEO Reed Books UK; former Managing Director Reed Books Australia; past President and Director of Australian Publishers Association; Director of Explore Australia Pty Ltd; Chair of Hardie Grant Magazines; Chair of Hardie Grant Egmont; Director of Hardie Grant Books.
Special responsibilities	Australian Publishers Association appointed Director since 2002 then independent director since November 2009. Member of CAL's Audit and Finance, IT Strategy and Branding Committees.
<b>Brian Johns, AO</b>	Director
Qualifications	Honorary Doctorate Social Sciences, RMIT, Doctor of the University, QUT.
Experience	Adjunct Professor Creative Industries Faculty QUT 2000-04; former Managing Director Australian Broadcasting Corporation and Special Broadcasting Services; former Chair Australian Broadcasting Authority; former Publishing Director Penguin Books Australia; journalist and news executive.
Special responsibilities	Independent Director since 2001 and Chair 2003-2009. Convenor of CAL's Cultural Fund Committee and member of CAL's Audit and Finance Committee.
<b>Rodney Martin</b>	Director
Qualifications	DIPT (ADV), BED, MBA, FEA
Experience	Founder of Era Publications; former Director of the Exporters' Club in Adelaide; Convenor of the Adelaide Publishing Cluster; Convenor of the Family Business Australia Hall of Fame, former director of Australian Multimedia Enterprise Limited.
Special responsibilities	Publisher elected Director since 2004. Convenor of CAL's IT Strategy Committee and member of CAL's Audit and Finance and Branding Committees.
<b>Malcolm Knox</b>	Director
Qualifications	BA (HONS), M PHIL
Experience	Author and journalist.
Special responsibilities	Author elected Director since 2006. Convenor of CAL's Audit and Finance Committee and member of CAL's Cultural Fund Committee.
<b>Lucrezia Russell</b>	Director
Qualifications	BA
Experience	General Manager of John Wiley & Sons Higher Education Division since 1995, former Convenor of the APA Tertiary and Professional Committee.
Special responsibilities	APA appointed Director since 1 July 2010. Member of CAL's Audit and Finance, IT Strategy and Branding Committees.

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**ABN 53 001 228 799**

**DIRECTORS' REPORT**

<b>Martin Spears</b>	Director
Qualifications	BA
Experience	Former director of Australian Publishers Association; former convenor of the Schools Educational Publishing Committee; Managing Director Pearson Education Australia.
Special responsibilities	Australian Publishers Association appointed Director since 2003. Member of CAL's IT Strategy and Cultural Fund Committees.
<b>Caroline Morgan</b>	Company secretary
Qualifications	BA, LLB, MBA
Experience	CAL General Manager since 2003.
Special responsibilities	Company secretary

**Meetings of directors**

Directors	Directors' meetings		Audit and Finance committee meetings		Member Relations and Communication s committee meetings		Cultural Fund committee meetings		Branding committee meetings		IT Strategy committee meetings	
	Number eligible to attend	Number attended	Number eligible to attend	Number attended	Number eligible to attend	Number attended	Number eligible to attend	Number attended	Number eligible to attend	Number attended	Number eligible to attend	Number attended
Bronwyn Bancroft	7	6	-	-	1	1	5	4	1	-	-	-
Anthony Bertini	7	7	7	7	-	-	-	-	-	-	4	4
James Bradley	3	3	2	1	-	-	-	-	-	-	-	-
Jeremy Fisher	4	4	-	-	-	-	3	3	1	1	2	2
Libby Gleeson, AO	7	7	-	-	1	1	5	5	1	1	-	-
Alexander Grant	7	7	7	7	1	1	-	-	1	1	5	5
Brian Johns, AO	7	7	7	5	-	-	5	5	-	-	-	-
Malcolm Knox	7	6	7	6	1	1	5	4	-	-	-	-
Rodney Martin	7	7	7	7	1	1	-	-	1	1	5	5
Lucrezia Russell	7	6	3	3	-	-	-	-	1	1	4	3
Martin Spears	7	6	-	-	-	-	5	4	-	-	5	4

**COPYRIGHT AGENCY LIMITED**

**ABN 53 001 228 799**

**DIRECTORS' REPORT**

**Indemnification of officers**

The company has paid premiums to insure each of the following directors and officers against liabilities for costs and expenses incurred by them in defending any legal expenses incurred by them in defending any legal proceedings arising out of their conduct while acting in the capacity of director or officer of the company, other than conduct involving a wilful breach of duty in relation to the company. The amount of the premium paid in this financial year was \$8,500 and covered:

- |                    |                   |
|--------------------|-------------------|
| - James Bradley    | - Brian Johns     |
| - Anthony Bertini  | - Rodney Martin   |
| - Bronwyn Bancroft | - Caroline Morgan |
| - Lucrezia Russell | - Libby Gleeson   |
| - Martin Spears    | - Alexander Grant |
| - Malcolm Knox     | - Jeremy Fisher   |
| - Jim Alexander    | - Ansari Hamid    |

Further disclosure required under section 300(9) of the Corporations Act 2001 is prohibited under the terms of the contract.

**Indemnification of auditors**

No indemnities have been given or insurance premiums paid, during or since the end of the year, for any person who is or has been an auditor of the company.

**Auditor's independence declaration**

A copy of the auditor's declaration under section 307C of the Corporations Act 2001 in relation to the audit for the financial year is provided with this report.

**Proceedings on behalf of the company**

No person has applied for leave of Court to bring proceedings on behalf of the company or intervene in any proceedings to which the company is a party for the purpose of taking responsibility on behalf of the company for all or any part of those proceedings.

COPYRIGHT AGENCY LIMITED  
ABN 53 001 228 799

**DIRECTORS' REPORT**

**Directors' remuneration**

Under Article 38 of CAL's Constitution, Directors' remuneration is determined by the Company in general meeting.

Details of the nature and amount of each element of the emoluments of each director of the company are as follows:

	Base Remuneration \$	Superannuation Contributions \$	Total \$
Bronwyn Bancroft	27,900	-	27,900
Anthony Bertini	27,900	-	27,900
James Bradley	10,157	914	11,071
Jeremy Fisher	15,439	1,390	16,829
Libby Gleeson, AO	25,596	2,304	27,900
Alexander Grant	55,800	-	55,800
Brian Johns, AO	27,900	-	27,900
Rodney Martin	25,596	2,304	27,900
Malcolm Knox	25,596	2,304	27,900
Lucrezia Russell	25,596	2,304	27,900
Martin Spears	25,596	2,304	27,900

Signed on behalf of the board of directors.

Director: \_\_\_\_\_

  
Alexander Grant

Director: \_\_\_\_\_

  
Brian Johns, AO

Dated this

26th

day of

August

2011



## PITCHER PARTNERS

ACCOUNTANTS AUDITORS & ADVISORS

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Australia

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Pitcher Partners, including Johnston Rorke,  
is an association of independent firms  
Melbourne | Sydney | Perth | Adelaide | Brisbane

### **COPYRIGHT AGENCY LIMITED ABN 53 001 228 799**

#### **AUDITOR'S INDEPENDENCE DECLARATION TO THE DIRECTORS OF COPYRIGHT AGENCY LIMITED**

In relation to the independent audit for the year ended 30 June 2011, to the best of my knowledge and belief there have been:

- (i) No contraventions of the auditor independence requirements of the *Corporations Act 2001*; and
- (ii) No contraventions of any applicable code of professional conduct.

R M SHANLEY

Partner

26 August 2011

PITCHER PARTNERS

Sydney

**COPYRIGHT AGENCY LIMITED**  
**ABN 53 001 228 799**

**STATEMENT OF COMPREHENSIVE INCOME**  
**FOR THE YEAR ENDED 30 JUNE 2011**

	Note	2011 \$	2010 \$
<b>Revenue</b>	4	19,457,698	16,797,206
<b>Less: expenses</b>			
Depreciation and amortisation expense	5	(555,916)	(429,531)
Employee benefits expense		(10,642,464)	(10,369,476)
Occupancy expenses		(1,025,025)	(933,128)
Finance costs	5	-	(1,831)
Consultancy costs		(90,206)	(135,137)
Sampling costs		(949,692)	(1,170,782)
Legal costs		(184,581)	(156,425)
Directors fees		(306,898)	(260,455)
Funds management costs		-	408
Employment taxes and costs		(426,811)	(850,567)
IT costs		(386,286)	(434,225)
Office running costs		(452,058)	(399,243)
Other expenses		<u>(1,591,515)</u>	<u>(1,622,510)</u>
		<u>(16,611,452)</u>	<u>(16,762,902)</u>
<b>Surplus before income tax expense</b>		2,846,246	34,304
Income tax expense		<u>-</u>	<u>-</u>
<b>Net surplus from continuing operations</b>		<u>2,846,246</u>	<u>34,304</u>
<b>Other comprehensive income for the year</b>		<u>-</u>	<u>-</u>
<b>Total comprehensive income</b>		<u><u>2,846,246</u></u>	<u><u>34,304</u></u>

The accompanying notes form part of these financial statements.

**COPYRIGHT AGENCY LIMITED**  
**ABN 53 001 228 799**

**STATEMENT OF FINANCIAL POSITION**  
**AS AT 30 JUNE 2011**

	Note	2011 \$	2010 \$
<b>Current assets</b>			
Cash and cash equivalents	7	1,208,857	695,020
Receivables	8	51,798	40,561
Other assets	11	<u>966,655</u>	<u>981,518</u>
<b>Total current assets</b>		<u>2,227,310</u>	<u>1,717,099</u>
<b>Non-current assets</b>			
Intangible assets	10	3,519,993	677,115
Property, plant and equipment	9	<u>1,045,953</u>	<u>1,002,303</u>
<b>Total non-current assets</b>		<u>4,565,946</u>	<u>1,679,418</u>
<b>Total assets</b>		<u>6,793,256</u>	<u>3,396,517</u>
<b>Current liabilities</b>			
Payables	12	2,422,425	1,821,817
Provisions	13	<u>745,887</u>	<u>845,998</u>
<b>Total current liabilities</b>		<u>3,168,312</u>	<u>2,667,815</u>
<b>Non-current liabilities</b>			
Payables	12	56,160	73,440
Provisions	13	<u>663,761</u>	<u>596,485</u>
<b>Total non-current liabilities</b>		<u>719,921</u>	<u>669,925</u>
<b>Total liabilities</b>		<u>3,888,233</u>	<u>3,337,740</u>
<b>Net assets</b>		<u>2,905,023</u>	<u>58,777</u>
<b>Accumulated funds</b>			
Retained surplus		<u>2,905,023</u>	<u>58,777</u>
<b>Total accumulated funds</b>		<u>2,905,023</u>	<u>58,777</u>

The accompanying notes form part of these financial statements.

**COPYRIGHT AGENCY LIMITED**  
**ABN 53 001 228 799**

**STATEMENT OF CHANGES IN ACCUMULATED FUNDS**  
**FOR THE YEAR ENDED 30 JUNE 2011**

	2011 \$	2010 \$
<b>Total accumulated funds</b>		
Balance at beginning of the year	58,777	24,473
Movements in accumulated funds from:		
Retained surplus	<u>2,846,246</u>	<u>34,304</u>
Balance at the end of the year	<u><u>2,905,023</u></u>	<u><u>58,777</u></u>
<b>Retained surplus</b>		
Balance at beginning of the year	58,777	24,473
Profit for the year	<u>2,846,246</u>	<u>34,304</u>
Total comprehensive income	<u>2,846,246</u>	<u>34,304</u>
Balance at the end of the year	<u><u>2,905,023</u></u>	<u><u>58,777</u></u>

The accompanying notes form part of these financial statements.

**COPYRIGHT AGENCY LIMITED**

ABN 53 001 228 799

**STATEMENT OF CASH FLOWS  
FOR THE YEAR ENDED 30 JUNE 2011**

	Note	2011 \$	2010 \$
<b>Cash flow from operating activities</b>			
Receipts from customers		19,411,327	18,713,144
Payments to suppliers and employees		(15,993,479)	(17,974,346)
Interest received		116,778	33,548
Finance costs		<u>-</u>	<u>(1,831)</u>
<b>Net cash provided by operating activities</b>	15(b)	<u>3,534,626</u>	<u>770,515</u>
<b>Cash flow from investing activities</b>			
Proceeds from sale of property, plant and equipment		250	1,568
Payment for property, plant and equipment		(431,927)	(262,049)
Payment for intangible assets		(3,090,662)	(588,195)
Payment of grants from Cultural Fund		(1,784,887)	(1,141,867)
Receipts allocated to Cultural Fund		<u>2,286,437</u>	<u>1,218,685</u>
<b>Net cash provided by / (used in) investing activities</b>		<u>(3,020,789)</u>	<u>(771,858)</u>
<b>Cash flow from financing activities</b>			
Repayment of borrowings		<u>-</u>	<u>(27,961)</u>
<b>Net cash provided by / (used in) financing activities</b>		<u>-</u>	<u>(27,961)</u>
<b>Reconciliation of cash</b>			
Cash at beginning of the financial year		695,020	724,324
Net increase / (decrease) in cash held		<u>513,837</u>	<u>(29,304)</u>
<b>Cash at end of financial year</b>	15(a)	<u><u>1,208,857</u></u>	<u><u>695,020</u></u>

The accompanying notes form part of these financial statements.

**COPYRIGHT AGENCY LIMITED**  
**ABN 53 001 228 799**

**NOTES TO FINANCIAL STATEMENTS**  
**FOR THE FINANCIAL YEAR ENDING 30 JUNE 2011**

**NOTE 1: STATEMENT OF SIGNIFICANT ACCOUNTING POLICIES**

The financial report is a general purpose financial report that has been prepared in accordance with Australian Accounting Standards - Reduced Disclosure Requirements, Interpretations and other authoritative pronouncements of the Australian Accounting Standards Board and the *Corporation Act 2001*.

The financial report was approved by the directors as at the date of the directors' report.

The financial report is for the entity Copyright Agency Limited as an individual entity. Copyright Agency Limited is a company limited by shares, incorporated and domiciled in Australia.

The following is a summary of the material accounting policies adopted by the company in the preparation and presentation of the financial report. The accounting policies have been consistently applied, unless otherwise stated.

**(a) Basis of preparation of the financial report**

*Historical Cost Convention*

The financial report has been prepared under the historical cost convention, as modified by revaluations to fair value for certain classes of assets as described in the accounting policies.

**(b) Revenue**

Revenue from the rendering of services is recognised upon the delivery of the service to the customers.

Interest revenue is recognised when it becomes receivable on a proportional basis taking in to account the interest rates applicable to the financial assets.

All revenue is stated net of the amount of goods and services tax (GST).

**(c) Property, plant and equipment**

Each class of plant and equipment is carried at cost or fair value less, where applicable, any accumulated depreciation and any accumulated impairment losses.

*Plant and equipment*

Plant and equipment is measured on the cost basis.

The carrying amount of plant and equipment is reviewed annually by directors to ensure it is not in excess of the recoverable amount from those assets. The recoverable amount is assessed on the basis of the expected net cash flows which will be received from the assets employment and subsequent disposal. The expected net cash flows have been discounted to present values in determining recoverable amounts.

*Depreciation*

The depreciable amount of all fixed assets are depreciated over their estimated useful lives commencing from the time the asset is held ready for use.

Leasehold improvements are depreciated over the shorter of either the unexpired period of the lease or the estimated useful lives of the improvements.

**COPYRIGHT AGENCY LIMITED**

**ABN 53 001 228 799**

**NOTES TO FINANCIAL STATEMENTS  
FOR THE FINANCIAL YEAR ENDING 30 JUNE 2011**

**NOTE 1: STATEMENT OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)**

**(c) Property, plant and equipment (Continued)**

<b>Class of fixed asset</b>	<b>Depreciation rates</b>	<b>Depreciation basis</b>
Leasehold improvements at cost	5-33%	Straight line
Office equipment at cost	5-20%	Straight line
Furniture, fixtures and fittings at cost	1-20%	Straight line
Computer equipment at cost	20-40%	Straight line
Pooled assets less than \$1,000	19-38%	Diminishing value

**(d) Leases**

Leases are classified at their inception as either operating or finance leases based on the economic substance of the agreement so as to reflect the risks and benefits incidental to ownership.

**Operating leases**

Lease payments for operating leases, where substantially all the risks and benefits remain with the lessor, are recognised as an expense on a straight-line basis over the term of the lease.

Lease incentives received under operating leases are recognised as a liability and amortised on a straight-line basis over the life of the lease term.

**(e) Income tax**

Current income tax expense or revenue is the tax payable on the current period's taxable income based on the applicable income tax rate adjusted by changes in deferred tax assets and liabilities.

Specific provisions, applicable to copyright collecting societies, ensure (a) copyright income collected and held on behalf of the members, pending allocation to the member; and (b) non copyright income that falls within certain limits, are not subject to income tax.

**(f) Employee benefits**

Liabilities arising in respect of wages and salaries, annual leave, accumulated sick leave and any other employee benefits expected to be settled within twelve months of the reporting date are measured at their nominal amounts based on remuneration rates which are expected to be paid when the liability is settled. All other employee benefit liabilities are measured at the present value of the estimated future cash outflow to be made in respect of services provided by employees up to the reporting date.

**(g) Borrowing costs**

Borrowing costs can include interest, amortisation of discounts or premiums relating to borrowings, ancillary costs incurred in connection with arrangement of borrowings, foreign exchange losses net of hedged amounts on borrowings.

Borrowing costs are expensed as incurred.

**NOTES TO FINANCIAL STATEMENTS**  
**FOR THE FINANCIAL YEAR ENDING 30 JUNE 2011**

**NOTE 1: STATEMENT OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)**

**(h) Impairment**

Assets with an indefinite useful life are not amortised but are tested annually for impairment in accordance with AASB 136. Assets subject to annual depreciation or amortisation are reviewed for impairment whenever events or circumstances arise that indicate that the carrying amount of the asset may be impaired. An impairment loss is recognised where the carrying amount of the asset exceeds its recoverable amount. The recoverable amount of an asset is defined as the higher of its fair value less costs to sell and value in use.

**(i) Comparatives**

Where necessary, comparative information has been reclassified and repositioned for consistency with current year disclosures.

**(j) Financial instruments**

*Classification*

The company classifies its financial assets into the following categories: financial assets at fair value through profit and loss, loans and receivables, held-to-maturity investments, and available-for-sale financial assets. The classification depends on the purpose for which the instruments were acquired. Management determines the classification of its financial instruments at initial recognition.

*Loans and receivables*

Loans and receivables are measured at fair value at inception and subsequently at amortised cost using the effective interest rate method.

*Financial liabilities*

Financial liabilities include trade payables, other creditors and loans from third parties including inter-company balances and loans from or other amounts due to director-related entities.

Non-derivative financial liabilities are recognised at amortised cost, comprising original debt less principal payments and amortisation.

**(k) Intangibles**

*Internally developed software*

Internally developed software is initially recorded at the purchase price and amortised on a straight line basis over the period of 5 years. The balances are reviewed annually and any balance representing future benefits the realisation of which is considered to be no longer probable are written off.

**COPYRIGHT AGENCY LIMITED**

**ABN 53 001 228 799**

**NOTES TO FINANCIAL STATEMENTS  
FOR THE FINANCIAL YEAR ENDING 30 JUNE 2011**

**NOTE 1: STATEMENT OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)**

**(l) Goods and services tax (GST)**

Revenues, expenses and assets are recognised net of the amount of GST, except where the amount of GST incurred is not recoverable from the Tax Office. In these circumstances the GST is recognised as part of the cost of acquisition of the asset or as part of an item of the expense. Receivables and payables in the statement of financial position are shown inclusive of GST.

Cash flows are presented in the statement of cash flows on a gross basis, except for the GST component of investing and financing activities, which are disclosed as operating cash flows.

**(m) Cash and cash equivalents**

Cash and cash equivalents include cash on hand and at banks, short-term deposits with an original maturity of three months or less held at call with financial institutions, and bank overdrafts. Bank overdrafts are shown within borrowings in current liabilities on the statement of financial position.

**NOTE 2: NEW ACCOUNTING STANDARDS AND INTERPRETATIONS**

There is not expected to be any significant impact on the entity's financial report on the initial application of Australian Accounting Standards issued at reporting date but not yet effective.

**NOTE 3: CRITICAL ACCOUNTING ESTIMATES AND JUDGEMENTS**

Certain accounting estimates include assumptions concerning the future, which, by definition, will seldom represent actual results. No estimates or assumptions are considered to have the potential to materially impact the assets or liabilities of the company in the next financial year.

***(a) Impairment of internally developed software***

Intangible assets with a indefinite life or are not yet available for use are required to be tested for impairment annually at balance date. Intangible assets with a finite life are required to be tested for impairment annually at each reporting date where any indicators of impairment exist in relation to the continued use of the asset by the company. Indicators of impairment include technology changes, adverse changes in the economic or political environment or future expectations.

Internally developed software has been tested for impairment by determining the recoverable amount of the asset. The recoverable amount of assets is based on value-in-use calculations. These calculations are based on current financial forecasts and projected cash flows approved by management covering a period not exceeding five years. Management's determination of cash flow projections are based on past performance and its expectation for the future.

**COPYRIGHT AGENCY LIMITED**  
**ABN 53 001 228 799**

**NOTES TO FINANCIAL STATEMENTS**  
**FOR THE FINANCIAL YEAR ENDING 30 JUNE 2011**

	2011	2010
	\$	\$
	2011	2010
	\$	\$
<b>NOTE 4: REVENUE</b>		
Rendering of services	18,922,563	16,495,955
Interest income	111,747	59,589
Other revenue	423,388	241,662
Total revenue	<u>19,457,698</u>	<u>16,797,206</u>
<b>NOTE 5: OPERATING PROFIT</b>		
Profit / (losses) before income tax has been determined after:		
Finance costs	-	1,831
Depreciation	374,995	412,964
Amortisation	180,921	16,567
Loss on disposal/revaluation of non current assets	280	16,339
Remuneration of auditors for:		
Pitcher Partners		
- Auditor's remuneration - audit fees	36,000	35,000
- Auditor's remuneration - other services	4,000	4,000
- Auditor's remuneration - audit fees - distributions	17,000	12,500
	<u>57,000</u>	<u>51,500</u>
<b>NOTE 6: KEY MANAGEMENT PERSONNEL COMPENSATION</b>		
Compensation received by key management personnel of the company		
- short-term employee benefits	<u>754,022</u>	<u>740,355</u>
	<u>754,022</u>	<u>740,355</u>
<b>NOTE 7: CASH AND CASH EQUIVALENTS</b>		
Cash on hand	1,000	800
Cash at bank	<u>1,207,857</u>	<u>694,220</u>
	<u>1,208,857</u>	<u>695,020</u>

**COPYRIGHT AGENCY LIMITED**

ABN 53 001 228 799

**NOTES TO FINANCIAL STATEMENTS  
FOR THE FINANCIAL YEAR ENDING 30 JUNE 2011**

	2011	2010
	\$	\$
<b>NOTE 8: RECEIVABLES</b>		
<b>CURRENT</b>		
Trade debtors	<u>51,798</u>	<u>40,561</u>

It is expected that all trade debtors will be received when due. There are no trade debtors that are past due at reporting date.

**NOTE 9: PROPERTY, PLANT AND EQUIPMENT**

<b>Leasehold improvements</b>		
At cost	147,309	145,929
Accumulated amortisation	<u>(48,504)</u>	<u>(35,753)</u>
	<u>98,805</u>	<u>110,176</u>
 <b>Office equipment, furniture and computer equipment</b>		
Office equipment, furniture and computer equipment at cost	3,571,312	3,154,895
Accumulated depreciation	<u>(2,624,164)</u>	<u>(2,262,768)</u>
	<u>947,148</u>	<u>892,127</u>
Total property, plant and equipment	<u>1,045,953</u>	<u>1,002,303</u>

**(a) Reconciliations**

Reconciliation of the carrying amounts of property, plant and equipment at the beginning and end of the current financial year

<i>Leasehold improvements</i>		
Opening carrying amount	110,176	108,443
Additions	1,380	18,300
Amortisation expense	<u>(12,751)</u>	<u>(16,567)</u>
Closing carrying amount	<u>98,805</u>	<u>110,176</u>
 <i>Office equipment, furniture and computer equipment</i>		
Opening carrying amount	892,127	1,079,249
Additions	430,547	243,749
Disposals	(530)	(17,907)
Depreciation expense	<u>(374,995)</u>	<u>(412,964)</u>
Closing carrying amount	<u>947,149</u>	<u>892,127</u>

**COPYRIGHT AGENCY LIMITED**  
**ABN 53 001 228 799**

**NOTES TO FINANCIAL STATEMENTS**  
**FOR THE FINANCIAL YEAR ENDING 30 JUNE 2011**

	2011 \$	2010 \$
<b>NOTE 10: INTANGIBLE ASSETS</b>		
Internally developed software at cost	3,688,163	677,115
Accumulated amortisation and impairment	<u>(168,170)</u>	<u>-</u>
	<u><u>3,519,993</u></u>	<u><u>677,115</u></u>

**(a) Reconciliations**

Reconciliation of the carrying amounts of intangible assets at the beginning and end of the current financial year

*Internally developed software at cost*

Opening balance	677,115	-
Additions	3,011,048	677,115
Amortisation expense	<u>(168,170)</u>	<u>-</u>
Closing balance	<u><u>3,519,993</u></u>	<u><u>677,115</u></u>

**NOTE 11: OTHER ASSETS**

**CURRENT**

Prepayments	199,339	214,202
Lease security deposit	<u>767,316</u>	<u>767,316</u>
	<u><u>966,655</u></u>	<u><u>981,518</u></u>

**COPYRIGHT AGENCY LIMITED**

ABN 53 001 228 799

**NOTES TO FINANCIAL STATEMENTS  
FOR THE FINANCIAL YEAR ENDING 30 JUNE 2011**

	<b>2011</b>	<b>2010</b>
	<b>\$</b>	<b>\$</b>
<b>NOTE 12: PAYABLES</b>		
<b>CURRENT</b>		
<i>Unsecured liabilities</i>		
Trade creditors	845,065	818,313
Cultural fund	897,374	395,824
Deferred revenue	621,137	544,524
GST credits	41,569	45,876
Lease incentive	<u>17,280</u>	<u>17,280</u>
	<u>2,422,425</u>	<u>1,821,817</u>
<b>NON CURRENT</b>		
<i>Unsecured liabilities</i>		
Lease incentive	<u>56,160</u>	<u>73,440</u>

It is expected that all trade creditors, accrued expenses and GST payable will be paid when due. There are no amounts that are past due at reporting date.

**NOTE 13: PROVISIONS**

<b>CURRENT</b>		
Employee benefits	(a) 615,736	591,077
Restructure costs	<u>130,151</u>	<u>254,921</u>
	<u>745,887</u>	<u>845,998</u>
<b>NON CURRENT</b>		
Employee benefits	(a) <u>663,761</u>	<u>596,485</u>
(a) Aggregate employee benefits liability	1,279,496	1,187,562

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**ABN 53 001 228 799**

**NOTES TO FINANCIAL STATEMENTS**  
**FOR THE FINANCIAL YEAR ENDING 30 JUNE 2011**

	2011	2010
	\$	\$

**NOTE 13: PROVISIONS (CONTINUED)**

**(b) Reconciliations**

Reconciliation of the carrying amounts of provisions at the beginning and end of the current financial year

*Restructure costs*

Opening balance	254,921	81,537
Additional amounts recognised	130,151	254,921
Amounts used	(239,399)	(75,537)
Unused amounts reversed	<u>(15,522)</u>	<u>(6,000)</u>
Closing balance	<u>130,151</u>	<u>254,921</u>

**Provision for Restructuring Costs**

A provision for restructuring costs has been recognised for estimated redundancy, recruitment and consulting costs in relation to the restructuring of the divisions within the company. The provision has been recognised as a liability as the expenditure has been committed to at balance date.

**Provision for Non Current Employee Entitlements**

A provision has been recognised for employee benefits relating to long service leave for employees. In calculating the present value of future cash flows in respect of long service leave, the probability of long service leave being taken is based upon historical data. The measurement and recognition criteria for employee benefits has been included in Note 1.

**NOTE 14: CAPITAL AND LEASING COMMITMENTS**

**(a) Operating lease commitments**

Non-cancellable operating leases contracted for but not capitalised in the financial statements:

Payable

- not later than one year	1,192,716	1,141,583
- later than one year and not later than five years	3,998,148	4,714,357
- later than five years	<u>-</u>	<u>306,359</u>
	<u>5,190,864</u>	<u>6,162,299</u>

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**NOTES TO FINANCIAL STATEMENTS**  
**FOR THE FINANCIAL YEAR ENDING 30 JUNE 2011**

	2011	2010
	\$	\$

**NOTE 15: CASH FLOW INFORMATION**

**(a) Reconciliation of cash**

Cash at the end of the financial year as shown in the statement of cash flows is reconciled to the related items in the statement of financial position is as follows:

Cash on hand	1,000	800
Cash at bank	<u>1,207,857</u>	<u>694,220</u>
	<u>1,208,857</u>	<u>695,020</u>

**(b) Reconciliation of cash flow from operations with profit after income tax**

Profit from ordinary activities after income tax	2,846,246	34,304
--	-----------	--------

**Adjustments and non-cash items**

Amortisation	180,921	16,567
Depreciation	374,995	412,964
Net (gain) / loss on disposal of property, plant and equipment	280	16,339

**Changes in assets and liabilities**

(Increase) / decrease in receivables	(11,237)	(5,540)
(Increase) / decrease in other assets	14,863	64,898
Increase / (decrease) in payables	161,393	5,053
Increase / (decrease) in provisions	<u>(32,835)</u>	<u>225,930</u>
	<u>688,380</u>	<u>736,211</u>
Cash flows from operating activities	<u>3,534,626</u>	<u>770,515</u>

**NOTE 16: RELATED PARTY TRANSACTIONS**

(a) Transactions between related parties are on normal commercial terms and conditions no more favourable than those available to other parties otherwise stated.

The only related party transactions during the year were distributions to directors made under the constitution to copyright holders from trust declared distribution pools.

**COPYRIGHT AGENCY LIMITED**  
**ABN 53 001 228 799**

**NOTES TO FINANCIAL STATEMENTS**  
**FOR THE FINANCIAL YEAR ENDING 30 JUNE 2011**

**NOTE 17: EVENTS SUBSEQUENT TO REPORTING DATE**

There has been no matter or circumstance, which has arisen since 30 June 2011 that has significantly affected or may significantly affect:

- (a) the operations, in financial years subsequent to 30 June 2011, of the company, or
- (b) the results of those operations, or
- (c) the state of affairs, in financial years subsequent to 30 June 2011, of the company.

**NOTE 18: MEMBERS' GUARANTEE**

The company is incorporated under the *Corporations Act 2001* and is a company limited by guarantee. If the company is wound up, the Constitution states that each member is required to contribute to a maximum of \$20 each towards meeting any outstandings and obligations of the company. At 30 June 2011 the number of members was 20,010.

**NOTE 19: COMPANY DETAILS**

The registered office of the company is:

Copyright Agency Limited  
Level 15  
233 Castlereagh Street  
Sydney NSW 2000

**NOTE 20: STATEMENT OF OPERATIONS BY SEGMENTS**

The company was established in 1974 to act as agent for its members authors and publishers to collectively administer the copying of their works in educational institutions and other organisations. The company commenced business in 1986 and is based in Sydney.

Copyright Agency Limited has been declared by the Commonwealth Attorney General to be the collecting society to administer the statutory licence created under Part VB of the Copyright Act 1968, for the copying and communication of copyright material by educational institutions, institutions assisting handicapped readers and institutions assisting intellectually handicapped persons.

Copyright Agency Limited has been declared by the Copyright Tribunal as the collecting society to administer the statutory licence in Division 2 of Part VII of the Copyright Act 1968 in relation to government copies of works and published editions of works, other than works included in a sound recording, cinematograph film or a television or sound broadcast.

Copyright Agency Limited has been appointed by the Australian Government as the collecting society under the Resale Royalty Right for Visual Artists Act 2009 for collection of resale royalties payable in respect of artworks of eligible artists.


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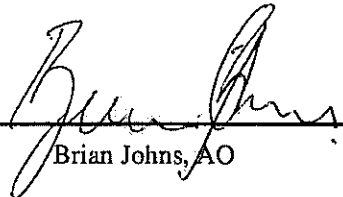
DIRECTORS' DECLARATION

The directors of the company declare that:

1. The financial statements and notes, as set out on pages 9 - 23, are in accordance with the *Corporations Act 2001*:
  - (a) comply with Australian Accounting Standards - Reduced Disclosure Requirements and the *Corporations Regulations 2001*; and
  - (b) give a true and fair view of the financial position as at 30 June 2011 and performance for the year ended on that date of the company.
2. In the directors' opinion there are reasonable grounds to believe that the company will be able to pay its debts as and when they become due and payable.

This declaration is made in accordance with a resolution of the Board of Directors.

Director:   
Alexander Grant

Director:   
Brian Johns, AO

Dated this 26th day of August 2011

**COPYRIGHT AGENCY LIMITED**  
**ABN 53 001 228 799**

**INDEPENDENT AUDITOR'S REPORT**  
**TO THE MEMBERS OF COPYRIGHT AGENCY LIMITED**

We have audited the accompanying financial report of Copyright Agency Limited, which comprises the statement of financial position as at 30 June 2011, the statement of comprehensive income, statement of changes in accumulated funds and statement of cash flows for the year then ended, notes comprising a summary of significant accounting policies and other explanatory information, and the directors' declaration.

*Directors' Responsibility for the Financial Report*

The directors of the company are responsible for the preparation of the financial report that gives a true and fair view in accordance with Australian Accounting Standards and the *Corporations Act 2001* and for such internal control as the directors determine is necessary to enable the preparation of the financial report that is free from material misstatement, whether due to fraud or error.

*Auditor's Responsibility*

Our responsibility is to express an opinion on the financial report based on our audit. We conducted our audit in accordance with Australian Auditing Standards. Those standards require that we comply with relevant ethical requirements relating to audit engagements and plan and perform the audit to obtain reasonable assurance about whether the financial report is free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial report. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial report, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation of the financial report that gives a true and fair view in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the directors, as well as evaluating the overall presentation of the financial report.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

*Independence*

In conducting our audit, we have complied with the independence requirements of the *Corporations Act 2001*.

**COPYRIGHT AGENCY LIMITED**  
ABN 53 001 228 799

**INDEPENDENT AUDITOR'S REPORT  
TO THE MEMBERS OF COPYRIGHT AGENCY LIMITED**

*Independence*

In conducting our audit, we have complied with the independence requirements of the *Corporations Act 2001*.

*Opinion*

In our opinion, the financial report of Copyright Agency Limited is in accordance with the *Corporations Act 2001*, including:

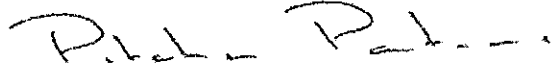
- (a) giving a true and fair view of the company's financial position as at 30 June 2011 and of its performance for the year ended on that date; and
- (b) complying with Australian Accounting Standards and the *Corporations Regulations 2001*.



R M SHANLEY

Partner

26 August 2011



PITCHER PARTNERS

Sydney

**COPYRIGHT AGENCY LIMITED**  
**ABN 53 001 228 799**

**TRUST ACCOUNT STATEMENT**  
**FOR THE YEAR ENDED 30 JUNE 2011**

	2011 \$	2010 \$
Balance as at 1 July	<u>92,371,097</u>	<u>100,128,004</u>
<b>Add:</b>		
Licence and other copying fees		
- Statutory licence agreements	108,882,301	132,481,237
- Voluntary licence agreements	15,587,950	14,295,282
- Other collecting societies	1,805,632	1,454,599
- Resale royalty	<u>171,685</u>	<u>-</u>
	<u>126,447,568</u>	<u>148,231,118</u>
Interest and investment income received	5,212,559	3,924,486
GST paid by licensees on voluntary licence fees	<u>1,465,151</u>	<u>1,349,620</u>
<b>Less:</b>		
Distributions		
- current year	(121,240,032)	(136,463,008)
- payments in transit from prior year	(1,021)	(4,585,633)
- payments in transit from current year	45,215	1,021
- GST	<u>(1,107,748)</u>	<u>(952,786)</u>
	<u>(122,303,586)</u>	<u>(142,000,406)</u>
Reimbursement of operating costs	(18,908,367)	(16,233,670)
GST paid	(2,118,488)	(1,698,828)
Transfer to Cultural Fund	(2,486,043)	(1,324,954)
Bank and other charges	<u>(1,347)</u>	<u>(4,273)</u>
Balance as at 30 June	<u>79,678,544</u>	<u>92,371,097</u>
<b>Represented by funds held with:</b>		
BT Investment Management	-	60,079,916
Cash at bank	<u>79,678,544</u>	<u>32,291,181</u>
	<u>79,678,544</u>	<u>92,371,097</u>

**COPYRIGHT AGENCY LIMITED**  
**ABN 53 001 228 799**

**NOTES TO TRUST ACCOUNT STATEMENT**

**NOTE 1: STATEMENT OF SIGNIFICANT ACCOUNTING POLICIES**

The trust account statement is a special purpose financial report that has been prepared in accordance with requirements of Copyright Act 1968, Trustee Act 1925, the company's constitution and guidelines for Copyright Collecting Societies issued by the Attorney General's Department.

The statement is prepared on a cash basis.

**NOTE 2: FAIR VALUE OF FUNDS HELD**

The fair value of listed investments included in funds held are based on quoted market bid price at balance date adjusted for transaction costs expected to be incurred to realise.

**NOTE 3: APPLICATION OF FUNDS TO CULTURAL FUND**

Following changes to CAL's constitution passed at the 2010 AGM, the Board of Directors has agreed to apply an amount not exceeding 1.5% (increased from 1%) of monies received by the company during the financial year from licence and other copying fees for:

- (a) cultural or benevolent purposes in accordance with regulation 23JM (1) (d) of the Copyright Regulations and articles 74(b)(iii) and 83(a)(iv) of the company's Constitution and Rules - in the case of equitable remuneration received by the company under the Copyright Act 1968; and
- (b) special purpose (including cultural and/or charitable purposes) in accordance with article 73(b) of the company's Constitution and Rules - in the case of monies received by the company on behalf of members under its voluntary licence agreements and all other revenue.

**NOTE 4: FINANCIAL RISK MANAGEMENT**

The trust account is subject to interest rate, market and liquidity risk.

Interest rate risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate as a result of changes in market interest rates.

Market price risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in market prices (other than those arising from interest rate risk or currency risk).

Liquidity risk is the risk that an entity will encounter difficulty in meeting obligations associated with distributions to members.

The directors of Copyright Agency Limited are responsible for the management of these risks in respect of the trust account funds and appoint professional portfolio managers to prudently manage the funds under strict, risk averse guidelines approved by the Board. These guidelines include capital preservation of members' funds and a return no less than 90 day bank bill rates.

The Audit and Finance Committee have also been delegated responsibility by the Board to monitor the performance of the portfolio managers against these guidelines.



**PITCHER PARTNERS**

ACCOUNTANTS AUDITORS & ADVISORS

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19 Martin Place  
Sydney NSW 2000  
Australia

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**COPYRIGHT AGENCY LIMITED**  
**ABN 53 001 228 799**

**INDEPENDENT AUDITOR'S REPORT  
ON THE TRUST ACCOUNT STATEMENT  
TO THE MEMBERS OF  
COPYRIGHT AGENCY LIMITED**

We have audited the accompanying Trust Account Statement of Copyright Agency Limited for the year ended 30 June 2011.

*Directors' responsibility for the financial report*

The directors of the company are responsible for the preparation and presentation of this statement in accordance with the cash basis of accounting and compliance with the legal and regulatory requirements applicable to the trust account and set out on this statement. This responsibility includes designing, implementing and maintaining internal control relevant to the preparation and presentation of the statement that is free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies; and making accounting estimates that are reasonable in the circumstances.

*Auditor's Responsibility*

Our responsibility is to express an opinion on the statement based on our audit. We conducted our audit in accordance with Australian Auditing Standards. These Auditing Standards require that we comply with relevant ethical requirements relating to audit engagements and plan and perform the audit to obtain reasonable assurance whether the statement is free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the statement. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the statement, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and presentation of the statement in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the financial statement.

The Trust Account Statement has been prepared in accordance with the cash basis of accounting for purposes of providing information to the company's members and inclusion in the 2010-2011 Annual Report.

**COPYRIGHT AGENCY LIMITED**  
**ABN 53 001 228 799**

**INDEPENDENT AUDITOR'S REPORT  
ON THE TRUST ACCOUNT STATEMENT  
TO THE MEMBERS OF  
COPYRIGHT AGENCY LIMITED**

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

*Independence*

In conducting our audit, we have complied with the independence requirements of the *Corporations Act 2001*.

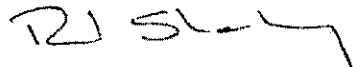
*Auditor's Opinion*

In our opinion, the Trust Account Statement of Copyright Agency Limited for the year ended 30 June 2011, presents fairly, in all material respects, movements in the trust account in accordance with the cash basis of accounting.

*Report on Other Legal and Regulatory Requirements*

In our opinion, the Trust Account Statement of Copyright Agency Limited for the year ended 30 June 2011, and the distribution of fees collected on behalf of members and other copyright owners during the year ended on 30 June 2011, comply with the requirements of:

- (a) articles 73 to 76 of Copyright Agency Limited's constitution;
- (b) ss 135ZZB and s153F of the Copyright Act 1968;
- (c) guidelines for Collecting Societies issued by the Attorney-General's Department; and
- (d) provisions of the Trustee Act 1925.



R M SHANLEY

Partner

26 August 2011



PITCHER PARTNERS

Sydney

Celebrating Australia's  
Resale Royalty for Artists:  
The First Year

Copyright Agency  
Annual Review 2010-2011

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## Contents

4	Chair's report
6	CEO report
8	About us
10	Our people
12	Our members
14	Focus on corporations
16	Our business goes online
18	Licence fees
20	Expenditure
21	Payments to rightsholders
22	Royalties for artists
24	Cultural Fund
26	More about Copyright Agency

## Chair's report

At last year's annual general meeting Copyright Agency members voted to increase the share of licensing fees directed to the Cultural Fund from 1.0% to 1.5%. This decision has contributed to an increase in the breadth of activities we have been able to support. The fund isn't the most important thing Copyright Agency undertakes, but it is something the Board is proud to see flourish and something that enables us to contribute to the educational and cultural communities in a way that can make a real difference.

The Cultural Fund is emblematic of the role Copyright Agency plays in the creative communities and is bringing us closer to our membership as we develop new projects. A video outlining a range of funded projects is on our website at [www.copyright.com.au](http://www.copyright.com.au).

The Copyright Agency's core business has again produced very strong results for members with distributions of more than \$120 million. We have been improving our processes to return a higher percentage of usage fees faster to members and management has achieved just that in 2010-11. There may still be small gains to be made on your behalf, but the pattern has improved so dramatically over the last five years we have to acknowledge that we cannot continue to distribute more than the fees we collect.

There are raging debates about the cost and role of content particularly in the education sector and it is for the Board and Management to demonstrate just what a dynamic and flexible tool the statutory licence has proved.

We are confident that allowing schools and universities to access and reuse content under this licence has ensured liberal and valuable use of content that other forms of control or licensing could not deliver. It is a licence that has rewarded creators, but enabled teachers free rein to use the best and most appropriate sources for a very low per student head cost. We remain firmly of the view that the current laws will adapt with the schools as they undertake more and more interesting and exciting digital uses of content.

A year ago we undertook the role of managing the resale royalty scheme for visual artists. Again there has been some anxiety and controversy as the scheme has been rolled out, but we are delighted to say that after our first year it has exceeded our expectations and that the artists and galleries are now engaging very positively with Copyright Agency to ensure its success.

With all our activities we are very mindful of the constricting economic circumstances and both our expenditure and management of your Trust Fund represent a conservative approach to the market situation. We have now completed a highly successful and important new investment in systems that we believe will reduce costs over the years ahead and that will help us enhance equity as we distribute to members. This year we roll out direct payments in a very ambitious change and it is a step we hope will improve understanding of the Copyright Agency and improve the member experience.

Finally, a paragraph of congratulations to Jim Alexander and all his team for the work they contributed to the outstanding result we report to you this year. A lot of complex and difficult challenges have arisen and been met and the organisation ends the year stronger for that effort.

**Sandy Grant**  
Chair



George Tjungurrayi  
*Tingari - Karkkurlinyia (Lake MacDonald)*  
2010, acrylic on canvas  
© George Tjungurrayi. Licensed by Aboriginal Artists Agency, 2011

## CEO report

This year Copyright Agency is taking a new approach. Rather than tell you about the year's achievements and provide commentary on the financial year's performance and audited accounts in a single report, they are now separated into this annual review and full documentation on the company's website, [www.copyright.com.au](http://www.copyright.com.au).

However it is reported, this has been a year of many achievements for the Copyright Agency and its members.

We celebrated a significant milestone in marking the first full year of operation of Australia's resale royalty scheme for visual artists. Despite a flat market, the scheme generated \$325,000 in royalties for Australian artists. More than 1500 works were eligible for royalties under the scheme, created by 300 artists, many of whom were indigenous.

**We have chosen to reflect and celebrate the early success of the resale royalty scheme through the design and artwork in this review. Through it, we pay our tribute to Australian artists.**

More broadly, the use of members' works rose again this year, reflected in increased fees and payments to creators and rightsholders.

In 2010-11, the Copyright Agency's income (comprised of licensing fees and interest) was \$123 million. We paid more than \$120 million to rightsholders, including authors, journalists, visual artists, photographers and publishers.

These payments to rightsholders take the total payments to more than \$900 million since 1989. More than \$1 billion will have been paid by 2012. This is a measure of the level of access to, and use of members' works over the period and an indication of the significance of the statutory licence to the Australian publishing industry.

We often hear from creators, and small and major publishers alike of the ways in which Copyright Agency payments sustain their activities, most significantly in educational publishing.

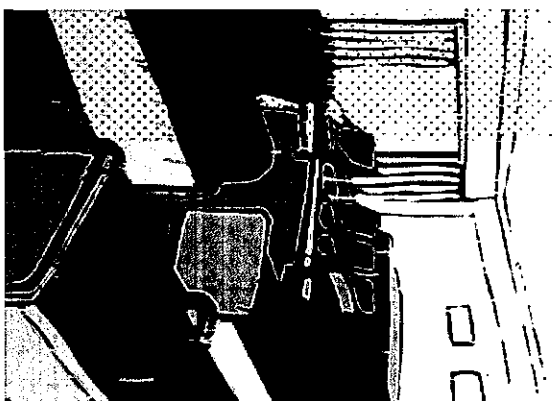
Ensuring fair payment for the use of works is dependent upon both the cooperation of licensees and the Copyright Agency's own processes and systems. Steady progress has been made during 2010-11 on a business systems improvement program, which saw the launch of an online member facility. This allows members to register shares in works which in turn enables payment to be made under the new direct payment service commencing in November 2011.

Copyright Agency's efforts to provide licensing solutions that provide greater access to content are reflected in our year-on-year growth in usage fees. The growth from commercial licensing activities makes this particularly evident. Usage fees increased by 17% to \$16 million during 2010-11. Fees from government increased by 8% to \$10 million, with licence fees collected from educational institutions steady at \$90 million, reflecting the negotiated 'flat' usage fees for increased access to works.

In recognition of the above, let me make my thanks to Copyright Agency's staff, members, licensees, Board and other stakeholders for another positive year.

The coming year will see the release of some major reports with particular relevance to the Copyright Agency's business. We have recently received the final report of the Book Industry Strategy Group, and there will be progress on the Commonwealth Attorney-General's reference to the Australian Law Reform Commission. Discussions about a national cultural policy will continue and we will see an outcome from the Minister for Communication's convergence review. All of these activities will present opportunities and challenges which, I believe, we are better than prepared to take on.

**Jim Alexander**  
Chief Executive Officer

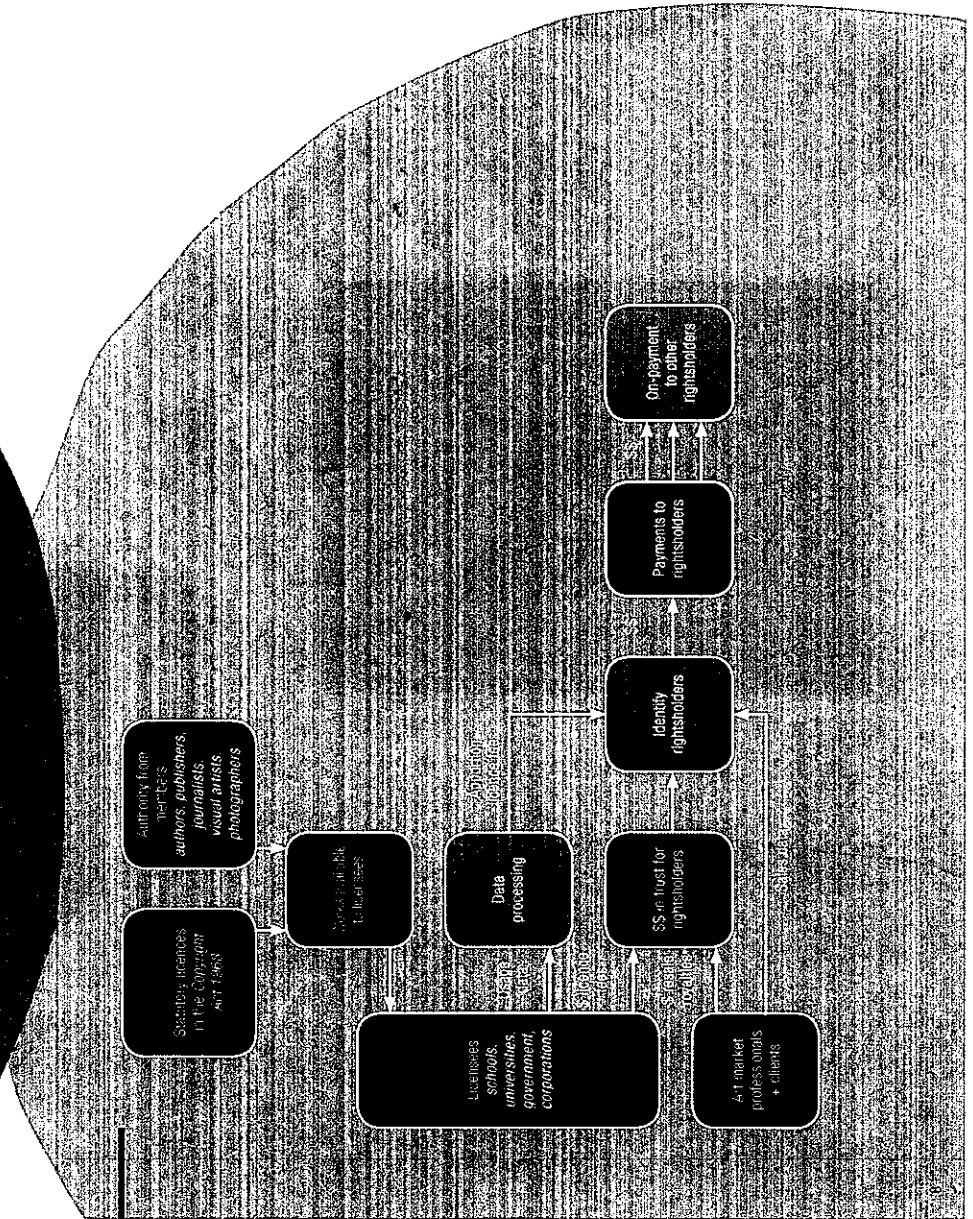


**Jasper Knight**  
Allison Hall 1976, enamel on perspex and board  
© Jasper Knight

## About us

We are a not for profit rights management organisation with more than 20,000 members. We collect copyright fees and royalties for rightsholders, who include writers, artists and publishers. We have been appointed by the Australian Government to manage licence schemes for the education and government sectors, and the artists' resale royalty scheme. We also manage other licence schemes as an agent for our members.

## Our business at a glance



Arthur Boyd  
Head in a Cup, 1963, painted and glazed ceramic tile  
© Reproduced with the permission of Bundanon Trust

## Our people

### Board of directors



(l to r): Anthony Bertini (seated), Jeremy Fisher, Lucy Russell, Libby Gleason (seated), Sandy Grant, Martin Spears, Malcolm Knox (seated), Rod Martin, Bronwyn Bancroft, Brian Johns (seated).  
Photo: Richard Birch Photography

### Our team

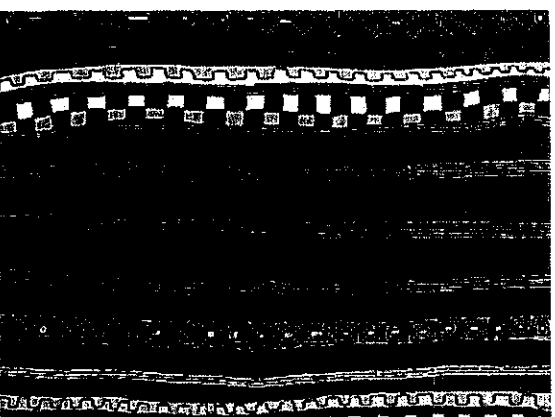
Copyright Agency's 100 staff work to support government policies to ensure easy access to content at a fair price. A wide range of specialists contribute to this effort, working in IT, works and rights research, usage data processing, legal affairs, membership services, statutory and commercial licensing, financial services, human resources and administration.



Copyright Agency staff members: (l to r) Rosihan Khadka (Licensing), Liz Southwell (Communications) and Jenni Young (IT)  
Photo: Richard Birch Photography



Bill Robinson & Enrol Barnes  
*Farmyard Vase*, c.1993  
hand painted and glazed ceramic  
© Bill Robinson & Enrol Barnes.



Patrick Tingurayi  
*Tingan*, 2010, acrylic on canvas  
© Patrick Tingurayi  
Licensed by Aboriginal Artists Agency, 2011

## Our members



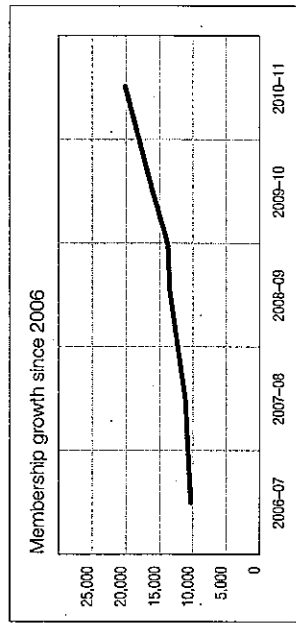
Copyright Agency member, Anita Haiss (writer and Queensland University of Technology writer-in-resident during October 2011, supported by Copyright Agency's Cultural Fund)

Photo: Richard Birch Photography

**Our members are people and organisations who own rights in text and images. They include writers, journalists, artists, photographers and publishers. About 60% of our members are creators.**

Membership is free. Members join so they can claim copyright fees collected under statutory licences, and, if they choose, to appoint us as their non-exclusive agent to license their works.

Our appointment by the government to manage statutory licences requires rightsholders to become members to claim payment from a statutory licence. We hold money collected for non-members' works in trust until they become members. Our membership has doubled over the last five years.



## Just like being there... Copyright Agency member presentations now available online

This year Copyright Agency made life a little easier for its members. Those who weren't able to make the annual member seminar in Sydney on 25 May were able to view all of the presentations online – including a full video of each presentation, complete with viewable slides.

During 2010–11 Copyright Agency streamlined its approach to member seminars and will now hold one seminar each year, reaching across the entire country with this new way of presenting seminar content.

We also introduced a series of smaller networking events for members. These smaller events provide members with an opportunity to meet with Copyright Agency representatives and other creators in a relaxed, social setting that allows people to share ideas and opinions over a drink and a canapé.



Fred Williams  
*Upwey Landscape*,  
c.1968, oil on canvas  
© The Estate of Fred Williams

## Focus on corporations

In 2010–11, we implemented a number of strategies to increase the uptake of voluntary licences by corporate users of copyright material. These strategies include direct marketing, new licence offerings and the launch of an online licensing portal. Our licensees provide significant business benefits, allowing companies to quickly and legally communicate copyright content to staff and clients. As a result, fees from corporate licensees increased by 17%.

### What the market wants Developing corporate licences based on use

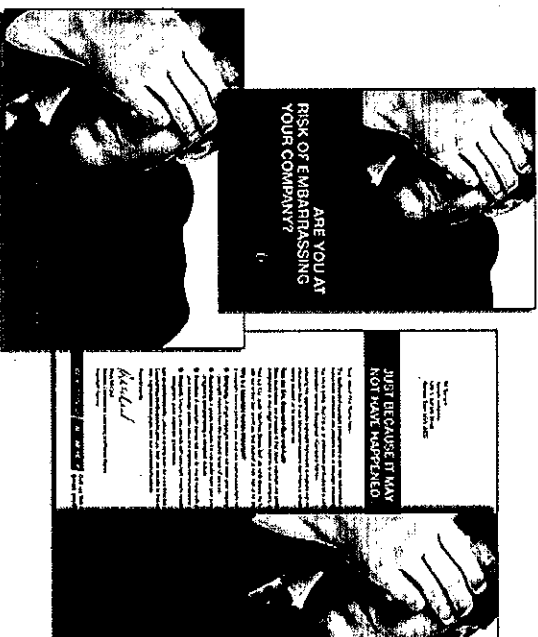
Copyright Agency has a track record of working closely with all of its corporate licensees to ensure that licence agreements remain dynamic and tailored to the needs of businesses, associations and non-profit organisations. During 2010–11, we expanded the range of permissions relating to works represented by the New Media Licence Schemes.

The redeveloped New Media Licence Schemes allow licensees to use the works Copyright Agency represents in the following ways:

- print, photocopy, scan or email content internally;
- include content in a slide or other presentation directly to an audience physically present;
- supply content electronically to external advisers for legal proceedings;
- supply content electronically as part of filing or obtaining regulatory approval; and
- for health and pharmaceutical companies:
  - supply content electronically to health professionals legitimately requesting medical information in relation to the use of the licensee's products; and
  - supply electronic copies to other organisations in relation to the use or support of any of the licensee's products, where the receiving organisation also holds a current Copyright Agency licence.



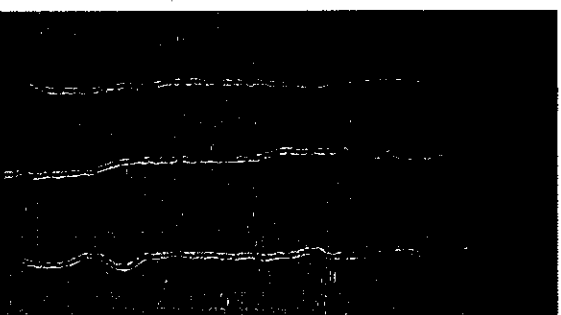
Photo: Richard Birch Photography



Images from Copyright Agency direct marketing campaign to corporations, provided by Freezer.

Copyright Agency always attempts to approach licensing arrangements in ways that ensure any changes to how licensees can use copyright works does not conflict with the current or developing business models of rightsholders.

Joseph Zimran  
Manu Tikurpa, 2010  
acrylic on canvas  
© Joseph Zimran

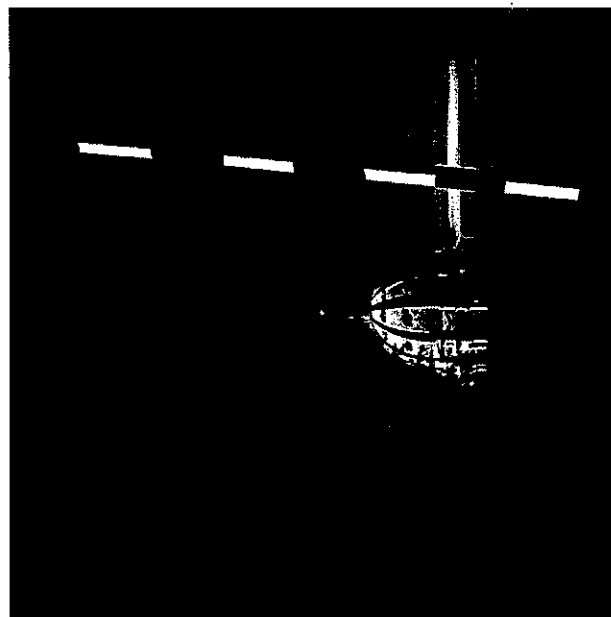
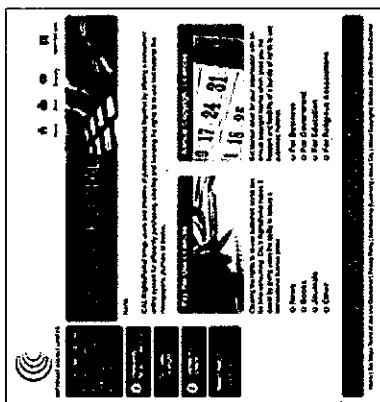


## Our business goes online

In 2010–11 Copyright Agency launched two online portals:

1. for rightsholders – to apply for membership and manage their accounts; and
2. for licensees – to clear rights for individual works, and to apply for, or renew, their annual blanket licences.

We also launched Facebook pages for members, the resale royalty scheme and our Cultural Fund, and started using Twitter.



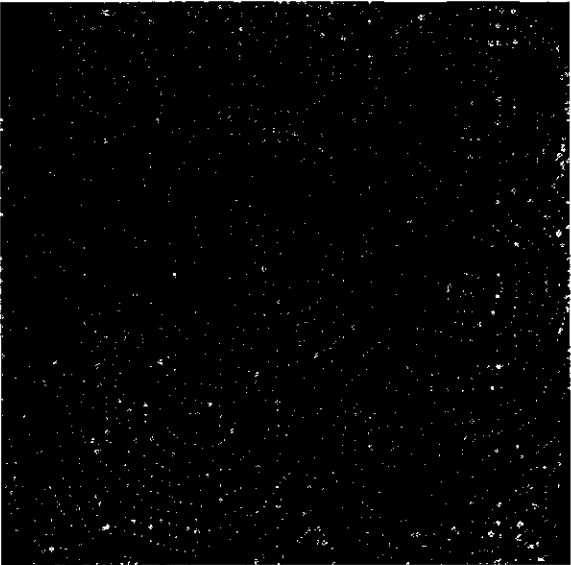
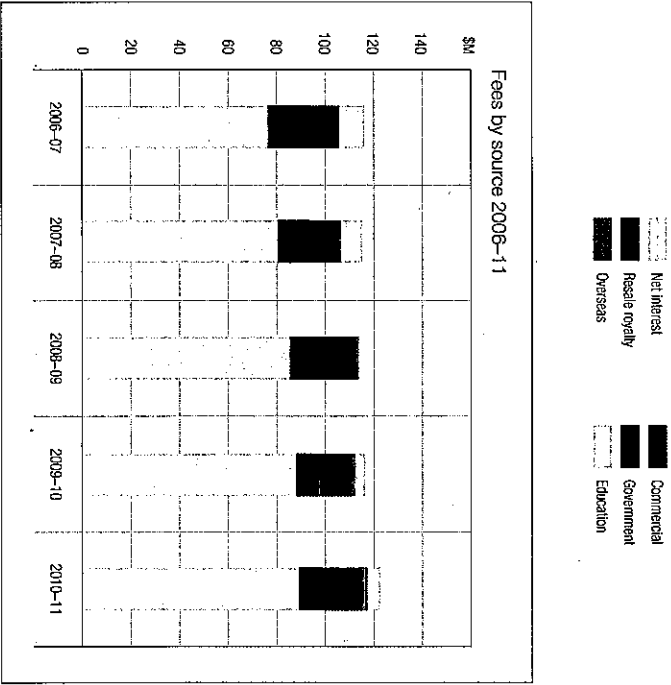
**Jeffrey Smart**  
*The Dome*, 1977,  
 giclee print on paper ed. 499  
 © Jeffrey Smart



**Kudditi Ngwarreye**  
*My Country*, 2011, acrylic on canvas  
 © Kudditi Ngwarreye, Licensed by Aboriginal Artists Agency, 2011

Licence fees

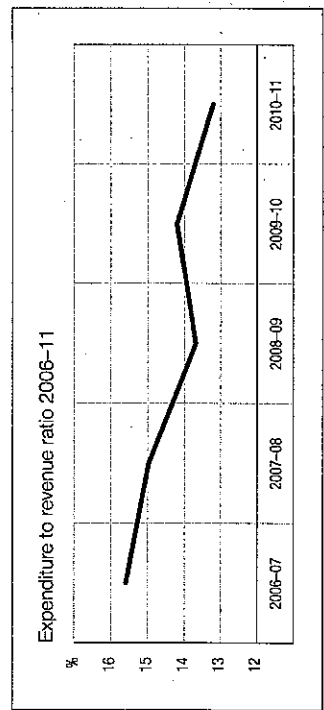
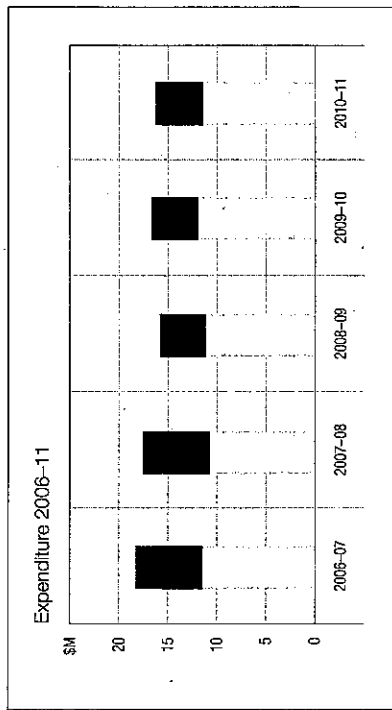
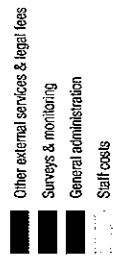
Usage of copyright works has continued to increase over the last five years, increasing licence fees in turn.



George Tungurayi  
*Tingeri - Karkuruthiyila*  
(Lake MacDonald)  
2010, acrylic on canvas  
© George Tungurayi. Licensed by  
Aboriginal Artists Agency/2011

## Expenditure

A significant component of our expenditure relates to identifying rightsholders entitled to payment, and calculating the proportions of licence fees allocated to those rightsholders on the basis of usage information provided by licensees.

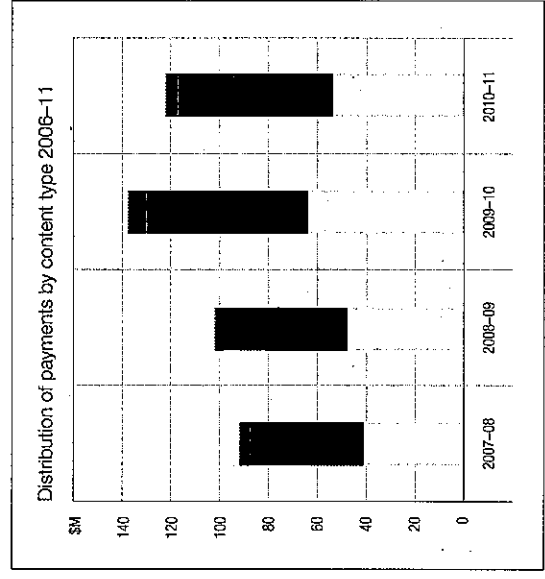


## Payments to rightsholders

Our payments reach rightsholders in two ways: directly and indirectly (through a member or another collecting society).

In 2010, we began collecting information from members about payment share arrangements between authors and publishers, to enable us to make direct payments to more than one rightsholder in a work. The first payments based on notified payment shares will occur in late 2011.

There is information on our website about how we determine the distribution of licence fees to rightsholders.



## Royalties for artists

In its first year of operation, the artists' resale royalty scheme generated:

- more than \$325,000
- from 1500 resales
- for 300 artists



Artist Santa King at work on 'Waterhole' at Gallery 577, Melbourne.  
Photo: Saville Coble



2009 Archibald Prize winner, Guy Mastrri, at work in his Sydney studio.  
Photo: Richard Birch Photography

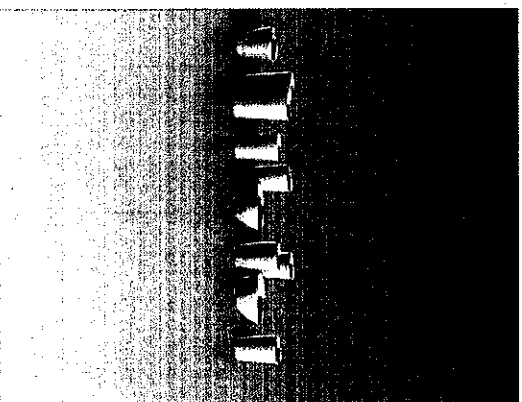
## Resale royalty A year in review

Copyright Agency celebrated a significant milestone in marking the first full year of operation of Australia's resale royalty scheme for visual artists. Despite a flat market over the year, the scheme generated \$325,000 in royalties for Australian artists. More than 1500 works were eligible for royalties under the scheme, created by 300 artists, many of whom were Indigenous. We have heard directly from some Indigenous artists, expressing their delight in receiving their first payments.

The Indigenous art market involves more changes of ownership than other areas and there has been a high proportion of royalties payable on Indigenous works. In fact, approximately 60% of the royalties were for Indigenous artists. In some cases, the artists live in remote areas and can be difficult to reach, but Copyright Agency is successfully reaching artists through a variety of means, including through Indigenous art centres and agents. We have been engaging with Indigenous art centres and artists in remote areas, including by travelling to art centres, and attending important gatherings of artists and art centres.

such as the Darwin Art Fair, the Garmma Festival and the annual general meetings of some of the art centres' umbrella organisations.

We believe that a large part of the scheme's success is due to the participation of the art dealers, galleries and auction houses and their provision of sales information. This in turn has been facilitated by the appointment of specialist staff members to assist artists and art market professionals in the day-to-day operation of the scheme. Copyright Agency has been providing particular support to art market professionals – dealers, galleries and auction houses – to help them meet their obligations under the scheme relating to reporting of resales and payment of royalties and to help incorporate these obligations into their business practices. Artists receive similar support and guidance on the scheme from our Visual Artists Manager, while our Indigenous Communications Coordinator has been instrumental in the level of participation in the scheme by Indigenous artists in remote communities.



Gwyn Hansen Pigott  
*Sign* (2006), translucent porcelain  
stamped with round on base  
© Gwyn Hansen Pigott

## Cultural Fund

At the 2010 AGM, our members authorised an increased allocation of licence fees to the Copyright Agency Cultural Fund, from 1% to 1.5%. The Fund supports a wide variety of projects that assist writers, artists, publishers and others in the Australian cultural community.

There is more information on our website about the projects we have supported, some of which feature in a short film we have produced to celebrate the Cultural Fund's contribution to creativity in Australia.

[www.youtube.com/user/copyrightagencyltd](http://www.youtube.com/user/copyrightagencyltd)

## Cultural Fund highlight Bringing poetry alive online

Poetry has had such an impact on shaping Australia's identity and the sharing of uniquely Australian stories over the years – so much so, that most of us carry the likeness of two of our most prominent poets in our pockets on the ten dollar note.

A website launched during 2010–11 is giving Australian poetry a new lease on life, exposing poets to new markets and, importantly, creating opportunities for additional income.

On 25 May the Governor of NSW, Professor Marie Bashir, hosted an event at Government House to celebrate the launch of the Australian Poetry Library (APL) website and pay tribute to many of Australia's talented past and present poets. The APL is an online archive of Australian poetry and resources focused on providing an income stream for Australian poets and new educational materials for teachers and students.

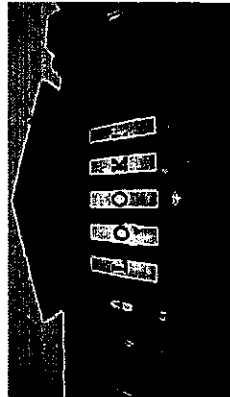
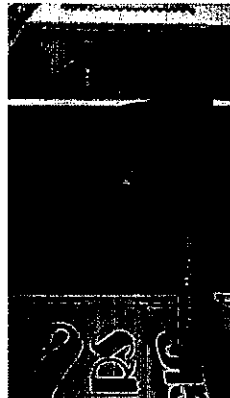
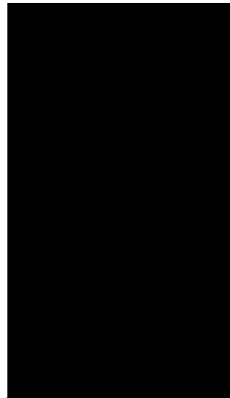
The website was the brainchild of poet John Tranter, and features over 42,000 poems from more than 200 of Australia's most revered poets

and this number will increase as more works are added to the site. The APL allows readers to download and print poetry for a small fee, part of which makes its way back to the rightsholders through the Copyright Agency.

Schools will also see real benefits. In Australia there are approximately 286,000 teachers preparing daily lesson plans for more than 3.5 million students. With the APL it is hoped that teachers will integrate more Australian content into their English classrooms – and why wouldn't they?

The APL is a joint initiative between the University of Sydney, the Copyright Agency Cultural Fund and the Australian Research Council, and will contribute to the ongoing development and preservation of Australia's cultural heritage, which is cause for celebration.

It may have been three years in progress, but it was well worth the wait. To find out more go to [www.poetrylibrary.edu.au](http://www.poetrylibrary.edu.au).



Still images from Cultural Fund video, produced for Copyright Agency by The Colony.



Photos: Nick Cubbin, Blackbox Photos

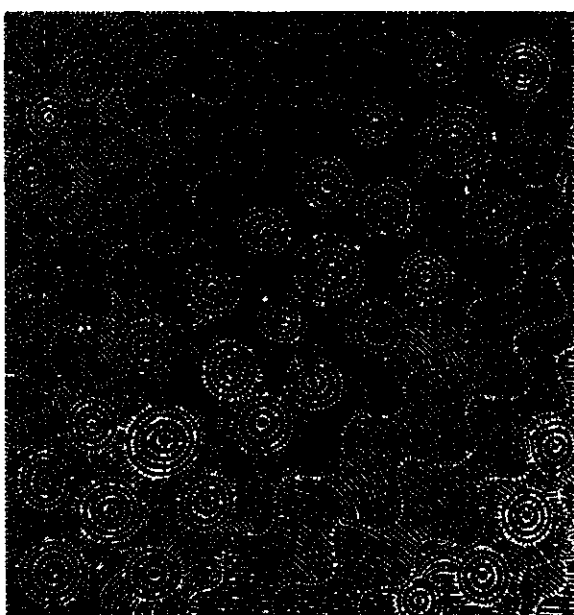
## More about Copyright Agency

There is more information about Copyright Agency and our operations on our website. This includes:

- report from external auditor, including audited accounts, directors' report and trust fund statement
- Copyright Agency's Constitution and corporate governance statement
- Copyright Agency's reporting on our compliance with the Collecting Societies Code of Conduct
- Copyright Agency's appointment by the government to manage statutory licence schemes
- licences managed by Copyright Agency
- how Copyright Agency allocates licence fees to rightsholders
- Copyright Agency's services for members
- Copyright Agency's policy and advocacy activities
- Copyright Agency's Cultural Fund

[www.copyright.com.au](http://www.copyright.com.au)

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**Pansy Napangati**  
*Hailstone Dreaming*  
acrylic on canvas  
© Pansy Napangati.  
Licensed by Aboriginal  
Artists Agency, 2011