

AUSTRALIAN COUNCIL OF FILM SOCIETIES

HOW TO OBTAIN YOUR DVDs AND GET SCREENING RIGHTS

[Feb 2010]

One of the most common questions asked of the Federations is “How do we go about getting DVDs and paying for the screening rights?”

According to Australian (and international) copyright law, as detailed by the Copyright Council, it is not legal to screen a DVD “in a public place” without permission from the copyright holder. “In public” includes any place where the public can meet, and includes church halls, meeting rooms, etc. If you cannot locate a rights holder then it follows that you cannot be granted permission to screen in public.

Film societies hold “non-theatrical” screenings. That is a screening that is conducted for the benefit of their members, and where there is no entry by individual admission fee. The minimum period of a film society membership must be at least 3 consecutive screenings. Any advertising material will promote the society itself, and may make mention of film titles, but should focus on membership.

If you borrow a DVD from one of the DVD distributors such as Roadshow, Amalgamated Movies or AVChannel for a non-theatrical screening, the rental fee will include an amount for the screening rights. This also applies to most of the DVDs borrowed from the NTLC through the NFSA, but not VHS tapes.

To cater for the situation where a film society purchases a DVD or borrows it from a member, ACOFS, assisted by the state federations, has developed a mechanism for locating the rights holder of that DVD and paying an agreed and fair price for the non-theatrical screening rights directly to the rights owners or their agents. The agreements apply for film societies that are current members of a state federation.

DVDs and VHS tapes borrowed from ACMI are permitted to be screened in a private home only and if it is desired to screen in a “non-theatrical” situation in a public venue, contact should be made first with ACMI and if supported, then to the rights owner in accordance with the ACOFS procedures. However, ACMI have agreed to purchase “non-theatrical” rights with future DVDs and as rights for existing DVDs are renewed they will include “non-theatrical” where feasible. So if ACMI has a DVD you wish to screen, ask if it comes with “non-theatrical” rights for film society screenings.

It is not permitted to borrow a DVD from one of the retail DVD/Video outlets to be screened in a non-theatrical situation such as at a film society, as the rights they have for their DVDs specifically exclude this.

Many societies prefer to purchase their DVDs from Australian retail sales outlets (local or over the internet) to ensure the DVD is available when wanted, it is guaranteed unscratched, it can be previewed before screening to the society, and the trailer (if any) can be used as promotion at the society. After the screening the DVD can be put into a society “library” for members to borrow at their convenience.

Three formal agreements have been signed, with Roadshow, Amalgamated Movies and Madman and between them they cover the majority of DVDs distributed in Australia. Copies of formal agreements (one page) are available on request through ACOFS. A draft, unsigned agreement is appended to this information sheet for your information.

Many of the smaller distributors are aware of the DVD rights scheme and will follow the same procedures although there is no formal agreement with them.

The contacts are as follows:

Formal agreements:-

Roadshow:

Annisa Zainal, 02 9552 8685, Annisa_Zainal@roadshow.com.au (note the underscore in the name!)

www.roadshowentertainment.com.au Agents for Becker, Buena Vista, Dendy, Hopscotch, Newvision, Paramount, Potential, Sharmill, 20th Century Fox, Magna, MGM, Palace, Universal, UIP, Warner, Walt Disney, Icon/Dendy, United Artists + others.

Amalgamated Movies:

Steven Snell, 07 47871086

stevens@amalgamatedmovies.com

See www.amalgamatedmovies.com Agents for Columbia Tristar and some Madman Entertainment titles.

Madman:

Paul Tonta, 03 9417 0977, pault@madman.com.au

Alex Saunders alex@madman.com.au

See www.madman.com.au

Agents for AVChannel and some Umbrella titles. Ask for a catalogue by email.

And at the other distributors:-

Sharmill:

Some titles are handled jointly with Jump St Films. See www.jumpstreetfilms.com.au.

Elly Sharp, distribution@sharmillfilms.com.au 03 9826 9077

Natalie Miller, nmiller@sharmillfilms.com.au

See www.sharmillfilms.com.au for their catalogue or email them.

Potential:

Mark Spratt, potfilms@ozemail.com.au 03 9328 5000

See www.potentialfilms.com for their catalogue.

Hopscotch:

Janine de Bry, Janine@hopscotch.com.au

They also handle Newvision films.

See www.hopscotchfilms.com.au for both catalogues.

MG distribution:

Marcus@mgdistribution.com.au See www.mgdistribution.com.au

MG handle many Indian films. Eg "Mr and Mrs Iyer"

Shock:

Joshua Hibberd

Head Of DVD Labels & Acquisitions

SHOCK DVD

200 Beavers Rd, Northcote

Victoria, Australia 3070

PH : 03 9014 0321, FAX : 03 9482 3873

email: joshua_hibberd@shock.com.au (Note underscore). See www.shock.com.au

Note: Some DVDs are distributed by SHOCK (and credited on the DVD cover) on behalf of Umbrella. In these cases approach Umbrella for the rights.

Umbrella Entertainment:

Rob Ruminski Ph 03 9015 0402 or Caroline Bertucci.

rob@umbrellaent.com.au or caroline@umbrellaent.com.au

See www.umbrellaent.com.au

Not all the DVDs in their catalogue have non-theatrical rights, so call Rob first.

Umbrella handle some DVD rights on behalf of others and may distribute some DVDs through SHOCK. Approach Umbrella in these cases.

Eg. "Tree of Wooden Clogs", "Breaking the Waves".

Rialto Distribution

Jo Warrener, 03 9696 6133

98 York St S Melbourne VIC 3205

Joanne@rialtodistribution.com

www.rialtodistribution.com for their catalogue. Eg "Amazing Grace"

Some Rialto DVD rights are also available through Roadshow or Madman.

Kojo Pictures:

Morena Micelli or Ronnie Naicker, 03 9428 7400 or 08 8363 8300

morena@kojo.com.au

See www.kojopictures.com.au for their catalogue.

Many DVDs marked as distributed by Beyond Home Entertainment.

Includes "Silent Light", "4 months, 3 weeks, 2 days".

Beyond Home Entertainment

03 9321 1200

Magna Pacific

Includes some mra entertainment titles.

07 3267 9888

Jason Behan Jason.behan@magnahomeentertainment.com

Niche:

Lyn McCarthy

info@nichepictures.com.au

THE PROCESS

There are essentially 3 components, or steps to the process.

1. Once the film society has decided on their desired DVD program for the coming year they should approach the likely distributors and request approval for screening their DVDs under the ACOFS agreement. Email is a convenient way to do this. It is worth checking their on-line catalogues first although these are often not always up to date.
2. Once the DVDs have been approved by the relevant distributors and “locked in” to a screening schedule by the film society, the distributors should be advised of the confirmed screening dates for their DVDs.
3. The distributors will raise invoices to cover the screening rights at the rate of \$50 plus GST, and submit them to the society. Some distributors submit all invoices at the start of the year, others as the year progresses. Some distributors request payment within 30 days of screening, while others are happy with up to 90 days.

To participate in this agreement the film society must be a current financial member of a state Federation (and hence ACOFS) and operate within the guidelines laid down by that Federation for film societies. Specifically, the film society must operate as a not-for-profit organisation and conduct the screenings as a non-theatrical event.

The agreement does not exclude the possibility of separate agreements made directly between film societies and the rights holders.

One important implication of this procedure is that if a DVD is not available for sale in a retail outlet in Australia, or has not been released in Region 4, then it is unlikely that there will be an Australian distributor for that DVD and permission to screen may be impossible to obtain. The law states that without prior agreement to screen a DVD it is illegal to do so and should not be screened.

If you know of a film title that is not available on DVD in Australia or does not have a distributor here and you would screen it if it were available, the NFSA may be willing to take it on. Contact John Turner at ACOFS johnturner10@bigpond.com with your suggestion and he will pass the request on to the NFSA.

Note that the distributor, even if they have the non-theatrical rights for a DVD in Australia, is not obliged to agree to your screening of the DVD. They may have some commercial or promotional reason for delaying agreement until later.

Further information secretary@fvfs.org.au

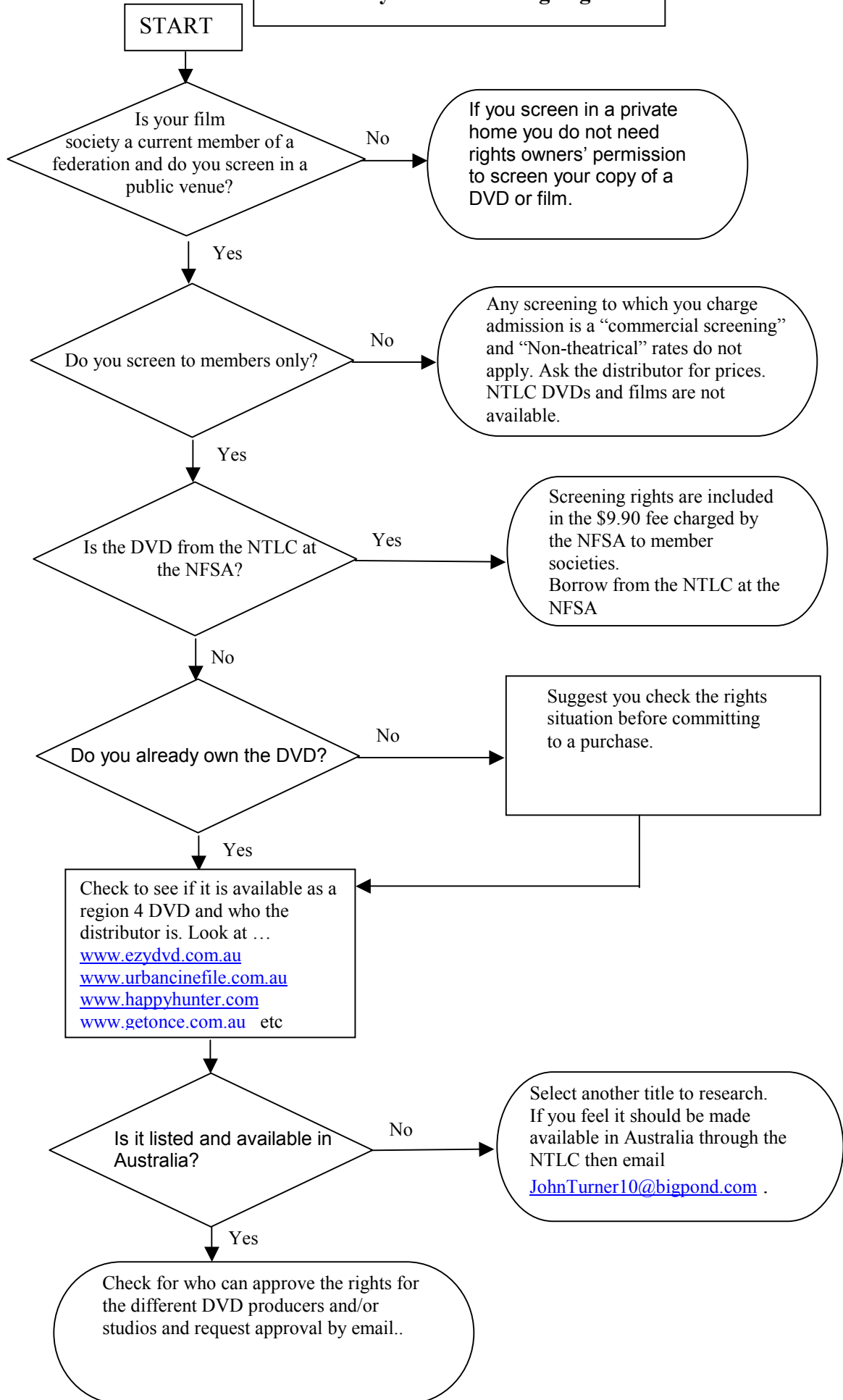
Attachment A

GETTING DVD SCREENING RIGHTS.

- If your film society is a financial member of a federation the FVFS you are eligible to use the ACOFS DVD rights agreement.
- If you screen in a private home you do not need permission from the rights owner to screen a DVD or film that you own.
- If you screen in a public venue you will need permission from the rights owner of the film or DVD to screen it to your members. Not being able to locate a rights owner or if the rights have expired, is not a reason for screening without permission.
- Screening to members only is a “non-theatrical” screening and is generally available at a cheaper rate than for a commercial screening.
- If you charge anyone for admission to the screening (as distinct from membership) then this is no longer a “Non-theatrical” screening and you will need to negotiate charges with the rights holder/distributor. This applies also for films and DVDs from the NTLC (Non-Theatrical Lending Collection) at the NFSA (National Film and Sound Archives)
- If the film or DVD is from the NTLC at NFSA, then the borrowing charge includes the cost of the screening rights. (Currently \$9.90 for a DVD and \$27.50 for a 16mm film)
- If you do not already own the DVD it is suggested that you ensure you can get screening rights approval before purchasing the DVD.
- Check the following websites for availability in Australia and details of the distributor.
www.ezydvd.com.au will identify if the DVD is available through Ezydvd and who the distributor is.
www.urbancinefile.com.au will give a review of the DVD and list the distributor.
www.getonce.com.au will identify possible sources.
www.happyhunter.com will list all known web sites in the world selling the DVD, and identify the region of the DVDs available and price of the DVD (delivered to your door).
- If there is no region 4 DVD available on Happyhunter and it does not appear in the other websites listed then it is unlikely you will find a distributor in Australia. Even if you can purchase the DVD from overseas there may be no distributor in Australia to give you the required permission to screen it here.
- If there is no rights holder in Australia, whether never taken up or expired, then the Australian screening rights are probably held by the original international distributor or production company. Approaching them for approval to screen is possible but not recommended as they usually quote over \$300 per screening.
- There are 3 distributors who are signatories to the DVD rights scheme and another 9 who recognise the scheme and generally follow the agreement. Between them they cover almost all DVDs distributed in Australia.
- If you come across a DVD distributor who is not aware of the “ACOFS DVD rights agreement” ask secretary@fvfs.org.au for what to do.
- If there is a DVD you feel should be made available at the NTLC which is not currently available commercially in Australia or there is no rights holder here, contact John Turner JohnTurner10@bigpond.com.

Ian Davidson
VP ACOFS

Film Society DVD Screening Rights



ATTACHMENT B to FVFS Info Sheet C:

Draft agreement between, the holders of DVD screening rights and Australian Council of Film Societies (ACOFS) for the use of DVD at film societies for non-theatrical screenings.

This agreement is between the holder of DVD screening rights or their agent (hereafter referred to as DVD rights holder) and Australian Council of Film Societies (ACOFS). It applies to DVDs purchased either by individuals or by a film society and screened by a participating member of a State Federation of Film Societies (who are members of ACOFS). It does not apply to DVDs rented from retail video shops or similar.

Film Societies will, as early as possible and prior to the screening of a DVD, advise the respective DVD rights holder of their intention to use that DVD in a non-theatrical screening of the Film Society.

The rights holder will advise the Film Society as soon as practicable if, for some reason, the DVD may not be screened. Otherwise, permission to be screened will be assumed.

Film Societies will, on a regular basis not exceeding 12 months, submit a list of DVDs screened, to the relevant rights-holder for billing purposes.

The DVD rights holder will bill each film society directly at \$55 (inc. GST) per DVD screened.

ACOFS Role

1. ACOFS is the formal owner of the scheme
2. ACOFS will maintain a liaison with the rights holders and film societies through the State Federations to iron out any difficulties arising from this agreement.
3. ACOFS will maintain a list of all known rights-holders and their DVDs for reference by all film societies and Federations.
4. ACOFS has the right to establish agreements with other DVD rights holders and make them known to all State Federations and Film Societies.

Role of the State Federations

1. The State Federations will publicise the DVD titles notified by the DVD rights holder and any "special offers" available to Federations and member film societies.
2. The State Federations will assist film societies, with the support of ACOFS, in identifying the correct DVD rights holder for DVDs to be screened by film societies.
3. The State Federations will support the film societies in their use of this agreement.

Role of the Film Societies

1. Participating member film societies will notify their State Federation or ACOFS of their desire to screen a DVD and the rights-owner where known. The Federations, with the support of ACOFS, will provide updated information to the society on the rights holders of all the DVDs where known.
2. The film society will submit the list of DVDs to the respective rights holders with a request for an account for payment.
3. The film society will pay the account as issued by the rights holder for the screening licences.
4. The Film Society agrees to use the DVD in a non-theatrical screening only, ie at a regular screening to members of the film society.

Licence Requirements

To participate in this agreement the film society must be a current financial member of one of the State Federations (and hence ACOFS) and operate within the guidelines laid down by those Federations for film societies. Specifically, the Film Society must operate as a not-for-profit organisation and conduct the screenings as a non-theatrical event.

This agreement does not exclude the possibility of separate agreements made directly between film societies and rights holders.

Agreed on behalf of ACOFS

Agreed on behalf of (Rights holder)
