

# **ACOFS Fact Sheet**

## **Australian Council of Film Societies**

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**NUMBER 03-C** (Revised August 2012)

### **DVD Agreements – Info for Distributors**

At the time of writing (Aug 2012) formal agreements exist between ACOFS and two of the major DVD distributors regarding the provision of screening rights to member film societies and an appropriate payment for those rights. This applies only to the non-theatrical screening of DVDs owned by the film society or its members.

The distributors are:

Roadshow

Madman (Booked and invoiced through ACOFS)

A copy of the generic agreement is attached.

ACOFS Fact Sheet 3-A covers many hints and tips about how to go about getting permission to screen a DVD owned by the film society. If you have any questions please contact the FVFS secretary on [admin@fvfs.org.au](mailto:admin@fvfs.org.au)

Many other DVD distributors are aware of the ACOFS agreement and are prepared to follow the same procedures without an “official” agreement.

If you are approaching a DVD company that is not yet aware of the ACOFS DVD rights process (& agreement) send them a copy of this document, and please let the secretary know how you got on, at the email address: [secretary@fvfs.org.au](mailto:secretary@fvfs.org.au)

This document is designed to be given to distributors as an information sheet, to aid discussions with them.

#### **BACKGROUND**

To cater for the situation where a film society purchases a DVD or borrows it from a member, ACOFS (the Australian Council of Film Societies) 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. 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. A sample of the agreement is attached.

#### **THE AGREEMENT**

ACOFS has formalised this process by signed agreements with a number of Australian DVD distributors, and an amount of \$50 (plus GST) has been agreed as appropriate for the non-commercial screening rights for a DVD. This charge was considered reasonable because the DVD distribution company has no costs such as physical outlay, storage, postage etc, apart from the invoice. Film societies, which are non-profit community groups, would find higher charges financially difficult to meet.

#### **THE PROCESS**

The process requires that a film society approach the rights holder of a DVD (or their agent), in advance, for permission to screen each and every DVD to be screened by the film society in a non-theatrical situation. This relates only to DVDs owned by the film society or a member. The rights holder then invoices

the film society \$50 (plus GST) payable after the DVD has been screened. The film society agrees to screen the DVD only when permission has been granted by the rights holder, and to pay the account promptly. The agreements apply for film societies that are current members of a state federation.

### **PARTICIPATING DISTRIBUTORS**

Roadshow and Madman have signed agreements with ACOFS but many other distributors have agreed verbally or by email to go along with the process and have agreed with the same rate of payment.

Any other DVD rights holders or agent wishing to become a formal signatory to the ACOFS agreement should contact the ACOFS rights officer (Susan Davidson) at [dvdrights@acofs.org.au](mailto:dvdrights@acofs.org.au)

### **ACOFS CAN HELP**

ACOFS is willing to do the bookings and invoice the individual societies on behalf of the distributor if preferred. The distributor would need to provide ACOFS with a list of approved DVDs and ACOFS will make regular reports and payments to the distributor, probably 3 monthly, depending on volume.

### **WHAT IS A FILM SOCIETY?**

A film society is a non-profit community group with the purpose of screening good quality cinema to its members. Screenings are generally “non-theatrical” - ie the screening is conducted for the benefit of members and there is no entry by individual admission fee. The minimum period of a film society membership must be at least for 3 consecutive screenings. Any advertising material will promote the society itself, and may make mention of film titles, but should focus on membership.

### **PARTICIPATING FILM SOCIETIES**

Any film society that is a current financial member of their State Federation (eg the FVFS in Victoria) and hence a member of ACOFS, is party to the “ACOFS agreement”. See all member film societies at [www.acofs.org.au](http://www.acofs.org.au).

Members of all the State Federations are listed on the ACOFS website.

### **EXCLUSIONS**

If a DVD is borrowed from a DVD distributor such as Roadshow, Amalgamated Movies or Madman for a non-theatrical screening, the rental fee will include an amount for the screening rights, so the above “Agreement” is not relevant.

DVDs 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, contact will be made first with ACMI and if supported, then to the rights owner in accordance with the ACOFS procedures.

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.

### **CONTRA PROMOTION**

Any distributor that has DVD titles that are of interest to film societies can be brought to the attention of member film societies through FVFS or ACOFS newsletters.

For further information please contact: ACOFS at [dvdrights@acofs.org.au](mailto:dvdrights@acofs.org.au) or check out their website at [www.acofs.org.au](http://www.acofs.org.au)

**ATTACHMENT to ACOFS Fact Sheet 3-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.
5. ACOFS is willing to do the bookings and invoice the individual societies on behalf of the distributor if preferred. The distributor would need to provide ACOFS with a list of approved DVDs and ACOFS will make regular reports and payments to the distributor, probably 3 monthly, depending on volume.

**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) .....

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