



# Chain of Title – information sheet

This information sheet provides guidance on the New Zealand Film Commission's (NZFC) Chain of Title requirements. It is not intended to be legal advice. It is important that you get independent advice from a production lawyer.

## What is Chain of Title and why is it important?

Chain of Title is the collection of agreements granting you the right to use other people's material and contributions in your film.

Anyone contributing to your film (including writers, directors, producers, actors, musicians, script consultants) must assign or license their intellectual property rights to the production company that's making the film.

A Chain of Title may include:

- Option and purchase agreements
- Assignment and novation agreements
- Writer and director agreements
- Quit claims and release forms
- Contributor agreements
- Music licence agreements
- Archive footage or images licence agreements

Without a Chain of Title, you won't be able to get funding or distribution for your film. Issues with the Chain of Title may have legal consequences, such as an injunction preventing you from showing your film.


## What do Chain of Title agreements need to cover?

All rights granted or licensed to you should:

- Allow the production company to make, distribute, show and promote the film worldwide in all media
- Be granted in perpetuity and be irrevocable
- Be exclusive (unless there is justification not to be)
- Waive the contributor's right to seek injunctive relief; and
- Waive the contributor's moral rights.

If your film is based on an **existing underlying work**, the agreement must also:

- Clearly define what the underlying work is
- State whether any ancillary material is included (e.g. versions, characters, plots)

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- Assign or licence all the rights you need to make the film, including copyright; and
  - Any option and purchase agreement must have an option period with at least 18 months to run after the date of NZFC funding approval.

### **Contributor warranties**

Any contributor providing content to your film will need to give warranties, including that:

- They own or hold the rights in the content
- They are entitled to enter into the agreement and grant the rights to the production company
- The content is or will be original
- The content and the grant of rights won't infringe on any other person's rights; and
- The content does not and will not contain any defamatory material.

If you are using **existing underlying work**, the owner of that work will also need to warrant that:

- The rights in that work are not encumbered
- They have not granted the rights to someone else; and
- There are no claims or litigation in respect of the work.

The owner should also indemnify the production company in respect of any claims or litigation in respect of the work.

### **Extra considerations**

- There must be consideration for the transfer of rights (i.e. something exchanged for them)
- Agreements must be signed, dated and entered into by the correct parties
- The production company must be entitled to assign or sublicense the rights granted to it
- Be clear about taxes, currencies, dates when payments will be made, and which country's laws govern agreements
- Everyone who contributes to the film must sign a contract or release form. If your film is a documentary, get a signed release form from anyone who is likely to appear in the film
- Productions with Māori content may need to seek permission to use content from relevant parties such as whānau, hapū or iwi. This may be through an MOU or other type of agreement depending on the content.

### **Chain of Title Opinion**

If your application is successful, a condition of our offer will be that your production lawyer must provide a chain of title opinion. At a minimum, the opinion must:

- Be prepared by the independent production lawyer engaged to advise the SPV
- State that the NZFC is entitled to rely on that lawyer's assessment of Chain of Title
- State that the Chain of Title is free of any defects and
- List all documents the opinion is based on, including the title of each document, the parties, the date of signature and the expiry dates of any rights or option periods.

