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9/01/2019

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Dear Sir / Madam

Australasian Performing Right Association Ltd application for revocation of authorisations A91367 – A91375 and substitution of new authorisation A1000433—interested party consultation

The Australian Competition and Consumer Commission (the ACCC) is currently conducting a consultation process on an application for re-authorisation (application for revocation and substitution) received from the Australasian Performing Right Association Ltd (APRA) on 24 December 2018.

The purpose of this letter is to invite you, as a potentially interested party, to comment on the application. Please see pages 20-28 the ACCC's publication [Guidelines for authorisation of conduct \(non-merger\)](#) for a summary of the authorisation process and how to make a submission to the ACCC.

Application for 're-authorisation'

The application for re-authorisation relates to APRA's arrangements for the acquisition and licensing of the performing rights in its music repertoire. The arrangements cover:

- 'input' arrangements - the assignment of performing rights by members to APRA and the terms on which membership of APRA is granted;
- 'output' arrangements - the licensing arrangements between APRA and the users of musical works;
- 'distribution' arrangements - by which APRA distributes to relevant members the fees it has collected from licensees/users; and
- 'overseas' arrangements - the reciprocal arrangements between APRA and overseas collecting societies pursuant to which each grants the other the right to license works in their repertoires.

A full copy of the application is available on the ACCC's website www.acc.gov.au/AuthorisationsRegister.

Background

The ACCC previously granted conditional re-authorisation to these arrangements on 6 June 2014 for a period of five years, until 28 June 2019.

The conditions of this authorisation required APRA to:

- Publish a comprehensive plain English guide that outlines all of the licence categories individually and includes other specified information.

- Take certain steps to increase awareness of the licence back and opt out provisions provided by APRA, including publishing a plain English guide and launching an education campaign.
- Implement a revised alternative dispute resolution (ADR) scheme to be managed by an independent facilitator. The scheme must offer informal resolution, mediation, expert opinion and binding determination to APRA licensees and members. The ADR scheme must incorporate a consultative committee to provide feedback and other advisory input to APRA and to the facilitator. APRA was also required to arrange an independent review of the ADR scheme after it had been in operation for three years. The final report of the independent review of the ADR scheme was completed in December 2018.

Copies of the ACCC's 2014 determination granting conditional re-authorisation and the December 2018 final report of the independent review of APRA's ADR scheme are available [here](#).

Request for submissions

The ACCC invites you to make a submission on the likely public benefits and effect on competition, or any other public detriment, from the proposed arrangements.

Further, the ACCC invites you to outline your general experience of the arrangements during the term of the previous authorisation. The ACCC would also welcome your views on the public benefits and detriments you consider have actually resulted from the arrangements during the previous authorisation period.

If you intend to provide a submission in relation to the APRA's application for re-authorisation, please do so by **Friday 8 February 2019**. Submissions should be emailed to adjudication@acc.gov.au with the subject 'AA1000433 – APRA – submission'.

Submissions, will be placed on the ACCC's public register subject to any request for exclusion. For further information see the ACCC's publication [Guidelines for excluding information from public register](#).

Timetable

The ACCC will progress its assessment of the application in a timely manner. An indicative timetable is set out below for your information.

24 December 2018	Lodgement of application
9 January 2019	Public consultation process begins.
8 February 2019	Closing date for submissions from interested parties.
February/March 2019	Applicant responds to issues raised in the public consultation process.
April 2019	Draft determination.
May 2019	Public consultation on draft determination including any conference if called.
June/July 2019	Final determination.

Please advise if you do not wish to make a submission at this time, but would like to be informed of the progress of the application at the draft and final determination stages. If you are able to please provide a nominated contact email address for future correspondence.

You can also forward this letter to any other party who may wish to make a submission to the ACCC regarding the application.

This letter has been placed on the ACCC's public register. If you wish to discuss any aspect of this matter, please do not hesitate to contact Tessa Cramond on 03 9658 6516 or adjudication@acc.gov.au.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'G Jones', with a long horizontal flourish extending to the right.

Gavin Jones
Director
Adjudication