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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—draft determination

The Australian Competition and Consumer Commission (the **ACCC**) has issued a draft determination in respect of the application for revocation and substitution lodged by the Australasian Performing Right Association Ltd (**APRA**) on 24 December 2018.

For the reasons set out in its draft determination, the ACCC proposes to grant re-authorisation for five years, subject to conditions. A copy of the ACCC's draft determination is attached.

The purpose of this letter is to invite you, as a potentially interested party, to comment on the draft determination.

APRA has also requested interim authorisation to enable it to continue to engage in the arrangements the subject of the application for authorisation while the ACCC is considering the application for re-authorisation, as the existing authorisations expire on 28 June 2019. The ACCC is also seeking submissions about APRA's request for interim authorisation (further details are provided below).

Application for 're-authorisation'

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

- (a) 'input arrangements' -
- the assignment of performing and communication rights by members to APRA and the terms on which membership of APRA is granted and
 - APRA's reciprocal arrangements with overseas collecting societies by which, for the most part, the collecting societies grant each other the exclusive right to license works they respectively control
- (b) 'output arrangements' – the licensing arrangements between APRA and the users of musical works and
- (c) 'distribution arrangements' – by which APRA distributes to relevant members the fees it has collected from licensees/users.

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

Next steps

Once the ACCC issues a draft determination, the Applicants or any interested party may make a written submission and/or request that the ACCC convene a 'pre-decision conference'.

If you wish to make a submission in response to the ACCC's draft determination, please lodge your submission by 5 July 2019. Submissions should be emailed to adjudication@acc.gov.au with the subject "AA1000433 – APRA – submission".

A pre-decision conference provides the opportunity for interested parties to make oral submissions in relation to the draft determination. Conferences are conducted informally and while legal or professional advisers are able to attend they are not entitled to participate in the discussion.

If you wish the ACCC to hold a pre-decision conference in relation to the draft determination you must notify the ACCC in writing by 21 June 2019.

The ACCC will consider any submissions it receives, including any oral submissions made should a pre-decision conference be called, and will then release a final determination in relation to this application.

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

Request for interim authorisation

On 15 May 2019, APRA also requested interim authorisation to enable it to continue to engage in the arrangements the subject of the application for authorisation while the ACCC is considering the application for re-authorisation, as the existing authorisations expire on 28 June 2019. Specifically, APRA seeks interim authorisation to continue its existing arrangements, and for its relevant activities in operating its new OneMusic Australia joint licensing initiative. The details of OneMusic, which is due to launch on 1 July 2019, are discussed at paragraphs 2.48 to 2.56 of the attached draft determination.

The ACCC decides whether to grant interim authorisation on a case by case basis. Should an applicant request interim authorisation, the ACCC will usually consider a range of factors, including harm to the applicant and other parties if interim is or is not granted, possible benefit and detriment to the public, the urgency of the matter and whether the market would be able to return to substantially its pre-interim state if the ACCC should later deny authorisation.

Submissions in response to APRA's request for interim authorisation must be lodged by 12 June 2019. The ACCC will make a decision about the request for interim authorisation before 28 June 2019.

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.
April/May 2019	Applicant responds to issues raised in the public consultation process.
5 June 2019	Draft determination.
12 June 2019	Closing date for submissions about interim authorisation.
21 June 2019	Last day on which a pre-decision conference can be called.
27 June 2019	Date by which ACCC will make its decision about interim authorisation.
5 July	Closing date for submissions on the draft determination.
Mid July 2019	Likely pre-decision conference date.
August 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. 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



Gavin Jones
Director
Adjudication