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28/06/2019

Dear Sir/Madam

Australasian Performing Right Association Ltd application for revocation of authorisations A91367 – A91375 and substitution of new authorisation AA1000433— Pre-decision conference

The Council of Small Business Organisations Australia (**COSBOA**) has requested that the ACCC convene a conference in relation to the draft determination issued by the ACCC on 5 June 2019 proposing to grant re-authorisation to the Australasian Performing Right Association Ltd (**APRA**), subject to conditions.

The draft determination follows an application by APRA for re-authorisation in respect of APRA's arrangements for the acquisition and licensing of the performing and communication rights in its musical repertoire.

Submissions in response to the draft determination are due by **5 July 2019**. A copy of the application and draft determination can be found on the ACCC's website www.acc.gov.au.

A pre-decision conference provides an opportunity for applicants and interested parties to make oral submissions to the ACCC about its draft determination.

The ACCC will hold the conference in the morning of **19 July 2019** in **Sydney**. ACCC Commissioner Sarah Court will chair the conference. The ACCC will provide further details about the venue and start time closer to the date.

Under the Act, the applicant and other interested parties may attend the conference. If you wish to attend, you must notify the ACCC of your intention in writing by **5.00pm on 8 July 2019** and briefly indicate why you or your company or organisation has an interest in the matter. To do so please email: adjudication@acc.gov.au.

You should provide details of a contact name, telephone number, and email address so that you can be notified of any late changes to conference arrangements.

If you represent a company or organisation you should also provide a list of attendees and their position titles, and indicate who will be the chief spokesperson.

Please note that while conference participants may bring outside legal or other professional advisers to assist them, under the Act these advisers are not entitled to participate in conference discussions.

Attached for your information are procedures usually followed at pre-decision conferences.

A copy of this letter has been placed on the ACCC's public register. If you require any further information in regard to the conference, 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 that reads "DChanning". The signature is stylized with a large, sweeping flourish at the end.

Darrell Channing
Director
Adjudication

AN OUTLINE OF THE PROCEDURES USUALLY FOLLOWED AT CONFERENCES IN RELATION TO APPLICATIONS FOR AUTHORISATION

The Australian Competition and Consumer Commission (ACCC) tries to conduct such conferences as informally, flexibly and speedily as possible.

An interested party attending a conference may have the assistance of outside legal or other professional advisers, however, only interested parties are entitled to participate in the discussion.

The conference will serve a useful purpose in that it gives the ACCC and all interested parties the opportunity to meet face-to-face to discuss the operation and effect of the applicant's conduct and the ACCC's draft determination. The applicant and/or interested persons have the opportunity to persuade the ACCC to accept their view. The ACCC benefits from direct contact with the parties, and its perceptions of public benefits and detriments are tested in a forum of interested parties where points are often quickly and forcefully made.

1. Preliminary procedures

- (a) When you arrive at the conference you should identify yourself to ACCC staff before the conference begins. Further, please complete the attendance book when arriving at the conference. This assists ACCC staff to identify attendees for the purpose of recording the discussion.
- (b) The Chair (a Commissioner) will open the conference by welcoming those present and outlining the requirements of the *Competition and Consumer Act 2010* and the manner in which the conference will be conducted.
- (c) If you intend to present a written comment (and you are encouraged to do so), it is helpful if the ACCC receives it before the conference date. It can then be copied and distributed at the conference. In this way, both the ACCC and other parties present are assisted, and your submission forms part of the conference record. If you cannot complete the written submission earlier, it is helpful if you come to the conference with extra copies which can be distributed.
- (d) Any document you present without making any request for it to be excluded from the public register will be placed on the ACCC's public register.

If you intend to present a submission at the conference and you wish it (or certain details in it) to be excluded from the public register, you should make your request to the Chair at the time of presenting the document, and you should state in general terms the reason for your request. (See the ACCC's [Guidelines for excluding information from the public register](#)).

2. General procedures

- (a) The conference has been convened to discuss the draft determination, to canvass points of view and to assist the ACCC's weighing of issues and its interpretation of the information given to it.

- (b) The procedure is discretionary. The Chair controls the order of discussion, and may take particular topics separately, so that all the discussion on any given topic may be heard at the one time.
- (c) The conference is not a court, and there is no right of cross-examination. You may request the Chair to ask questions of other parties present, but the Chair retains the discretion as to whether your questions will be put. The Chair, of course, may also directly question the parties at the conference, and they have discretion whether or not to answer.
- (d) ACCC staff present will make a record of the discussion. This will be in minute form, not a verbatim record. The conference record is placed on the public register, and all who attend the conference will receive a copy.
- (e) When the Chair believes that all present have been given a reasonable opportunity to express their views, he/she may terminate the conference.
- (f) The Chair (and any other Commissioner at the conference) cannot give a final decision at the close of the conference. Each Commissioner is only a representative of the ACCC and is required to report back to the ACCC, which will make the final decision.

3. Other matters

- (a) Following the pre-decision conference, the ACCC will review its draft determination in the light of discussion and further submissions made at the conference (or within a set period of time after the conference), and will publish its final determination as soon as possible thereafter.

4. Media involvement

- (a) Conferences are not public hearings and the Competition and Consumer Act limits the right to attend to interested parties. In some cases, members of the media may wish to attend a conference to report on the proceedings. In these instances, the ACCC will seek the views of the interested parties on whether the attendance of media representatives would restrict interested parties from freely expressing their views. The ACCC may ask members of the media not to attend the conference.
- (b) If there are no objections and media representatives do attend, the Commissioner will ask that no video or audio recordings are made of the conference and no quotes are taken from the conference discussion. If quotes from particular parties are desired, they should be approached outside of the conference. Members of the media are not entitled to participate in the conference discussion. If an interested party raises objections to media attendance during the conference, the Commissioner may ask the members of the media to leave the conference or leave the conference temporarily.