



Friday 5 July 2019

Australian Competition and Consumer Commission  
GPO Box 3131  
Canberra ACT 2601

To whom it may concern

**Draft determination – Australasian Performing Right Association Ltd application for revocation of authorisations A91367 – A91375 and substitution of new authorisation AA1000433**

The Australian Digital Alliance (ADA) thanks the Australian Competition and Consumer Commission (ACCC) for the opportunity to make a submission in response to the ACCC's Draft Determination on the Australasian Performing Right Association's (APRA) application to revoke its existing authorisation and substitute it with a new authorisation (A1000433) (application for 're-authorisation').

We welcome the ACCC's conditions to increase transparency and accountability at APRA. In particular we welcome conditions that seek to increase transparency related to APRA's fees, distribution arrangements, operation and governance (conditions C1, C2 and C4). We support the ACCC's proposal to require APRA to publish an annual Transparency Report (condition C4), including the identified sections outlined in paragraph C4.1.

We also support actions to increase the awareness and understanding of the opt out and licence back mechanisms (condition C3). We are particularly supportive of APRA providing examples of situations where these mechanisms might be of benefit to members and licensees and examples of how the opt out and licence back provisions have been used.

However we are disappointed that the authorisation has been granted without any requirement for APRA to investigate how it could reconcile members' ability to direct licence with its international arrangements. This issue has been ongoing for over a decade, and represents a fundamental flaw in the APRA model. It prevents its members from independently distributing their material online, limiting their ability to take advantage of modern business models and technologies. More than twenty years after the birth of the modern internet, this should not be an acceptable position.

Our contact for inquiries related to this submission is Jessica Coates, who can be contacted at [jcoates@digital.org.au](mailto:jcoates@digital.org.au) or on 02 6262 1118.

Yours sincerely

A handwritten signature in blue ink that reads 'Derek Whitehead'.

Derek Whitehead  
Chair, Australian Digital Alliance