



Australian Government



Australian
**Small Business and
Family Enterprise**
Ombudsman

9 August 2019

Mr David Jones
General Manager, Adjudication
Australian Competition & Consumer Commission
Adjudication Branch
GPO Box 3131
CANBERRA ACT 2601

via email: david.jones@acc.gov.au

David
Dear Mr Jones

Australasian Performing Rights Association Ltd (APRA) - Interim Authorisation AA10004333

We reiterate our previous position that any reauthorisation should be on a year-by-year basis only, until both you and we are satisfied that APRA's operations are sufficiently transparent and provide equitable outcomes for small business.

Since its previous authorisation in 2014, APRA has shown an inability to develop and rollout a practical solution to accurately record and report music played on all music mediums including community radio stations and the internet. In our view, this is a failure of APRA's responsibilities to its members. Without accurate playlists, small business artists who are APRA members cannot be paid the royalties due to them. This obviously has the greatest impact on emerging artists who rely on non-commercial mediums such as community stations to build a profile. At the same time, music users who are businesses and APRA members have had to accept increasing licencing fees without an opportunity to appropriately voice their concerns.

The lack of transparency on the calculation of licencing fees remains a matter of concern for us. We note that this was a consistent complaint raised by APRA members in public submissions to the recent ACCC Pre-Decision Conference. Other issues mirror our concerns, including APRA licence holders having to accept licencing fee schedules without the ability to negotiate due to a lack of transparency – both in complexity and an inability to understand the variables that determine the fees for one venue from another. These small business are also reluctant to challenge the fee schedules because they cannot licence music from other sources.

Finally, we continue to hold concerns about the administration of APRA's grants program and believe that an independent review is necessary. The review would need to address the grant assessment process, investigating disbursement of funds to date and how funds should appropriately be expended going forward. The review should also cover transparency of grant reporting and whether APRA members should be given the choice to opt-out of contributing to the program.

Thank you for the opportunity to comment. If you would like to discuss this matter further, please contact Alexandra Hordern on 02 6121 5404 or at alexandra.hordern@asbfeo.gov.au.

Yours sincerely

Kate Carnell AO
Australian Small Business and Family Enterprise Ombudsman

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