



1 March 2019

**Re: Australasian Performing Right Association Ltd application for revocation of authorisations
A91367 – A91375 and substitution of new authorisation
A1000433 — Submission by the Australian Venues Association**

The Australian Venues Association (AVA) thanks the Australian Competition and Consumer Commission (ACCC) for the opportunity to comment on the above application by the Australia Performing Rights Association Ltd (APRA).

The AVA is a not-for-profit formed in 2018 to represent entertainment and hospitality venues throughout Australia. Its members include live music venues, nightclubs, restaurants, cafes, bars and music festivals. All of its members feature live and/or recorded music.

AVA members are a foundational part of Australia's musical culture and industry. Our members provide support, networks, experience, exposure and income to Australian musicians and other music industry participants, particularly those gaining experience early in their careers and those creating and exploring the niche pockets which makes Australia's musical culture and industry so diverse.

The AVA is not aware of a solution which exists as at the date of this submission which could replace APRA's current arrangements in their entirety. However, the AVA submits that authorisation of APRA's arrangements (particularly for long periods such as the five years APRA currently pursues) acts as a strong disincentive for potential competitors to invest in and develop solutions competitive with all of part of APRA's current arrangements.

For that reason, and for the further specific reasons set out below, the AVA submits that APRA's arrangements should be reauthorised for no longer than one year.

Distribution practices

APRA purports to represent the interests of all rights holders; however numerous AVA members have long held concerns regarding APRA's distribution practices. APRA do not release actual distribution data, however they have advised that their distributions in respect of recorded music for dance collections are determined using "a mix of sample-based and proxy sources."

The AVA submits that the sample sets and proxies used to determine distributions are likely to bear minimal (if any) relationship to the actual rights used by our members, particularly those who feature, play and support local, niche and/or inexperienced artists. APRA have asserted that their distribution practices seek to achieve a suitable balance between accuracy of distribution and the

costs of collection and processing. The AVA strongly questions whether APRA has done enough to pursue accuracy and fairness in distributions in this regard.

APRA has for some time been referring to its music recognition technology which the AVA understands is still limited in its accuracy and use. This is an area where market-based competition could encourage marked benefits in both speed and accuracy compared to APRA's current solution, and the AVA suggests shorter reauthorisation would encourage potential competitors in this space.



OneMusic Australia

APRA refers at paragraphs 102 to 120 of their supporting submissions to the proposed OneMusic Australia joint venture (OneMusic) with the Phonographic Performance Company of Australia Ltd (PPCA). As the ACCC may be aware, APRA had planned for OneMusic to be operational before reauthorisation. However, numerous of the proposed licencing schemes (including all of those relevant to AVA members) have been met with objections from rights users who claim APRA's consultation has been poor, and that their costs will rise significantly under the proposed licencing schemes. The AVA has received feedback from some members that the increases appear so large as to threaten the viability of their businesses.

The AVA welcomes the recent decision to postpone the implementation of OneMusic to allow further and better consultation to occur, however the AVA submits that authorisation for longer than a year is inappropriate while such significant proposed changes to Australia's monopoly licencing arrangements remain unresolved.

Collaborative approach

AVA members have felt and continue to feel that APRA have at times taken an overly combative approach towards its members, particularly where its members raise concerns regarding the cost APRA seeks to apply for licencing. The AVA is not alone in noting that recorded music is licenced for dancing at a significantly higher rate in Australia than anywhere else in the world. In defending this rate, APRA relies on a Copyright Tribunal decision regarding a PPCA licencing scheme.

Ultimately the AVA would prefer APRA make licencing scheme decisions collaboratively with its members rather merely "in consultation." AVA members are not simply "rights users." They play a valuable role in the Australian music industry, and the AVA seeks a constructive and collaborative approach from APRA towards its members in future.

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