

---

**From:** Anthony Trimarchi  
**Sent:** Friday, 22 February 2019 6:37 PM  
**To:** Adjudication  
**Subject:** AA1000433 – APRA – submission

**Categories:** Submission

Good afternoon,

**RE: APRA RE-AUTHORISATION – AA1000433-1 – CLUBS AUSTRALIA SUBMISSION**

Clubs Australia welcomes the opportunity to provide feedback to the Australian Competition and Consumer Commission (ACCC) regarding the Australasian Performing Right Association's (APRA) application for re-authorisation to continue its arrangements for the acquisition and licensing of performing and communication rights in music.

Clubs Australia is the coalition of state and territory associations representing the interests of Australia's 6,143 not-for-profit clubs, their 130,000 employees and 13.2 million memberships.

Clubs Australia has extensive experience with APRA, most recently regarding APRA's and the Phonographic Performance Company of Australia's (PPCA) decision to establish 'One Music Australia', a joint-licensing venture between the two.

Clubs inhabit a unique position in society as not-for-profit, member-based venues that provide entertainment for the benefit of their members and the broader community. Clubs have long supported the music industry and have a proud history of hosting both local and international acts at their venues. However, it is important to note that clubs are not, by definition, 'music venues'. The core purpose of a registered club is not to provide music.

Many clubs pay fees to APRA under existing tariff and music licensing schemes. The ability for APRA to determine tariffs is only made possible due to its market power. Clubs Australia believes APRA possesses significant market power in both the acquisition and supply of music rights.

In its 2014 re-authorisation of APRA the ACCC noted that:

*"As a virtual monopoly with exclusive rights to its members' works, APRA has significant market power in relation to its dealings with users.... The ability and incentive for users to source licences under competitive conditions is limited. [Users have] limited bargaining power. This can give rise to a number of public detriments. For example, it can translate into high fees and allocative inefficiency, a lack of transparency around licensing arrangements, and significant problems associated with commercial dealings with APRA."*<sup>[1]</sup>

Clubs Australia submits that APRA's market power has not diminished since 2014 and that the ACCC's assessment remains appropriate, particularly with regard to the One Music merger.

Clubs Australia believes that the One Music merger is a relevant factor that should be considered by the ACCC in reviewing APRA's application, given that it is expected to come into force over the course of the next authorisation period. In this regard, Clubs Australia notes that the One Music Australia website's 'frequently asked questions' page states that "We [APRA and PPCA] have been openly discussing this new joint licensing venture with the ACCC."<sup>[2]</sup>

Clubs Australia supports, in-principle, the harmonising of existing tariffs and licensing arrangement to reduce red-tape and duplication for clubs. However, a revised licensing structure, done with the intent of reducing red-tape and which is expected to create economies of scale and back-of-house efficiencies for both APRA and the PPCA, should not lead to an escalation of fees, particularly where there is no change in the service. An increase in fees will inevitably lead to reduced music as clubs determine they cannot sustain the provision of music on commercial grounds.

Clubs Australia believes that the One Music tariff structure and fees should be fair and equitable for clubs. Following the release of the first 'club consultation paper' in late 2017 Clubs Australia has been in constructive negotiations with APRA regarding the One Music tariff structure and fees for clubs. As at February 2019 negotiations continue and Clubs Australia hopes a mutually-acceptable outcome can be achieved.

For further information on this submission please contact Anthony Trimarchi, Clubs Australia Manager, Policy and Government by email at \_\_\_\_\_ or by phone at \_\_\_\_\_.

<sup>[1]</sup> Australian Competition and Consumer Commission, Determination on APRA revocation and substitution of authorisations A91187-A91194 and A91211, 2014  
<sup>[2]</sup> <http://www.onemusic.com.au/faqs/>

**Anthony Trimarchi**  
Manager – Policy and Government  
ClubsNSW/ Clubs Australia

---



**ClubsNSW**  
THE REGISTERED CLUBS ASSOCIATION OF NSW  
LEVEL 8, 51 DRUITT STREET, SYDNEY NSW 2000.  
P: +61 2 9268 3000 F: +61 2 9268 3066  
[www.clubsnsw.com.au](http://www.clubsnsw.com.au)

  


**See innovation in the one location**  
200 SUPPLIERS  
LATEST PRODUCTS & SERVICES  
FREE ENTRY



**KENO**  
let's play!

AUSTRALASIAN HOSPITALITY & GAMING  
**2019 EXPO**  
CLICK HERE TO REGISTER

Please consider the environment before printing this email or its attachments.

---

<sup>[1]</sup> Australian Competition and Consumer Commission, Determination on APRA revocation and substitution of authorisations A91187-A91194 and A91211, 2014  
<sup>[2]</sup> <http://www.onemusic.com.au/faqs/>