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Representing Eisteddfod Organisers Australia &
A Group of Dance Schools Organisations/Individuals
that conduct Eisteddfods & Dance businesses, Australia wide.

8th February 2018

Submission to:
Adjudication Branch
Australian Competition and Consumer Commission
GPO Box 3131 Canberra ACT 2601

adjudication@acc.gov.au

RE: Australasian Performing Right Association Ltd application for revocation of authorisations A91367 – A91375 and substitution of new authorisation A1000433

Dear Sir/Madam,

Eisteddfods are held all around Australia, offering young children (AMATUERS) an opportunity to develop their talent in performing arts. A lot of Eisteddfods raise funds for various charities, or are a non-profit venture usually run by volunteers. Some Eisteddfods charge an entry fee for viewers such as parents and family members to watch and support their children performing. Some Eisteddfods just charge competitors/entrants a performance fee to enter and don't charge a door entry, this is run as a free event to watch. while others charge for both. The door entry charge is very minimal in most cases, as it is to cover the overheads of the running costs for the eisteddfod, such as venue hire, adjudicators, trophies, prizes, certificates, advertising, insurance, canteen sundries etc. some Eisteddfods run at a loss or just break even. They don't make much profit, as they use the profit as a contingency fund for the following Eisteddfod. Dance studios that hold an Eisteddfod, do so as a fundraiser to cover the costs of their overheads when the studios are not operating, such as school holidays. They have ongoing business overheads e.g. lease, insurance, electricity, copyright etc: to pay during the down times. Some Eisteddfods purport to involve parents in activities as well as competitors with disabilities. Eisteddfods also have sections for local public/private schools to enter. Eisteddfods also range in size, from very small regional events to large, others are regular events in larger centres. There needs to be various types of levels in Eisteddfods, as student's development can have various stages of ability and the standards of some competitors need to be able to compete in an eisteddfod that they are able to cope at the level they are at the time. This is to build confidence, stage experience and develop their talent in order to progress to harder Eisteddfods, when their ability allows them to do so. Some competitors are more experienced and advanced than others.

The EOA Group's position on this matter:

"The EOA Group agrees with the position listed in the submission by MALIK LEGAL CONSULTING "A group of dance teachers, dance schools and Eisteddfod/competition organisers" but I would like to add the following additional points should the ACCC grant APRA authorisation:

(1) The EOA experience with Resolution Pathways has been problematic. We have read the Independent Review of Resolution Pathways report and that report simply does not accord with our experience. Many of our members were not aware Resolution Pathways existed. APRA did very little to make anyone aware of its existence. When members rang APRA to complain or raise concerns about issues APRA did not make the complainants aware of its existence. On one occasion a member rang and expressly asked about it ... they asked, what is Resolution Pathways? How does it work? How fast is it? How much does it cost? The APRA staffer could not answer any of these questions. In fact, it seemed as though she had not even heard of it!

It was then the author realised that the Resolution Pathways manager has an office within APRA premises. On further investigation, the author developed the perception that at least some aspects of the Resolution Pathways manager

were financed by APRA and therefore the Resolution Pathways manager could not be objective or seen to be objective in any dispute with APRA.

The EOA Group would like the ACCC to investigate Resolution Pathways to ensure an unbiased facilitator [REDACTED] [REDACTED] All invoices and demand letters from APRA should advise the payers and the public of this facility. Also, steps should be taken to ensure that it is financially affordable for anyone to use this facility, in relation to complaints.

It was the author's understanding this was the intention of the previous ACCC authorisation, however the author's perception is that Resolution Pathways is not functioning as it should. It is expensive, unbiased and something of a mystery to the author and the EOA Group.

(2) The EOA Group proposes that a flat fee for copyright be introduced for all businesses, like we do for car licences, car registrations etc. a government organisation eg: such as NSW Service Centre or Fair Trading within each state, which could be the collector of copyright licences, they could forward the fees collected to APRA, for them to pay their members accordingly. The Group would like to see a more simplified tariff for copyright without segregating various industries in to APRA's opinion of categories, when we all use music in the same way.

E.g. 1 flat fee tariff for playing music, 1 flat fee tariff if you use recorded music and 1 flat fee tariff if you hold a public performance that is ticketed for financial gain, regardless of the industry you operate under.

All non-profit/charitable organisation should be exempt or receive a discounted rate. Amateur performances for children under 18 should be exempt or receive a discounted rate. Training businesses that teach children and conduct examinations for the purpose of gaining qualifications should be exempt or receive a discounted rate.

(3) Recently APRA has announced a raft of changes to its tariffs. Some of these changes were to stand alone tariffs, some are under the OneMusic Australia umbrella. The EOA group has found it is extremely difficult to understand these changes. Tariff classifications have changed. APRA have included rights administered by PPCA and AMCOS on some tariffs. They have brought in ARIA on other tariffs. The copyright system in Australia is very complex – EOA understand the following collecting societies administer the following rights:

- APRA = communication rights/broadcast/public performance of works,
- AMCOS = reproduction of works,
- PPCA = communication rights/broadcast/public performance of sound recordings, and
- ARIA = reproduction of sound recordings.

APRA have taken the inherent complexity of copyright laws and collecting societies and tagged a system of tariffs on top of this complexity. Because only APRA can understand this system, they are not answerable to anyone.

Some APRA tariffs are based on percentage of revenue. Some are based on the number of "plays" of music. Some tariffs are flat fees. Some are based on a combination of two or more of these things. These tariffs are mind boggling.

The EOA Group proposes that the ACCC make a condition, that APRA needs to make all consultations and changes to their tariffs public knowledge. This transparency should take the form of announcements on television, newspaper advertisements, mail outs to all on their data base and other activities. The public need to be properly advised and informed, as it not only effects all businesses that use music, but also the consumer, as the cost of copyright is passed onto the consumer to cover this business expense.

Also, APRA needs to provide ample time to introduce changes to allow businesses to adjust their costings accordingly to allow for such changes. They need to take into account ours and many other industries that shut down over Christmas and school holiday periods, which is when they normally spring these things upon us. If they spring things on us at this time, where we are not in a position to respond. We are certainly not in a position to consult with our stakeholders/members. I note, APRA's application for re-authorisation was lodged on Xmas Eve, so I'm not even sure all interested parties would have had enough time to consult with regards to this process.

(4) The EOA Group would like to see the government conduct a full intensive investigation such as a Royal Commission into APRA and the copyright organisations, due to the evidence that indicate misconduct, unfair trading practices, and monopoly manipulation of their authorisation. Apra gives the impression to the public, that they are a government organisation. This misrepresentation is misleading

(5) The EOA Group would like the ACCC to not re-authorise APRA. If they do decide to re-authorise APRA, the EOA Group would like the ACCC to place conditions to the authorisation to stop APRA from delegating their authorisation or the powers under their authorisation to another organisation, such as AESA. They need to prevent APRA from forming partnership relationships by endorsing and promoting other organisations where this is done for APRA's own promotional and financial gain.

(6) The EOA Group would like to see the ACCC monitor how APRA is cashing in on the advances of the digital era when music is technically out of copyright but remastered to comply with technology of today.

(7) The EOA Group would like to see the ACCC to investigate how many artists that are independent of APRA and how they are affected by the authorisation. Many artists are not contracted to APRA and therefore have no means of getting paid for their copyright that we pay, without being pressured to join APRA in order to do so. My understanding the Music industry is not happy with many aspects of the authorisation of APRA and the way they conduct themselves and manage the distribution of such funds to them, not to mention the process of voting rights for APRA'S members.

When using music by musicians that are not by APRA's members, or using music which we have permission to use, we are still charged by APRA by the current manner in which APRA charge our industry. No option is considered for this by APRA when we are being charged per class or per competitor, regardless of this being the case.

Therefore, we are paying for a service we are not using just to satisfy APRA, as they put the fear of god into our industry that we will be at risk of legal enforcement should we miss something (e.g. piece of music) and get caught out.

The EOA Group takes these views for the following reasons:

"The EOA Group agrees with the views listed in the submission by MALIK LEGAL CONSULTING "A group of dance teachers, dance schools and Eisteddfod/competition organisers" but I would like to add the following additional points should the ACCC grant APRA authorisation:

1) APRA/AMCOS are misleading to consumers, with various tariffs, documentation, non-transparency, confusing and contradictory advertising, discriminatory behaviour and correspondence. APRA has no idea on how the various industries operate, nor statistics to validate their costs of tariffs. APRA has no consideration nor regards when they calculate licenses and increase tariffs. Apra does not consult the relevant organisations to negotiate an amical affordable fee for the use of copyright. It does not concern them that they are financially crippling our industry to trade and many others, nor the impact the increase will have on the consumers by these charges being passed on.

2) Due to the fact that APRA made AESA "king "of our industry, non-profit eisteddfods are pressured to join AESA to receive a discount on copyright licences and have to pay their fees through AESA, even though they have no authority to do so. APRA have sublet their exclusive authority given by the ACCC to AESA and allowed AESA to benefit financially, as a result. APRA allowed AESA to retain an administration cost for collecting licences on their behalf. AESA charges a membership fee of \$75 and a joining fee of \$20, from every new member who joins AESA. Due to the

promotion from APRA endorsing them [REDACTED], the non-profit eisteddfods have no choice but to join AESA in order to receive a discount on their copyright licence. Whilst other eisteddfod's who are trading as a non-profit that don't join AESA, won't get the same discount.

3) Dance schools pay a copyright licence that their contracts allow their students to perform at eisteddfods however, they are charged an additional fee to perform at eisteddfods. The venues also pay a copyright licence, as well as the videographers pay a copyright licence for the same event.

4) How much the fees have massively increased over a short period of time since the eisteddfod fee was introduced, with only one month's warning, plus this fee will increase each year. Eisteddfods other than AESA members Eisteddfods where sent a letter from APRA on 5th December 2016 to advise them of the increase as of the 1st January 2017. Most Eisteddfods had already received entries or had sent out their fee structures by syllabus, so they had no way of recouping these costs and were charged by APRA regardless of this. APRA's actions caused some Eisteddfods to be forced to trade in insolvency or cease to operate.

5) ONEMUSIC will add a massive increase in copyright fees to all Dance schools and businesses, which intern will increase eisteddfod fees again, for example; due to venues being hit with additional costs, due to ONEMUSIC charges these fees will be passed on via venue hire costs. The Eisteddfod fee tariff will still be required

6) The Dance industry is being targeted, yet other industries like physical culture, ice skating, gymnastics, highland - Irish - rock and roll- ballroom dancing etc is not charged the same, yet they use music in the same way which is discriminatory against our industry.

7) It's a fundamental cultural and human right for us to listen to music and dance (and by implication teach) ... and we are being prevented from doing so or having to deal with unfair conditions attached to the usage of our music.

8) When people complain to APRA/AMCOS/PPCA they do not advise them of the complaints process via resolution pathways and when you try and go through resolution pathways there is an additional fee involved to resolve your dispute which about a fee you can't afford to pay in the first place. This process is [REDACTED] is financially unreasonable to afford.

[REDACTED]

There is nothing expressly stated in the Copyright Act authorising collecting societies to delegate their licence fee collecting power. There is nothing in the APRA authorisation allowing APRA to delegate their licence fee collecting power. Even if APRA had the delegation power, what criteria did they use for AESA's selection. What criteria do they use to select any business partner? APRA obviously go through a great deal of trouble to explain how the Copyright Act which gives them an imprimatur to charge licence fees, and they are careful to ensure that in explaining the Act to businesses they do not engage in misleading and deceptive conduct. How does APRA ensure that AESA as their agent don't engage in misleading and deceptive conduct in explaining copyright, when acting on APRA's behalf?

(10) APRA/AMCOS/PPCA are [REDACTED] imposing increased licence fees on us when they know we are not organised and have no means to fight back. [REDACTED]. APRA wouldn't dare try the same tactic on the radio industry. Imagine if they increased commercial radio stations fees up by 500% to 2500%! [REDACTED] it determinately affects the music industry that they are supposed to support by reducing educational opportunities.

The Dance Industry have always paid for copyright licences. The APRA/AMCOS/PPCA various copyright tariffs have always been a struggle for our industry to pay. However, the industry respects the reason for copyright royalties to compensate music artists for their talent, yet over the past two years our industry has been severely financially impacted due to the sudden increase of copyright fees imposed upon them by APRA/AMCOS and PPCA, especially when APRA introduced the new eisteddfod licence tariff in January 2017.

There is a lot of various issues that need addressing regarding the conduct of APRA/AMCOS/PPCA & ARIA. It is the dance industries consensus, that APRA/AMCOS/PPCA & ARIA need investigating. I have segregated the various issues into categories, to highlight the enormous issue regarding Copyright licencing and why we believe APRA's authorisation should not be regranted. We also believe that AMCOS/PPCA need investigating as to their conduct and organisation trading practices and they should have an authorisation review. ONEMUSIC, also needs investigating as they should not be able to conduct consultations/advertising etc promoting such an organisation, when they do not have their own Authorisation to collect copyright licences. They are operating as if they already have authority to trade and charge copyright licenses via ONEMUSIC.

The Existing Eisteddfod Scheme licenses rights controlled by APRA AMCOS, PPCA and ARIA" Yet, while APRA are applying for re-authorisation, PPCA are not and have not done so since 2011. ARIA have never been authorised and AMCOS purport to be blanketed by APRA even though they deal with different rights. ONEMUSIC is yet another (combined APRA/AMCOS/PPCA & ARIA) copyright company, that also have no authorisation, yet ONEMUSIC are advertising the fact that it will be introduced and trading soon, as yet another copyright collecting organisation. Apra even charge a copyright licence fee to someone who video graphs a wedding, uber / taxi drivers for playing a radio in their car, businesses on phone hold, elevator music, for playing a radio or television in a business no matter if it is out the back in a warehouse or front of shop. The many lists of tariffs for copyright is endless they keep re-inventing new tariffs and adding them to others that businesses already pay.

Meeting with APRA and various dance schools held November 2017

Apra agreed to have a meeting with us in November 2017, to discuss the enormous amount of complaints that they had received, regarding our issues with ONEMUSIC and the new Eisteddfod Licence that they created with AESA. However, this meeting was only allowed to take place on the same day and same time as the AESA AGM meeting that was taking place in Cowra NSW. This prevented us from attending their meeting and AESA members attending ours.

During this meeting APRA, PPCA, AMCOS attendees, admitted that they did not understand how our industry worked and they admitted that they should not have made negotiations with AESA regarding the Eisteddfod tariff. After a lengthy meeting, they agreed for us to provide a report and some suggestions on how to resolve the issues we raised. We submitted the report for consultation and we received a reply from APRA's solicitor denying what was said at the meeting and none of our concerns were resolved. I have attached the response plus my feedback on APRA's response

Resolution Pathways ADL process:

The dance industry had no idea Resolution Pathway even existed, until I discovered the existence of Resolution Pathways, when I was making enquiries with the code of conduct review conducted by the bureau of communications. I contacted Resolution Pathway in 2017, to see if their service could help our industry resolve the issues of the new Eisteddfod tariff, that was implemented as a result of APRA negotiations with AESA without our knowledge.

at Resolution Pathways, had no idea of the major up raw APRA and AESA had created nor the huge impact it had on our industry. In Fact was under the impression everything was fine with our industry, because had only two complaints that had to try and resolve with APRA, over a period of time. I explained to that our industry had no idea about this service, as APRA had not discussed this option when we

voiced our disputes and or concerns regarding outrages fees. The Resolution Pathway ADL was not on APRA's invoices, nor emails and definitely was not told to our industry as an option, when trying to negotiate and resolve issues of disputes.

Having knowledge of this process I tried to use Resolution Pathways and go through this process to negotiate with APRA on behalf of the EOA group and our industry. This process was totally useless and unaffordable [REDACTED]. I asked [REDACTED] how much this process would cost, I was told "how long is a piece of string" I stressed to [REDACTED] I couldn't commit to a financial obligation without knowing the cost of [REDACTED] services. I was told by [REDACTED] "that it would depend how many documents she would have to read, how many conferences with APRA [REDACTED] would have to have and how many hours [REDACTED] would spend on the matter. I was quoted an amount of approx. \$50 at a rate per hour, up to a maximum of \$10,000. This was not practical considering our industry was already financially struggling due to the fees APRA was charging them.

I was informed by [REDACTED] couldn't talk to me on one occasion, [REDACTED] asked me to call back on the Monday because [REDACTED] was at [REDACTED] office at APRA" I questioned the fact that Resolution Pathways was supposed to be independent [REDACTED] process and that I found what [REDACTED] said as disturbing. [REDACTED]

[REDACTED]

Due to the above, with the open-ended charges for this service [REDACTED] we believed it wasn't a [REDACTED] nor financially viable to continue with a complaint through Resolution Pathways, with no guarantee of any fair outcome.

This process is Resolution Pathway, is [REDACTED] impractical, especially for small businesses to afford, not to mention, it is not common knowledge to any industry that I spoke to regardless of the dance industry (and I contacted several), no one knows this service exists.

AESA

Prior to APRA entering into negotiations with AESA in 2015, AESA had not very many members in fact less than 110.

AESA is a rural small organisation that is made up of older members mainly volunteers, that run non-profit Eisteddfods. AESA was formed to be an advisory service for the few members they had to offer advice and support as most of their Eisteddfods were run by committees that most members had little experience in running Eisteddfods. In 2015, APRA started negotiations with AESA as APRA assumed AESA represented our entire industry of dance/Eisteddfods, this was "definitely" not the case, far from it in fact. Most of the dance industry hadn't even heard of AESA before this happened. They don't even represent all non-profit Eisteddfods, as many Eisteddfods that are non-profit were not and are not members of AESA. AESA's membership numbers have grown as a result of the relationship with APRA and promotion AESA has been given by APRA.

[REDACTED] They can't receive the discount even if they are a non-profit Eisteddfod unless they are a member of AESA.

[REDACTED]

[REDACTED]

The documents that both AESA and Apra circulated about these fees to AESA members, had very misleading information on it. Different prices, with GST included, GST inclusive, GST excluded, members cost and non-members cost, lies about the fact that our dance schools weren't covered for copyright at Eisteddfods, when in fact the dance schools contract clearly states "that their students can perform under their umbrella with this copyright license at Eisteddfods" Plus the venues we hire, pay a copyright tariff for live performance. Yet Apra told AESA that the dance schools and venues weren't covered for copyright. This was misleading and cunning trade practice to manipulate fear into AESA to enter into a negotiation with APRA or face the higher rate. AESA tried to get a better deal for their members without consulting other non-profit Eisteddfods, nor the rest of the majority of our industry.

Prior to these negotiations:

- 1) Eisteddfods paid a fee of approximately \$80 to cover the Eisteddfod organisers for copyright should they personally play music at their event.
- 2) The Dance schools had their own license for their students to perform at Eisteddfods.
- 3) The Venue paid their own copyright license to cover use of music on their premises.
- 4) The Videographer also paid a copyright license to film the competitors at Eisteddfods.
- 5) Independent dance teachers also paid a copyright license to teach students.

5 different sources of income APRA received for copyright licenses for the same event!!!

Yet they told AESA that they were not covered for copyright and had to enter into negotiations with APRA for yet another copyright licence on top of these 5 licenses.

As a result of this new fee Eisteddfods copyright licence has gone from approximately \$80 to several hundreds even thousands for some Eisteddfods.

APRA also sealed the deal by telling AESA that if they monitor the fees and collect from their members on behalf of APRA, that Apra would not Audit them!

*I must question how APRA have the right or authority to Audit anyone? as they are not the Government nor the tax department.

Eisteddfod License Tariff

- 1) Various prices with no clear understanding /description, of what category APRA segregates each Eisteddfod as i.e. non-profit, small, regional, community group, commercial and non-commercial to name a few.
- 2) No clarity of fees
- 3) Misleading information which is against the fair-trading act.
- 4) Deals negotiated with APRA and various Eisteddfods, where some Eisteddfod are charged less than others.
- 5) No consultation was done with the majority of the Dance Industry only with AESA.
- 6) Only one months' notice prior to new Eisteddfod License fee being implemented.
- 7) AESA's secretary conducted the negotiations with AESA without consulting AESA's members or others in the Industry.
- 8) Non-copyright music has been allowed for in this processing of such fee.
- 9) Fee is charged on the basis of the performer on stage not the audience.
- 10) This fee is just another ploy for APRA/AMCOS & PPCA to cash in on yet another fee when there is already several fees being paid for the one event. Double dipping, triple dipping in fact in some cases 5 copyright fees being charged for the same event. E.g. venue, dance school, eisteddfod organisers, videographers,

teachers. Each paying a copyright licence for the same event.

- 11) Incorrect information relayed by APRA to AESA, in order to convince them that dance schools weren't fully covered for copyright at the Eisteddfods, when in fact they always were.
- 12) Out of copyright music being charged for, due to digital remastering that is allowing APRA to cash in on the technology advances.
- 13) Eisteddfods are expected to pay fees based on last year figures before the event takes place and before they receive any money for entries to afford to pay them. Eisteddfods need to keep a contingency fund to operate the next Eisteddfod, to cover for printing, venue hire, trophies advertising etc. paying prior for the copyright fee will force Eisteddfods to trade in insolvency.

APRA endorsing other organisations

Why are APRA promoting AON Insurance?

What is the nature of their relationship?

What benefit is APRA receiving as a result of the relationship?

APRA should make public their contractual relationship. They should disclose in their advertising that how they benefit from the relationship. <https://business-insurance.aon.com.au/Professions/Entertainment/Performers>

ONEMUSIC

ONEMUSIC calculations of fees scheduled to be introduced is not fair for any industry. This is forcing businesses to pay for a copyright use that they don't use. E.g. uber driver, hairdressers, retail shop would not use recorded music nor conduct a live performance and definitely wouldn't do a reproduction of works, yet under ONEMUSIC they are paying for all four copyright Licenses. The fee structure for ONEMUSIC is going to rise copyright fees for businesses by several hundred percent in some cases. ONEMUSIC will be forcing businesses to pay, regardless of use.

Dance schools/fitness centres will be charged per the size of space of the studios they operate their classes in, the locations, how many classes they operate per day/week etc. This scale is impractical as the size doesn't represent the actual students in it. Most dance schools hire local council halls or school halls to operate their small business in. the hall could be massive, but they may only have five students in the class. Location has nothing to do with the use of the music, whether the music is played at Bondi or Mt Druitt it is still the same but apparently will be charged differently under ONEMUSIC calculations.

New Zealand is compared in the advertisement to sell ONE MUSIC to Australia yet New Zealand's fees are considerably less than the Australian fee structure.

The example on the ONEMUSIC website regarding a small club with two function rooms, added up to \$55,000. I question a local club that fits that description and asked what they currently pay in comparison, they told me "they currently pay less than \$1000 for copyright license and if the fee increases to \$55,000 the club would go into insolvency and have to close". Venues will have to increase venue hire to Eisteddfods and dance schools to cover this cost, which would impact on our industry even more not to mention customers that use their facilities.

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STRUCTURE

The proposed licensing metric is a fee per person, per night of operation, for each person of the venue's capacity. The rate applicable is tiered based on the number of days/nights that the venue operates at each specific capacity. The capacity in this context is the number of patrons licensed by the local government, liquor licensing body or fire department as applicable to that venue. OneMusic Australia will continue to provide PPCA's option to venues, which are multi-level or multi-space and open only a portion of their spaces on certain nights, to license the relevant operating space only for those nights. The OneMusic Australia eCommerce reporting mechanism will allow licensees to input their capacity per night to account for this.

OneMusic Australia proposes that the capacity rate is tiered according to the total number of nights of operation to take account of anecdotal evidence that suggests attendance numbers, when compared to capacity, are lower where a venue is open for multiple nights per week.

As at June 2017, the PPCA rate for recorded music used for the purpose of dancing was \$1.29 per person multiplied by capacity, per night and the APRA rate was \$0.86 per person multiplied by attendance, and capped at the venue's capacity. Applying estimated annual CPI increases between now and when OneMusic Australia commences in 2018, and converting the APRA rate per attendee to a rate per capacity (using our analysis of licence information provided by venues holding both licences), the existing combined rate is \$2.20 per person. The proposed rates are set out below:

	NUMBER OF NIGHTS OPERATING PER YEAR PER DECLARED CAPACITY DANCING AREA	RATE PER HEAD PER NIGHT OF OPERATION TO BE MULTIPLIED BY CAPACITY (INC GST)
Tier 1	Up to 52 nights of operation per year	\$2.20
Tier 2	53 to 104 nights of operation per year	\$2.10
Tier 3	105 to 156 nights of operation per year	\$2.00
Tier 4	More than 156 nights of operation per year	\$1.90

Venues which restrict their premises to different capacities on different days will have the ability under this scheme to declare those variances. This ensures that venues are only paying for the capacities at which they are operating on any given night. Under this scheme, OneMusic Australia will separately assess licence fee calculations against the capacities reported.

By way of example, a venue is open three nights per week and on Friday and Saturday the whole venue is open at a capacity of 200 people (104 days of operation over the year) but on Thursday it only opens the ground floor bar, which has a capacity of 100 people (another 52 days of operation over the year). That venue would report these differing capacities as follows in order to take advantage of the tiered rate structure:

AREA NAME	NIGHTS PER YEAR	CAPACITY	APPLICABLE RATE	FEE PAYABLE (INC GST)
Full Venue	104	200	\$2.10	104 x 200 x \$2.10 = \$43,680
Ground Floor Bar Only	52	100	\$2.20	52 x 100 x \$2.20 = \$11,440
				Total = \$55,120

By way of comparison, under the current APRA AMCOS and PPCA schemes and assuming the same CPI adjustment, the estimated licence fee would be approximately \$56,000 – producing a saving of around \$1,250.

The proposed scheme is subject to a minimum fee of \$200 (including GST) per area, per year. All fees under this scheme will increase in line with the weighted average of eight capital cities Consumer Price Index annually.

1. Assuming CPI at long-term average of 2.5%

Dance Schools multiple fees

- 1) Dance schools are charged by APRA a copyright licence to cover them conducting their dance classes.
- 2) Dance schools are charged by PPCA a copyright licence to cover their midyear/end of year concerts. PPCA goes on a fishing expedition, asking how much the venue hire is, how much they charge for tickets to parents, how many seats the venue holds etc for the concert, in order to calculate how much they charge the dance school for their copyright use. Yet the costs they charge for tickets are to cover the overheads of running the event e.g props, costumes, venue hire, advertising, printing of programs etc no profit is gained as this is the dance schools contingency funds to cover the twelve weeks a year they can't operate during school holidays to cover ongoing operational costs of their business. Plus, they have to provide music lists.
- 3) Dance schools are charged by APRA a copyright Eisteddfod licence to perform at an Eisteddfod, even though their dance school licence states "that their students can perform troupes at Eisteddfods under this licence at Eisteddfods"
- 4) Dance schools are charged by Apra an additional copyright casual performance fee, if they perform at a council event i.e. festival etc
- 5) Dance schools are charged by APRA a copyright licence via their videographer to video their midyear/end of year concerts and eisteddfod performances.
- 6) Dance schools are charged by APRA an additional copyright fee on top of their licence, if they allow the parents to come and watch their children in class to witness their child's progress.
- 7) Dance schools are charged by APRA an additional copyright fee on top of their licence, if they hold a disco for a fundraiser and the DJ also pays a copyright fee which is passed onto the dance school, in the fee they are charged for the same event.
- 8) Dance school students are charged an Eisteddfod fee when they perform at Eisteddfods for their solo performances, even though their dance school licence states "that their students can perform troupes at Eisteddfods under this licence at Eisteddfods"
- 9) Dance schools are charged an additional copyright fee, if they perform a well-known production, which then comes under public work.

So, as you can see the Dance schools have several copyright fees to pay for just conducting an amateur performance and teaching young children performing arts training them to become professionals of our future. Bear in mind the audience that watch their performances are primarily the students' parents. The Dance industry is being targeted yet other industries like physical culture, ice skating, gymnastics, highland -Irish - rock and roll- ballroom dancing etc is not charged the same yet they use music in the same way. The Dance Industry should be classified as an educational industry, that teach young amateur students to become professional teachers and professional performers. The fact that dance schools are charged copyright fees for classes, especially when a lot of our syllabuses are governed by organisations that are Registered training organisations? whom have acquired copy free music for their syllabus, yet dance schools are still charged copyright fees regardless by APRA.

The dance industry needs to use relatively identifiable music to be current in our industry. Many music videos have back up dancers to help sell their music. Not to mention the dancers themselves should be covered for copyright of the choreography, as the choreographers don't get any royalties paid to them from the music artist, despite the fact that the dancing on the music video helps sell their music.

Our industries feed off of each other, yet the dance industry is getting hammered with huge multiple copyright fees to the point it is crippling our industry's survival. The snow ball effect ripples down to the individual child that just wants to dance, and it is becoming an industry that is only affordable to the rich and unaffordable to the average child that has talent and wants to participate in an activity in the arts. Some students may never make professional dancers, but they enjoy dance and get to socialise, learn a discipline, get exercise and gain life skills for the future. The fees APRA/AMCOS & PPCA are enforcing on our industry are going to disadvantage many children and force good teachers to close their dance schools as it will become a non-viable business to continue trading as at these prices they can't even break even in such a competitive market. The smaller dance schools and schools in rural areas will not survive as they can't constantly keep raising their fees to cover the copyright expenditures not to mention the day to day costs of running a business.

We appeal to the ACCC to stop these copyright organisations from having the monopoly of the copyright licencing.

[REDACTED]

[REDACTED]

[REDACTED]

APRA should not be granted re authorisation

- 1) APRA represents themselves to be a government organisation when they are a private company
- 2) APRA has sub let their exclusive authority to collect copyright to another organisation AESA. (how many other organisations do they have this same agreement with, as they offered EOA the same deal)
- 3) APRA are allowing AESA to keep an administration cost for collecting copyright on APRA's behalf. [REDACTED]
- 4) APRA are endorsing organisations such as AON insurance.
- 5) APRA uses misleading information and have no transparency.
- 6) APRA is discriminatory. [REDACTED] with various clients charging different rates than others. They hide the fact that some venues are covered for copyright and businesses that use these venues are not required to pay an additional fee for copyright at these venues. However, they don't make this information public knowledge, they still charge some, but those that find out don't have to pay at all. Its treated as a need to know bases, no database is available to the public to be able to know what venues are covered and what venues are not.
- 7) APRA do not conduct appropriate consultations with industries prior to structuring their fee increases etc

- [REDACTED]
- 9) APRA has the monopoly and are a law of their own, they can charge whatever they want regardless of how it will cripples the industries they target.
 - 10) APRA has invested in properties worth several million dollars, yet claim their members are living in poverty.
 - 11) APRA's staff give different information it depends who you talk to as to what information you are given.
 - 12) APRA's ADL Resolution Pathways is inefficient, unaffordable and [REDACTED] This service is not advertised to clients when disputes are raised with them and no information about Resolution Pathways are on APRA's Invoices or demand letters.
 - 13) APRA admitted that they don't understand our industry yet refuse to conduct appropriate consultation with us to rectify their mistake by doing consultations with AESA who do not represent majority of our industry.

As I understand there are five entities involved in music licensing in Australia.

1. APRA licences musical works for public performance and communication (including broadcast)
2. AMCOS licences musical works for reproduction
3. PCCA licenses sound recordings for public performance and communication (including broadcast)
4. ARIA licenses sound recordings for reproduction

5. Individual record companies licenses the reproduction, public performance and communication (including broadcast) of sound recordings

1 to 4 are working closely together. They regularly communicate with each other and collaborate on various issues. For example, they are all stakeholders on Music Rights Australia, their anti-piracy body. They also consult formally and informally on various issues. They jointly lobby the Government on various issues. 1 to 3 are working together on OneMusic Australia. 1 to 4 work together from a licensing viewpoint, collaborating on licenses. For example, the Eisteddfod licence is a 4-way licence:

See: http://apraamcos.com.au/media/customers/Non-Association_Eisteddfods.pdf

Only 1 is applying for authorisation. 3 had an authorisation which lapsed. The others had no authorisations. PPCA's rationale for not having an authorisation would be (I guess) that they don't need an authorisation because they are non-exclusive and would-be licensees can in some situations approach 5 directly. Yet PPCA have always been non-exclusive but have held an authorisation in the past. Why did they not seek to renew it? Why has their position that suggests they no longer require an authorisation? Even if PPCA is non-exclusive, music licensing is so confusing, and so uncompetitive, that all organisations involved in music licensing should be authorised by the ACCC

The EOA group's request for the ACCC not to grant APRA's copyright authorisation.

Should APRA get their authorisation re-approved, we believe Apra should return all money they have received for the Eisteddfod licence and apply a moratorium until appropriate consultation has taken place with all in our industry not just AESA.

I am concerned with the negotiations with AESA which resulted in APRA anointing them as the representative of the Eisteddfod industry. AESA is:

1. Not representative of Australian Eisteddfods
2. Has never been representative of Australian Eisteddfods
3. Is a regional organisation with minimal capital city representation
4. Does not operate in an efficient manner – they don't issue invoices or receipts
5. An organisation that never had the authority to negotiate on behalf of Australian Eisteddfods

This is not intended as a criticism of AESA. It is a criticism of APRA who were so desperate to do a deal with an organisation ... any organisation that purported to represent Australian Eisteddfods that they anointed Australian Eisteddfods as a representative organisation.

APRA wrote to licensees advising us of the new licensing regime – I understand the letter was included as Attachment 2 to the Malik submission. The letter engages in misleading/deceptive conduct, stating “the new scheme represents a discount of at least 25% on the previous combined fees”. This claim did not attach/include any terms and conditions – there was no asterisk, and no explanation.

In reality licensees have paid hundreds/thousands of per cent and more since this pronouncement. Previously most licensees were paying about \$80 per year. APRA will suggest, no doubt, that the \$80 per year did not include AMCOS/PPCA/APRA fees, so in saying that fees have increased I am comparing apples to oranges. However, licensees did not pay AMCOS/PPCA/APRA fees because they weren't levied on them, and they believed that these license fees were already covered by existing levies on venues. If not for the claim about the 25% reduction I do not believe AESA or anyone else would have negotiated with APRA. I also believe this false 25% reduction claim corrupted the entire negotiation/consultation process, so when APRA state they consulted with industry, they did so on a bad faith basis

I have provided a lot of information regarding APRA's conduct and I have evidence to substantiate the content of this submission. Please don't hesitate to contact me for further information in order to achieve a resolution to this problem.

Yours sincerely,

Sonyia Walsh

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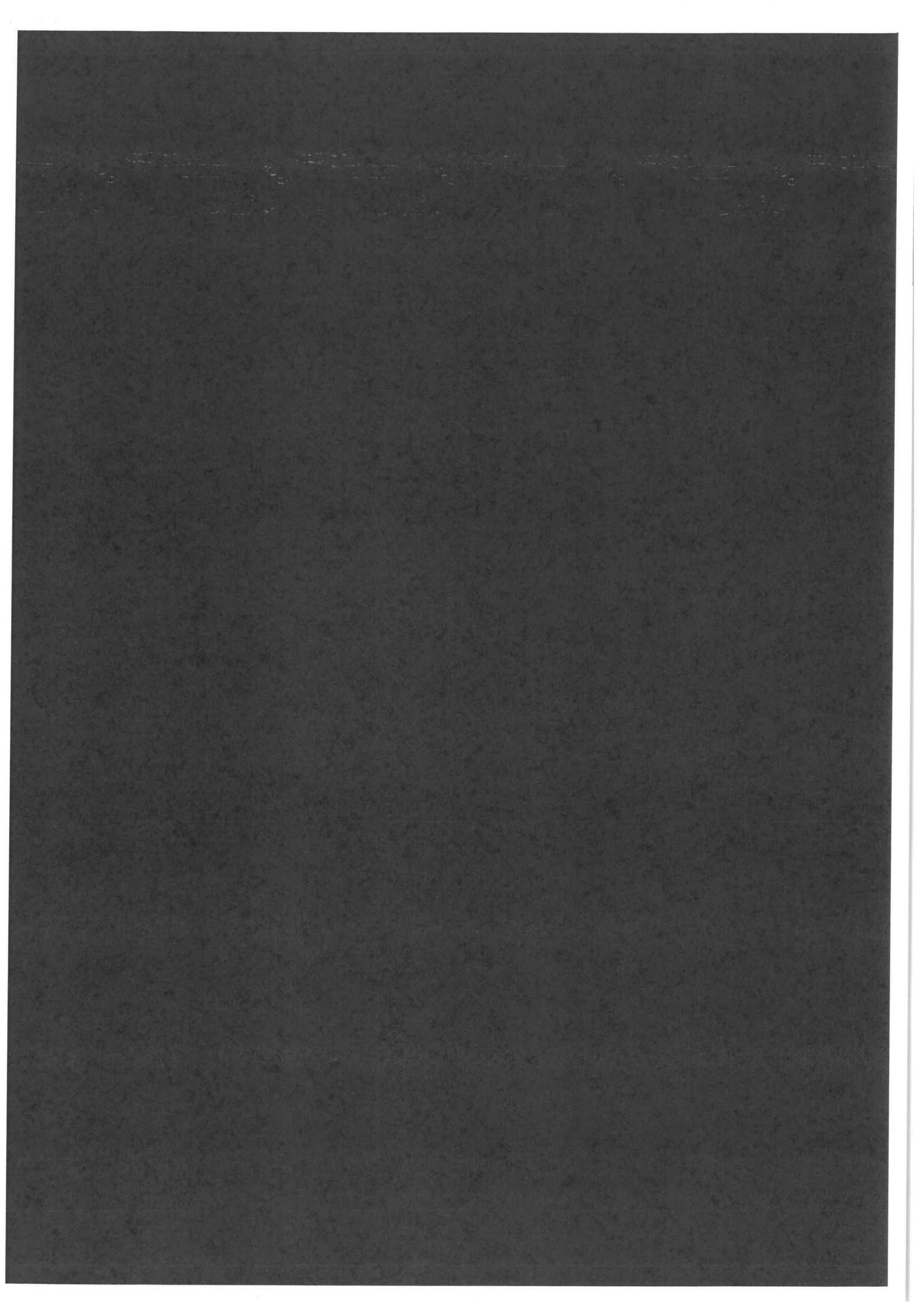
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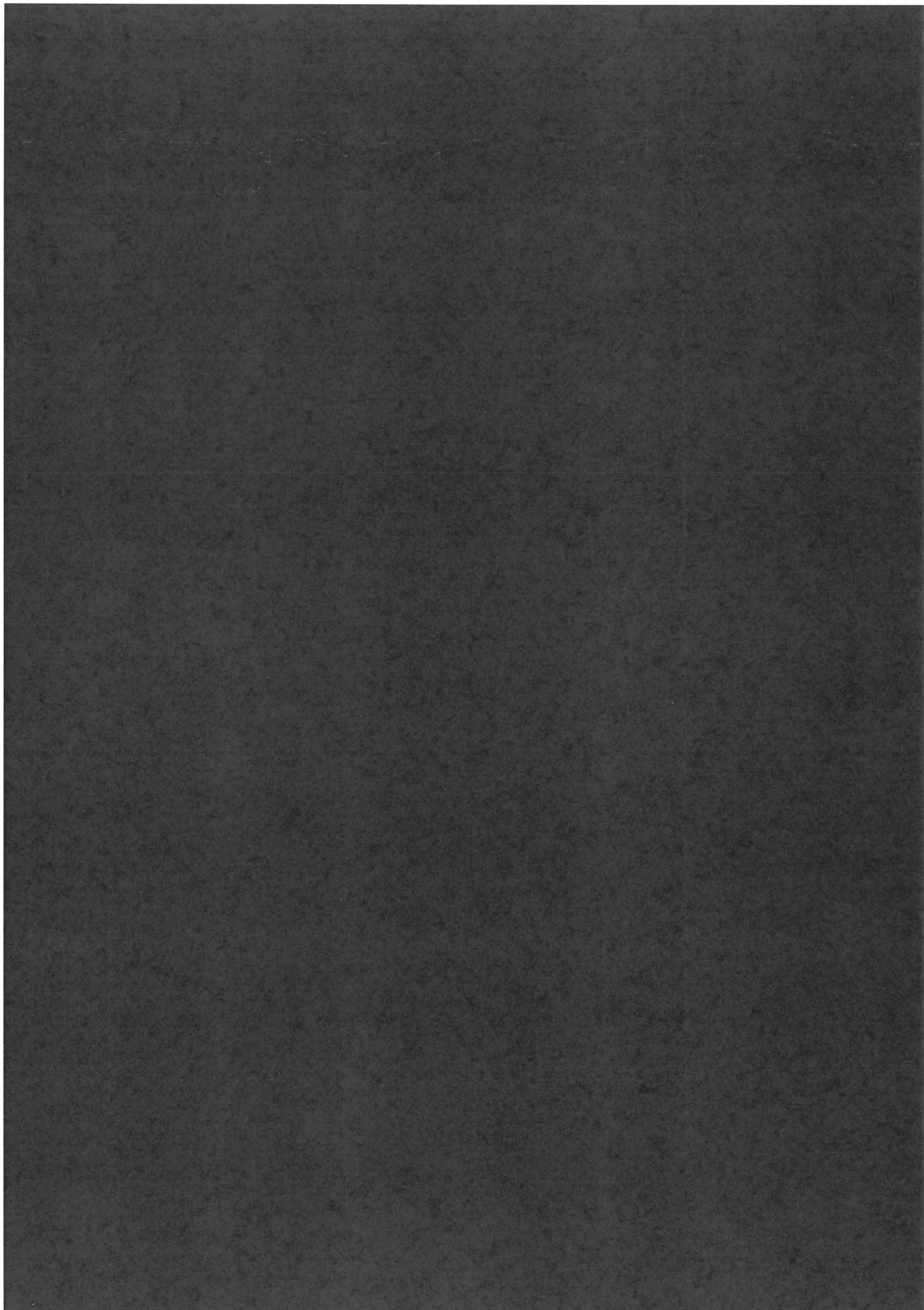
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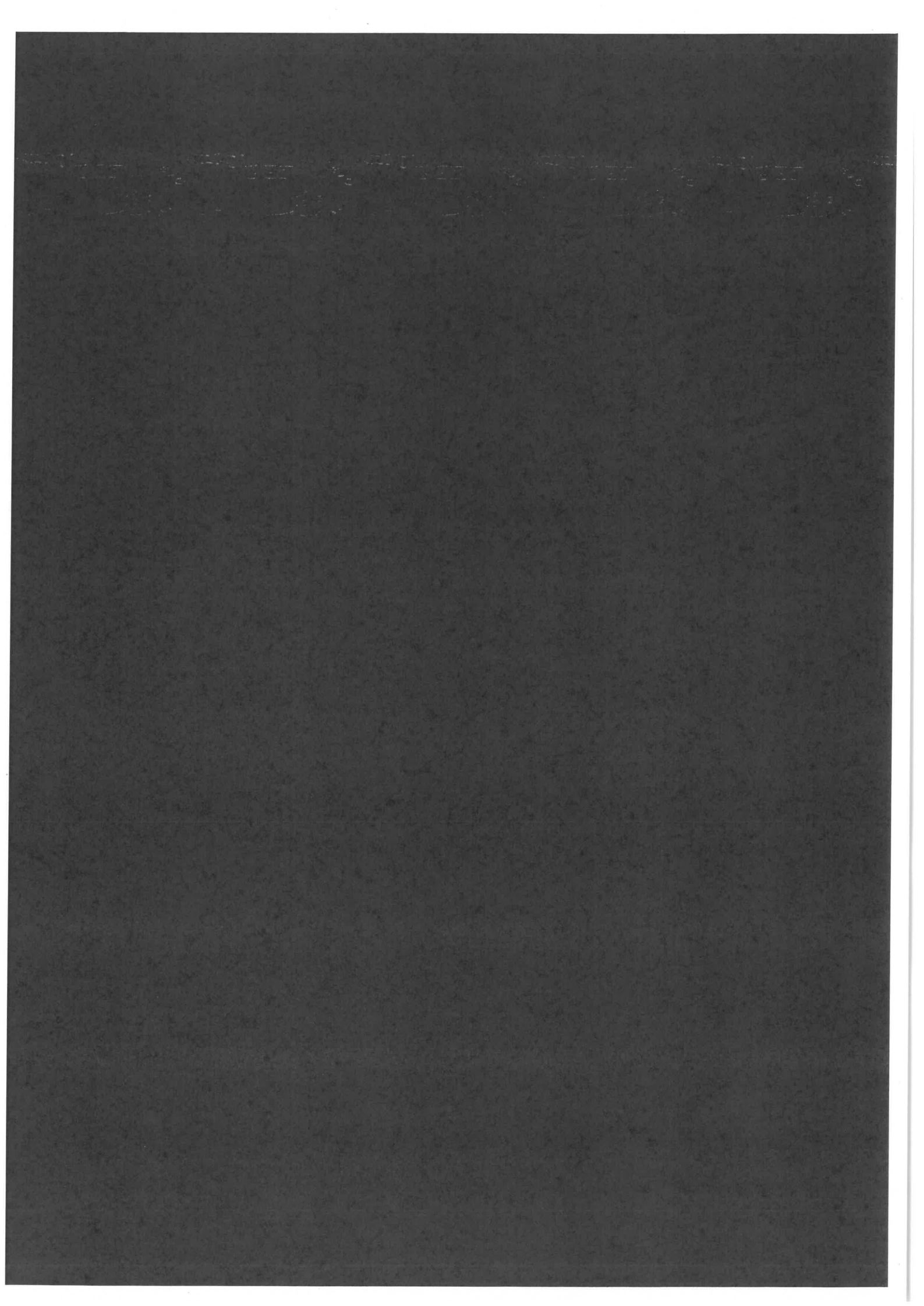
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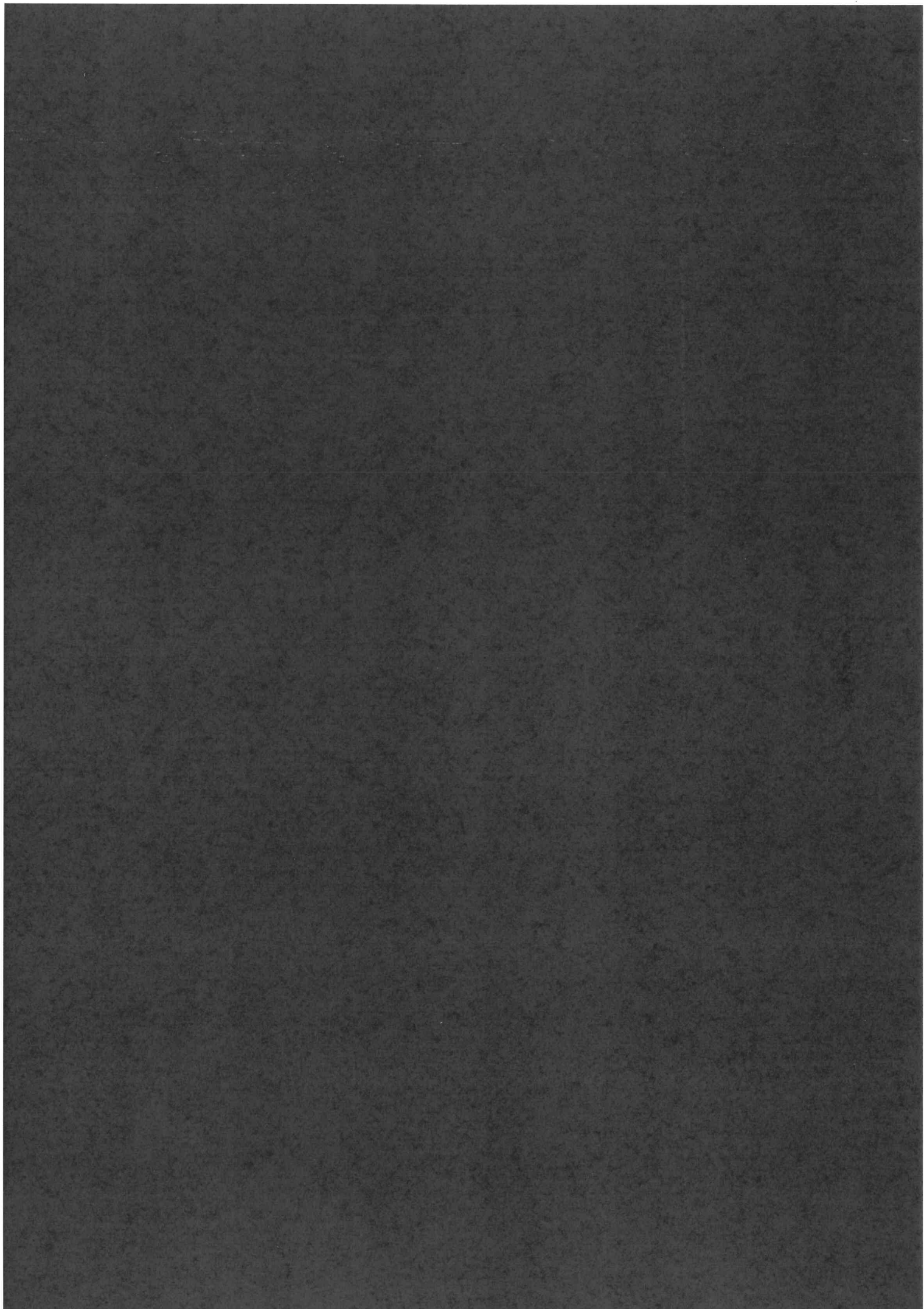
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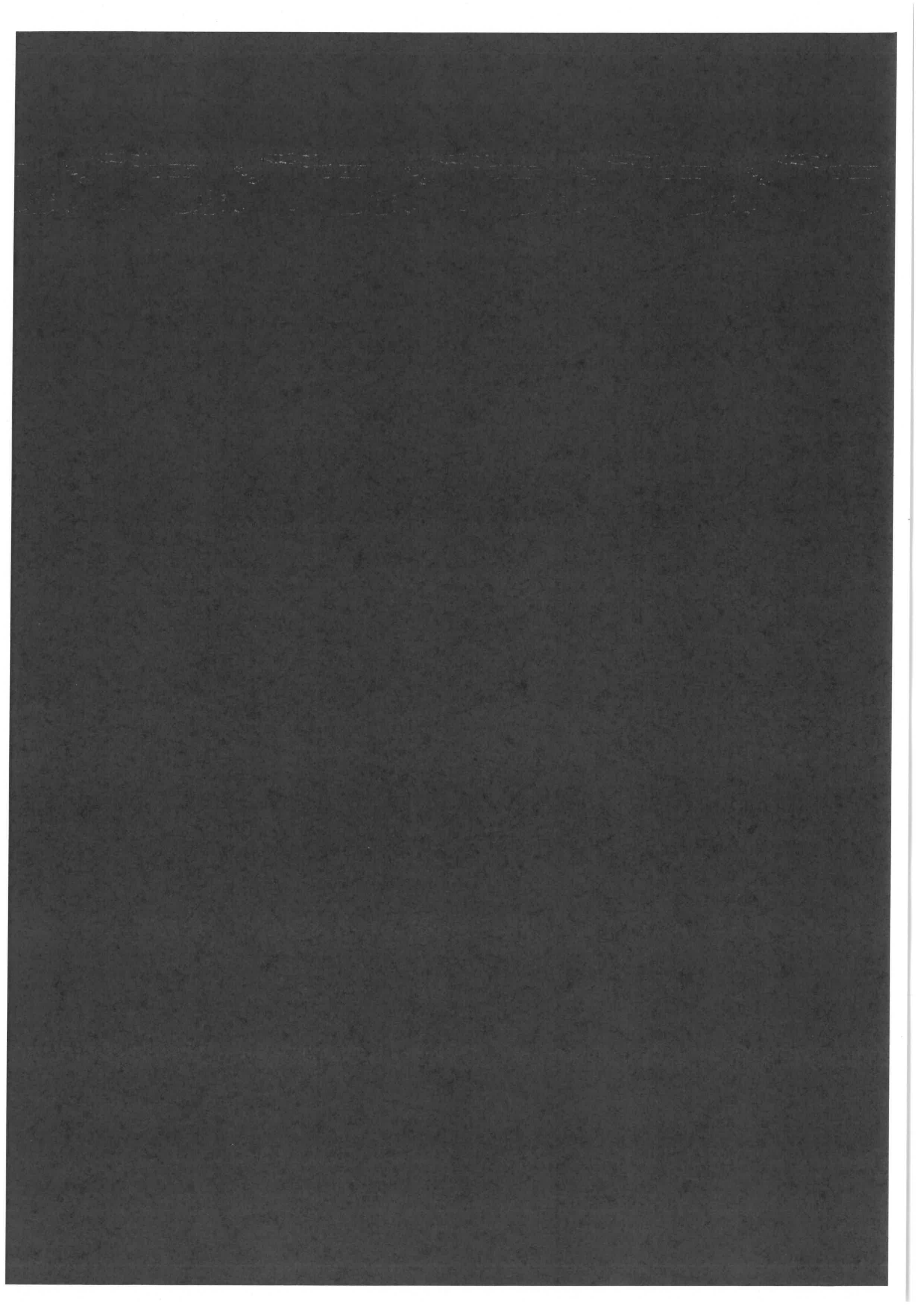
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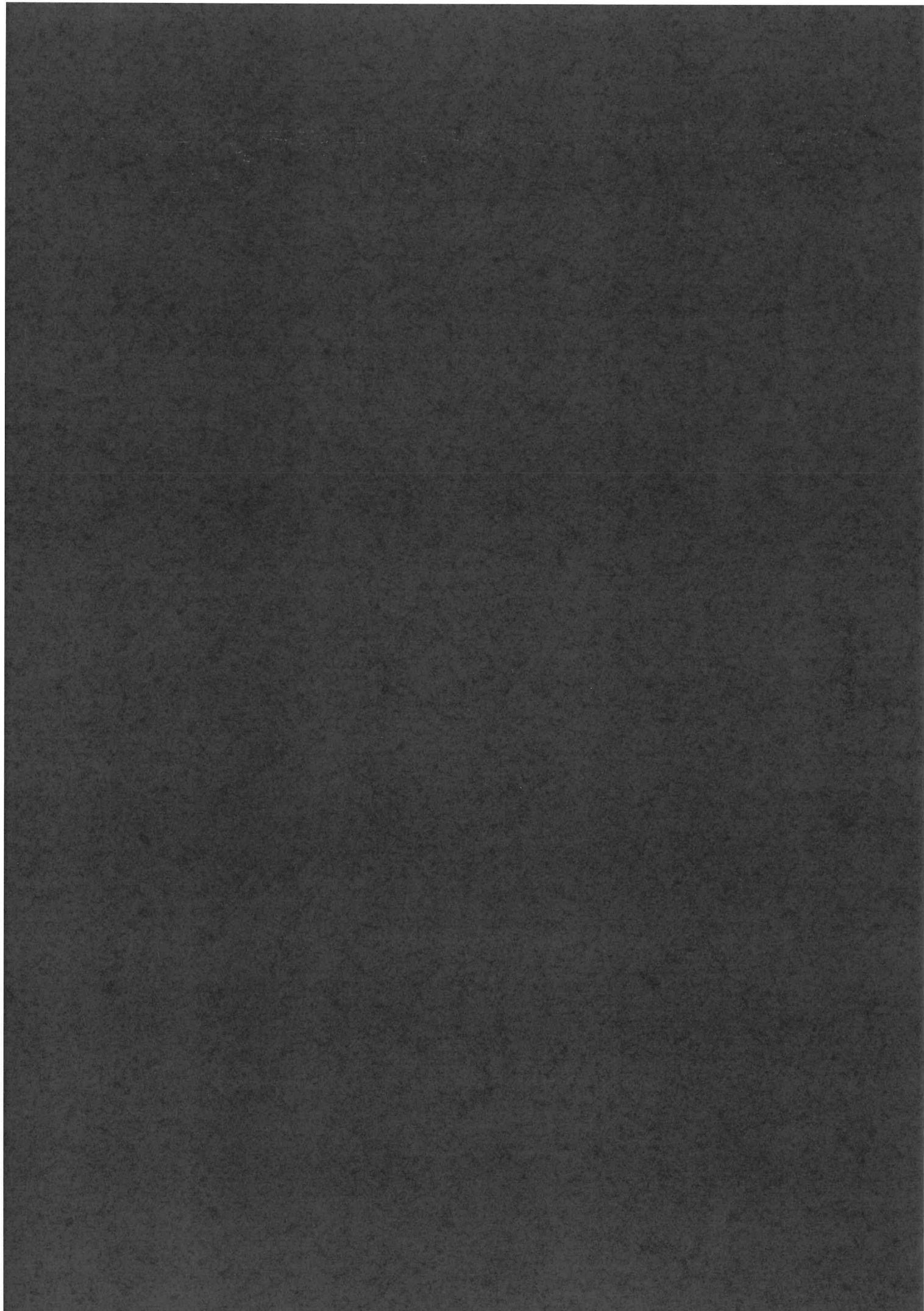


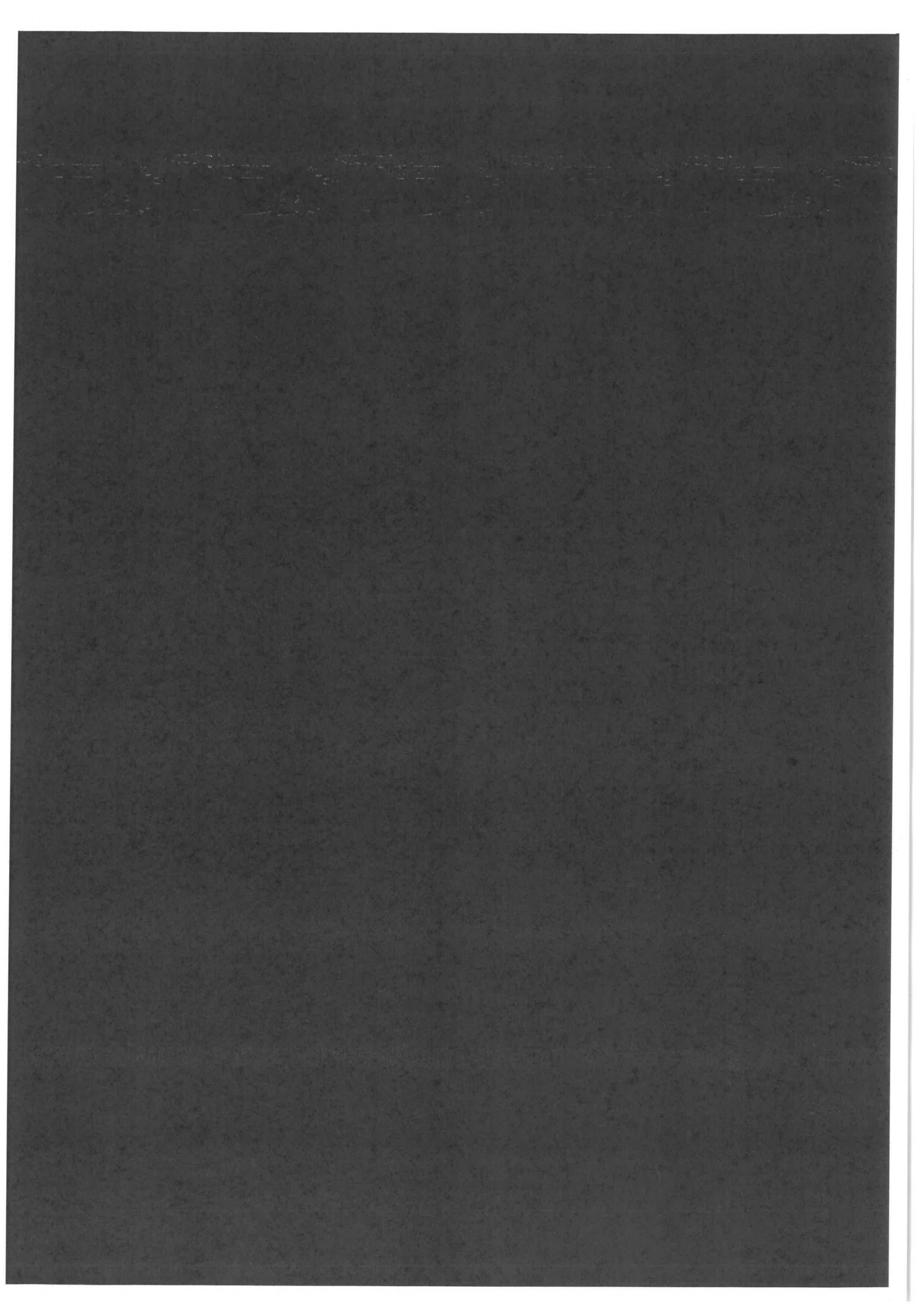


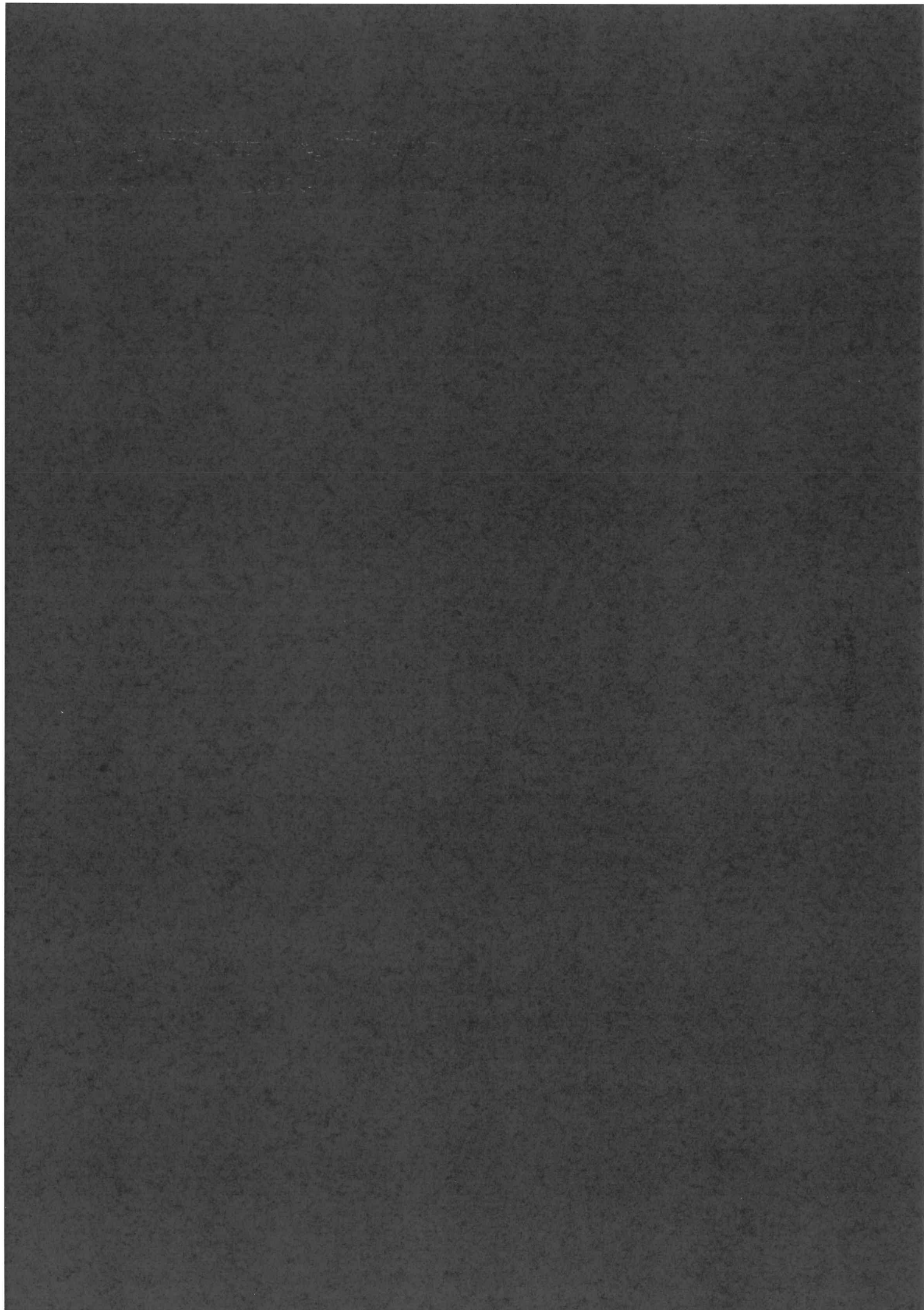


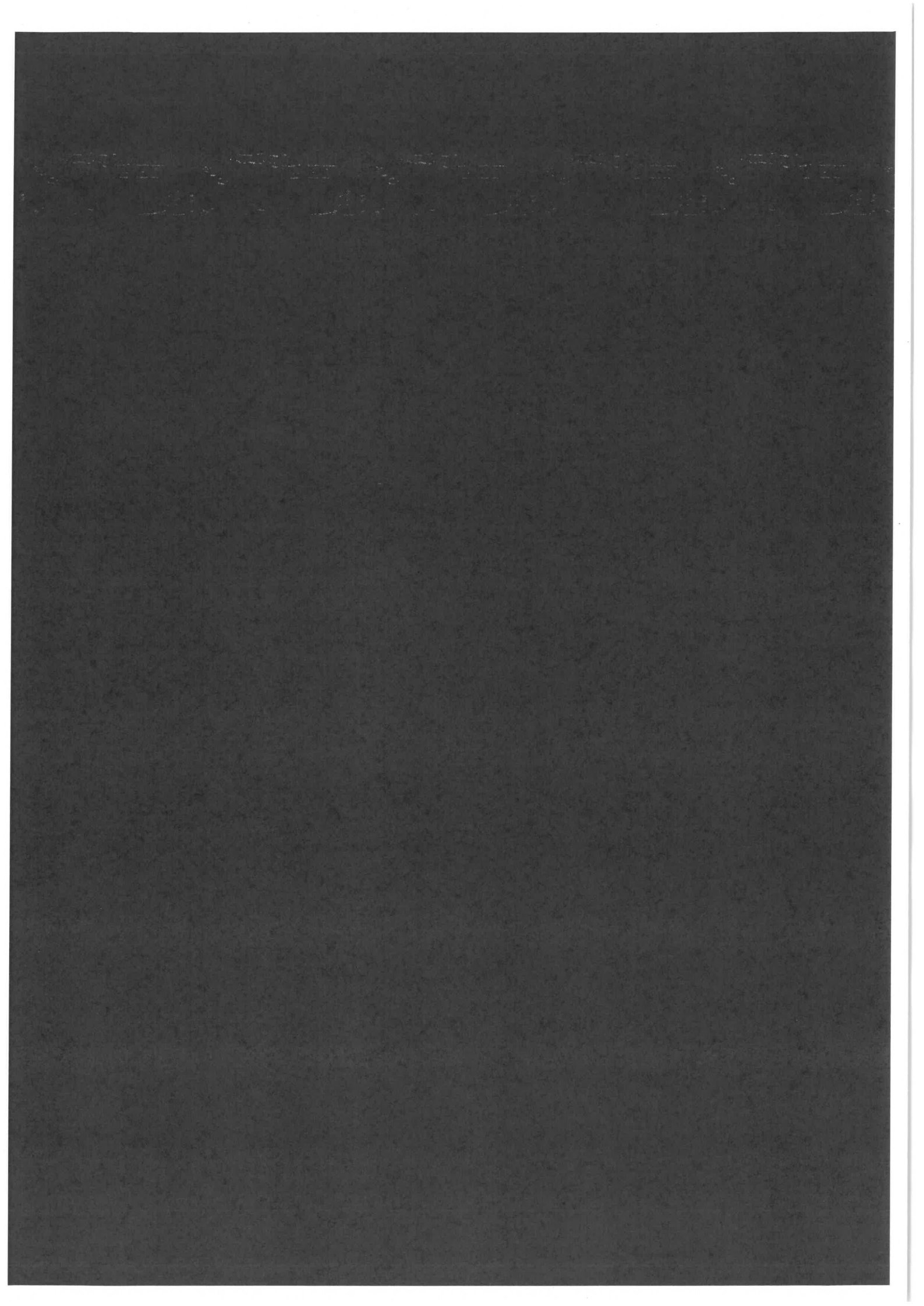


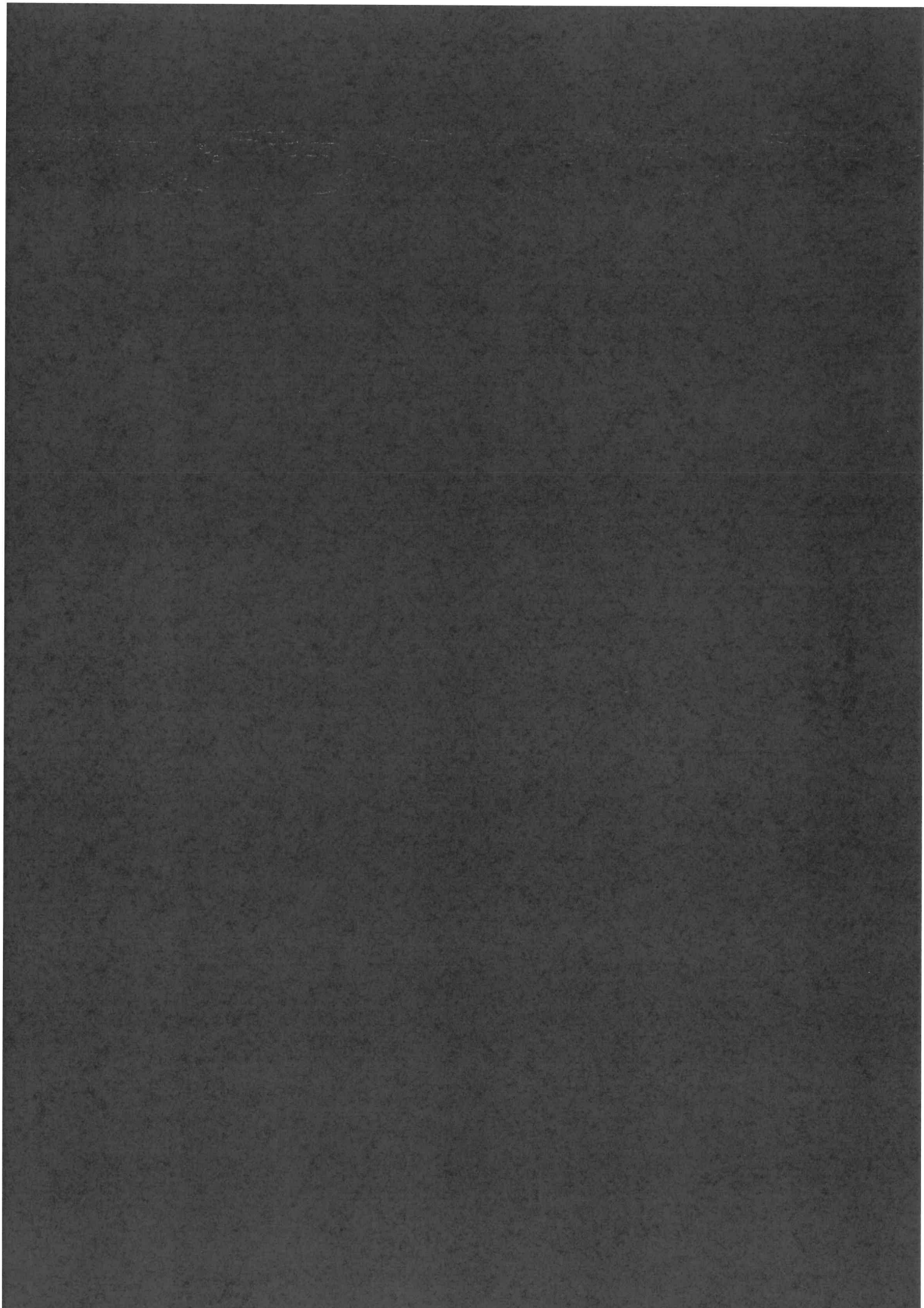


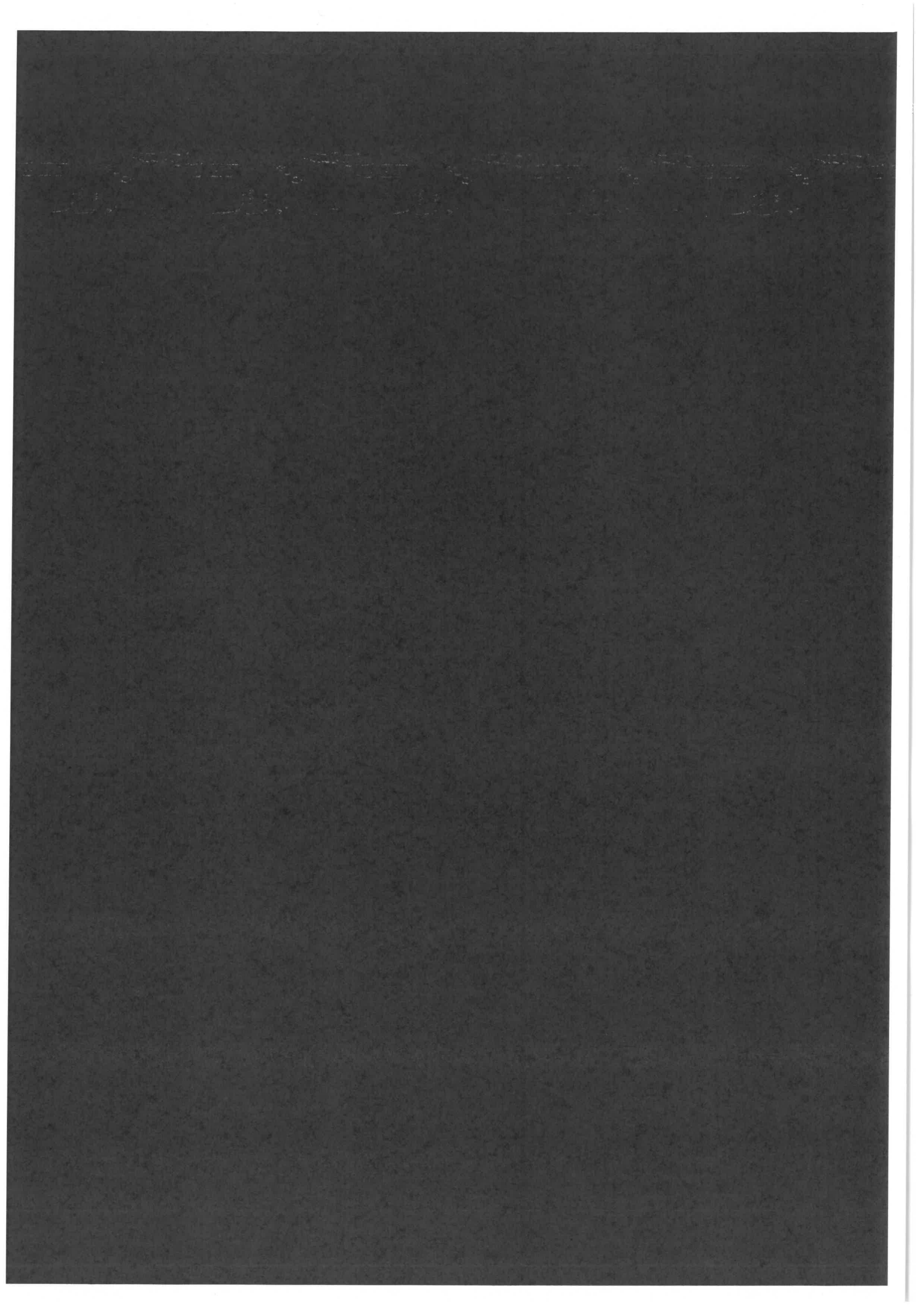


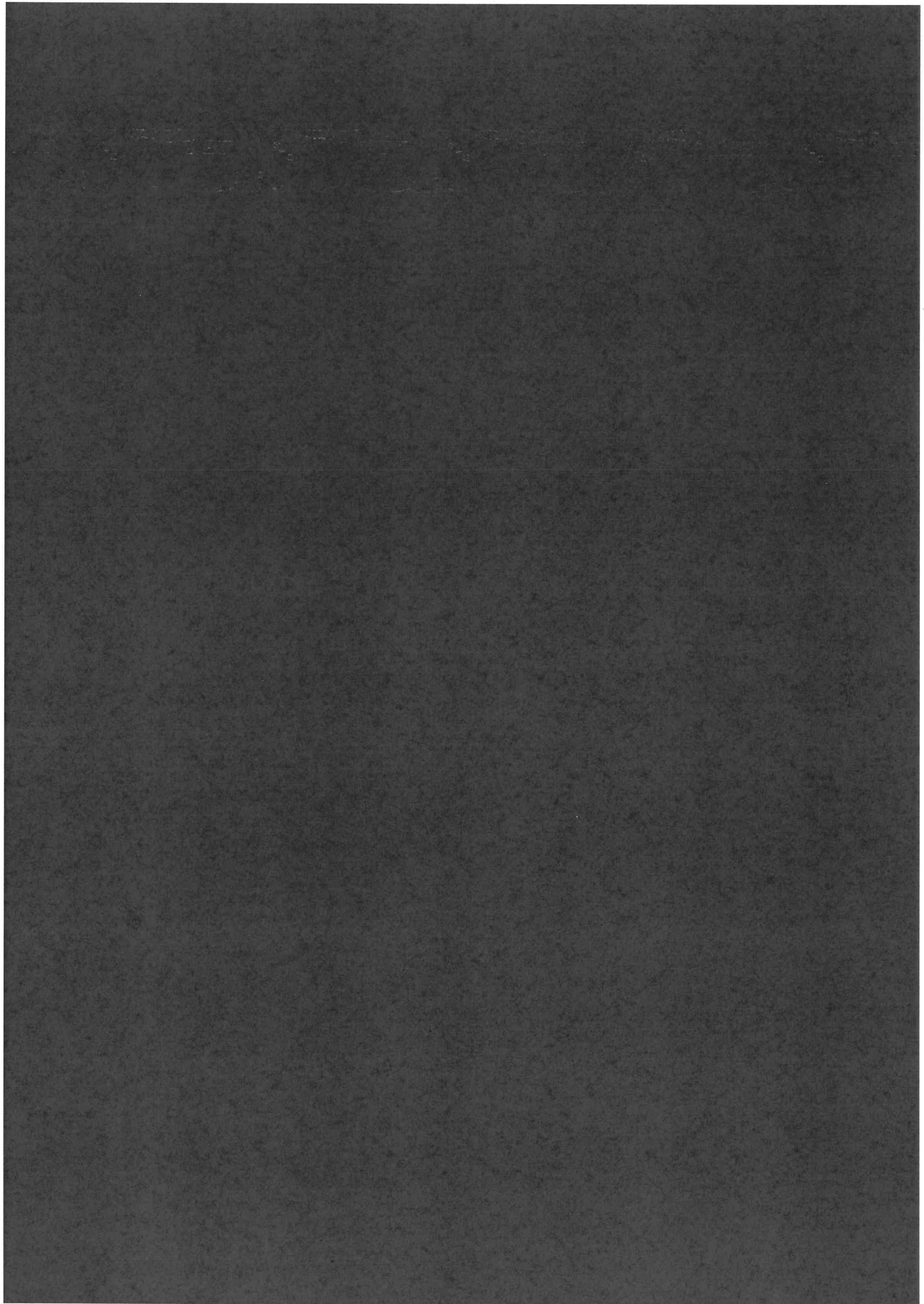


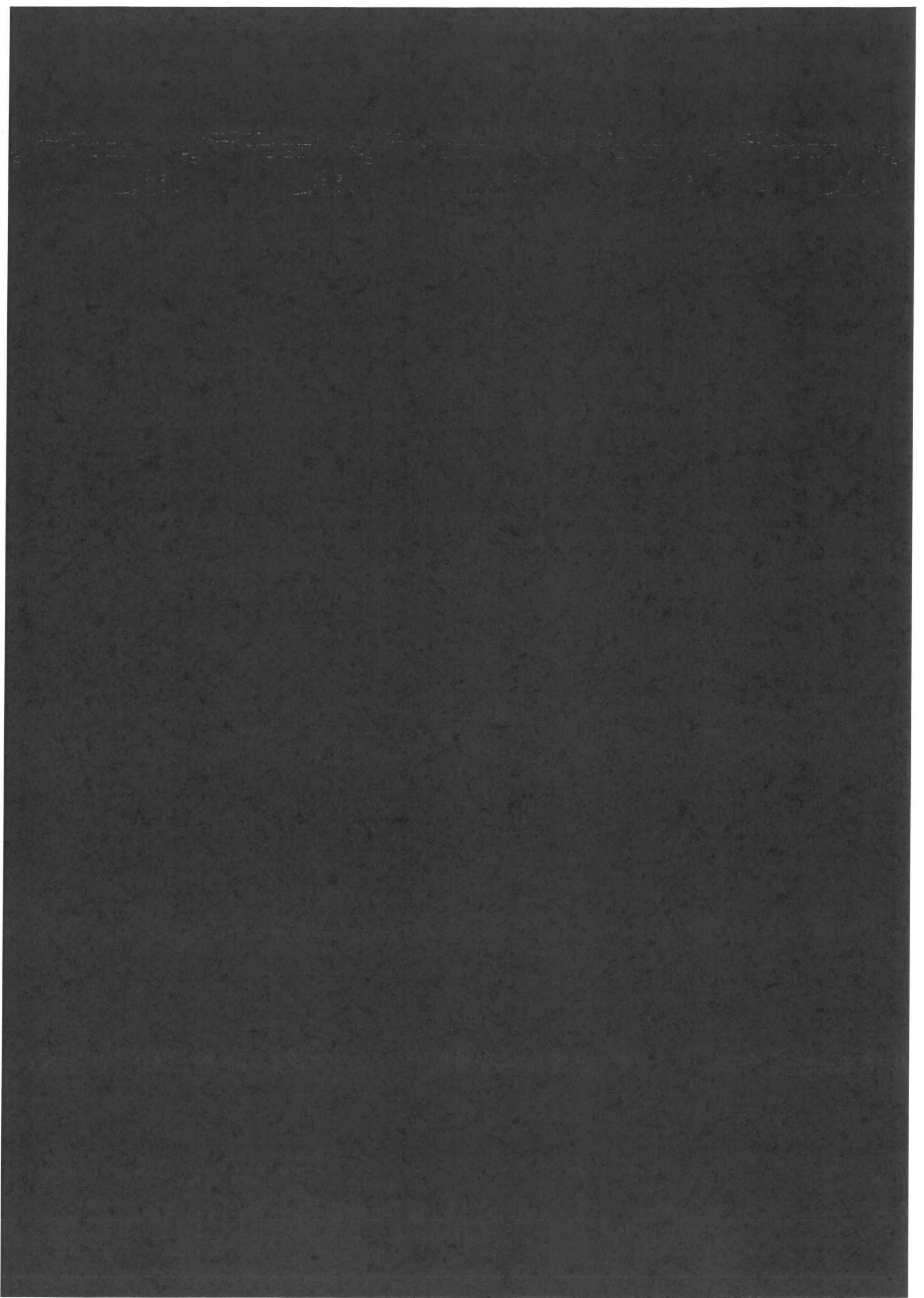


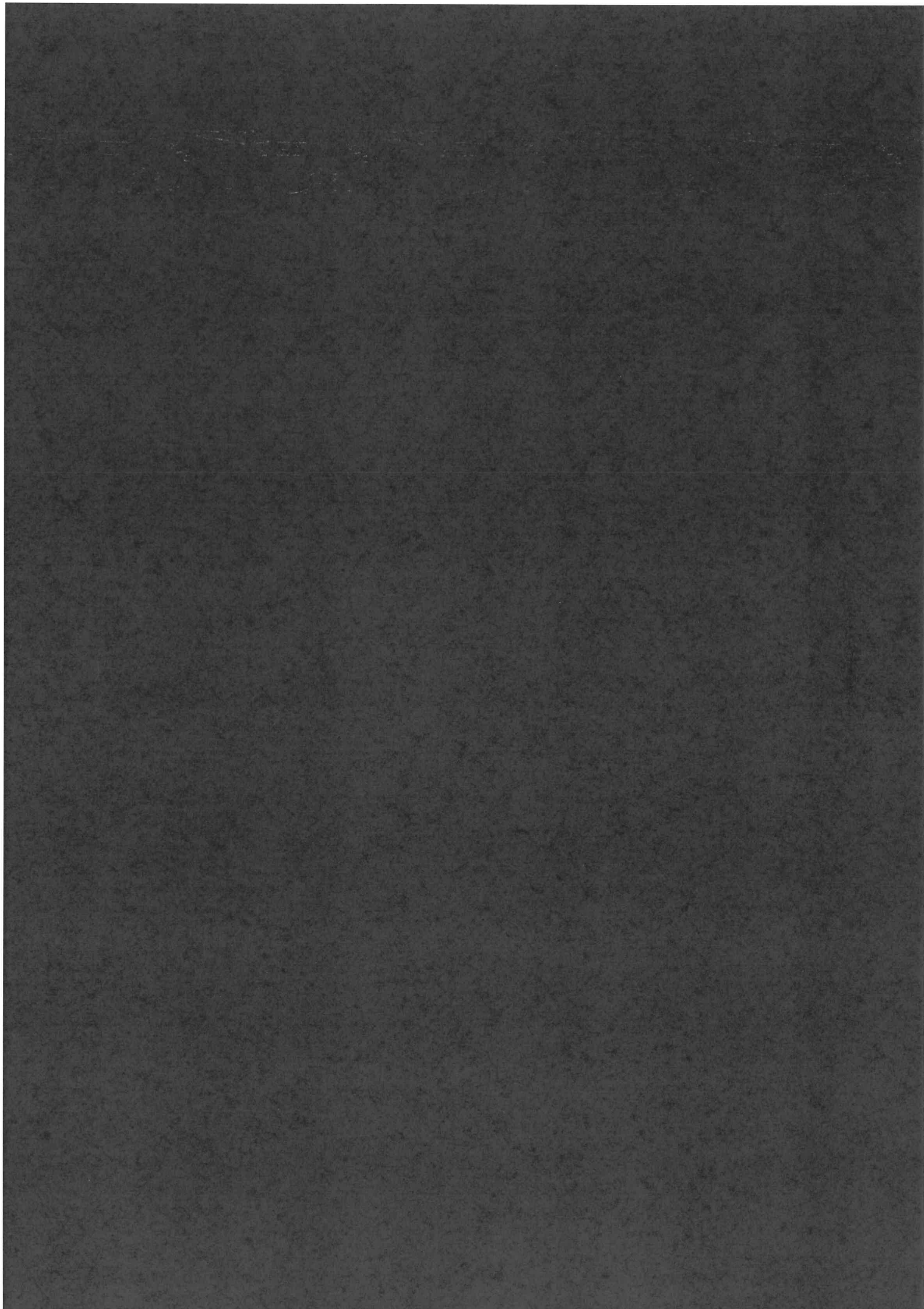













Archive Move to Categories ...

Eisteddfod. The Australian National Eisteddfod Society (licence number 939393) in
the next month.

These changes are coming into effect 1 January 2017.

The Association of Eisteddfod Societies of Australia (AESA) has been working with
APRA AMCOS, ARIA and PCCA recently to develop a simpler annual music
licence scheme for your sector.

This blanket scheme will cover everything from live performances of copyright
musical works, the playing of copyright sound recordings as backing tracks and the
copying of sound recordings by entrants for uses such as backing tracks.

Apart from being a simpler way to be fully compliant with Australian Copyright law,
the new scheme  presents a discount of at least 25% on the previous combined
fees.

How much will it be?

You will have two payment options:

AESA Members

66 cents plus 10 cent levy* **OR**

(paid to AESA)

Non Members

88 cent
(paid to APRA AMCOS)

AESA membership details are found [here](#) or by contacting Maxine Chalinor on
0417 081 101.

Purchase your licence now

IMPORTANT CHANGES TO THE WAY EISTEDDFODS ARE LICENSED TO USE MUSIC

There are changes coming into effect 1 January 2017.

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Apart from being a simpler way to be fully compliant with Australian Copyright law, the new scheme represents a discount of at least 25% on the previous combined fees.

How much will it be?

You will have two payment options:

1. As a member of AESA - with payment of your licence fee direct to AESA.
- or
2. Direct to APRA AMCOS.

Fees payable will be introduced over a four-year period (prices include GST)

Year	AESA Members	Non Members
2017	76 cents	99 cents
2018	\$1.21	\$1.54
2019	\$1.87	\$2.31
2020	\$2.20	\$2.75



Updated December 2016

EISTEDDFODS



APRA AMCOS, ARIA and PPCA's new blanket licence solution starting 1 January 2017 will cover the use of copyright music and sound recordings at eisteddfods.

What is an Eisteddfod?

An Eisteddfod is defined as being a competition in the arts, organised and presented by a non-commercial body run predominantly by volunteers. Events deemed to be commercial in nature will not be licensed under the new scheme.

How much does it cost per year?

\$0.90 (plus GST) per entry.

If you are a member of the Association of Eisteddfod Societies in Australia (AESA), then you will be entitled to receive a discount of 20 cents (plus GST) per entry.

This will increase slightly in each of the three subsequent years of the agreement.

What is an entry?

The new licensing scheme is based on a per entry basis. An entry is defined as being one person or one group entering one event.

Example

If your eisteddfod has a total of 200 solo entries and 75 total group entries over all eisteddfod events, then your fee will be 275 x \$0.90 = \$247.50 ex GST.

An entrant entering into three different events would be considered as 3 entries.

EISTEDDFOD MUSIC USE

1. live performances of copyright musical works by soloists or ensembles (with or without an accompanist)
2. performers playing copyright sound recordings as backing tracks to dance performances
3. performers playing copyright sound recordings as accompaniment tracks to live musical performances
4. performers copying sound recordings containing copyright music onto a CD or a device (such as an iPod) for use as a backing track at the event
5. sheet music provided to by accompanists and performers





2017 AMCOS-ARIA DANCE SCHOOL REASSESSMENT

Customer Enquiries 1300 852 388 nonretlic@apra.com.au www.apraamcos.com.au



IMPORTANT PROVISIONS OF YOUR LICENCE AGREEMENT

Your school may **only** make audio recordings of AMCOS Works and ARIA Sound Recordings for the purposes of:

- (a) teaching dance and enabling students to practice routines at home; and
- (b) public performance under the dance school banner at eisteddfods, talent quests, dance competitions, charitable functions and school concerts.

Your school may **only** make video recordings of a **Dance School Concert Event**. Your school must not make more than 75 video recordings in a calendar year (including total copies of any one video recording).

Your school may **only** supply video recordings (either for free or at cost) to students who appear in the video and to their family and friends for private domestic viewing. Every video recording must display the following notice:

"This video is for private domestic viewing only. No further reproductions may be made without the prior permission of AMCOS & ARIA"

Your school must not include on any video recording any advertising or promotional material, or any other matter intended encourage the purchase, use or support of particular goods or services.

This licence does **NOT** include the right to publicly perform the work or sound recording. A licence for the public performance AMCOS Works can be obtained from Australian Performing Right Association (APRA) and a licence for the public performance the ARIA Sound Recordings from the Phonographic Performance Company of Australia (PPCA).

The repertoires of both AMCOS and ARIA are vast. Whilst it is not feasible to provide lists of all AMCOS Works and ARIA Sound Recordings, schedules are available which list:

- a) music publishers and international societies whose repertoires are represented by AMCOS, and
- b) record labels and their controlling companies whose repertoires are represented by ARIA.

Schedules may be obtained by contacting AMCOS on (02) 9935 7900 or ARIA on (02) 8569 1144.

The Applicant must pay all stamp duties and taxes including without limitation goods and services tax arising as a result, or consequence, of this agreement.

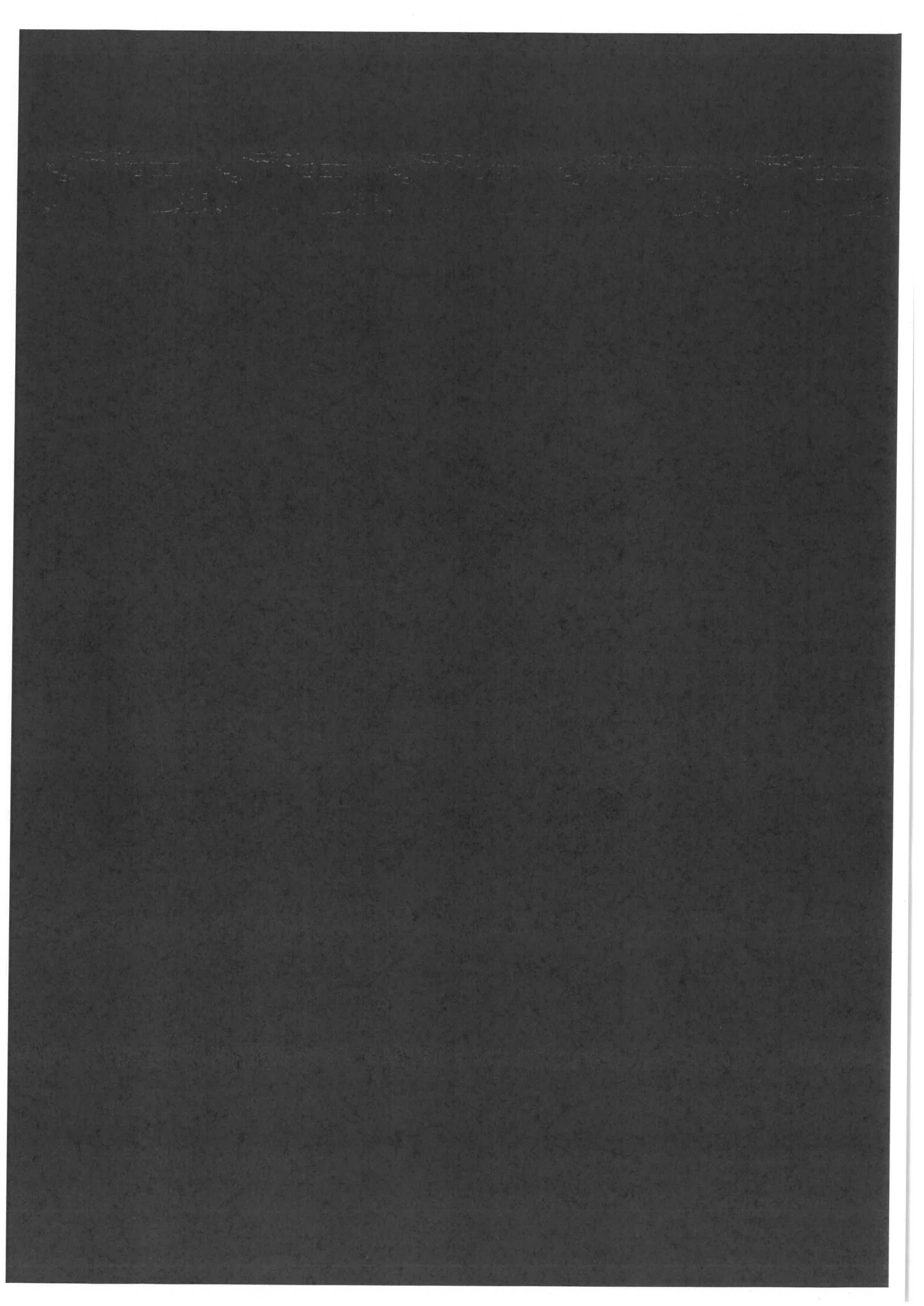
For full terms and definitions please refer to your initial Licence application.

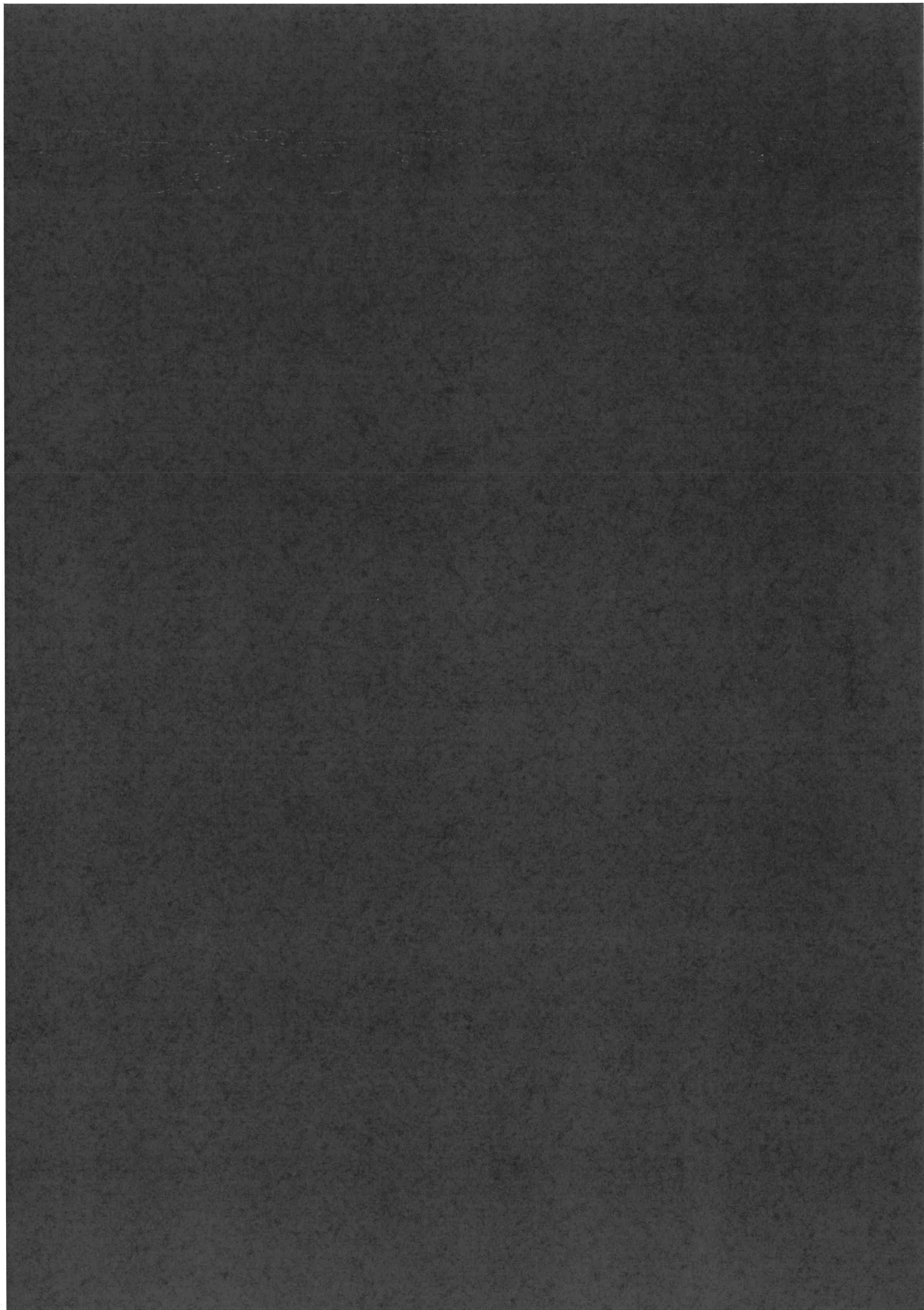
Dance School Concert Event means a dramatic performance by the Applicant's students (including a choreographic show), association with music **BUT** does **NOT** include any staged event (e.g. a musical, ballet or opera) where the public performance **is** to be approved by the music publisher either directly or under an agency agreement with APRA. Permission for recording such event must be obtained directly from that same music publisher.

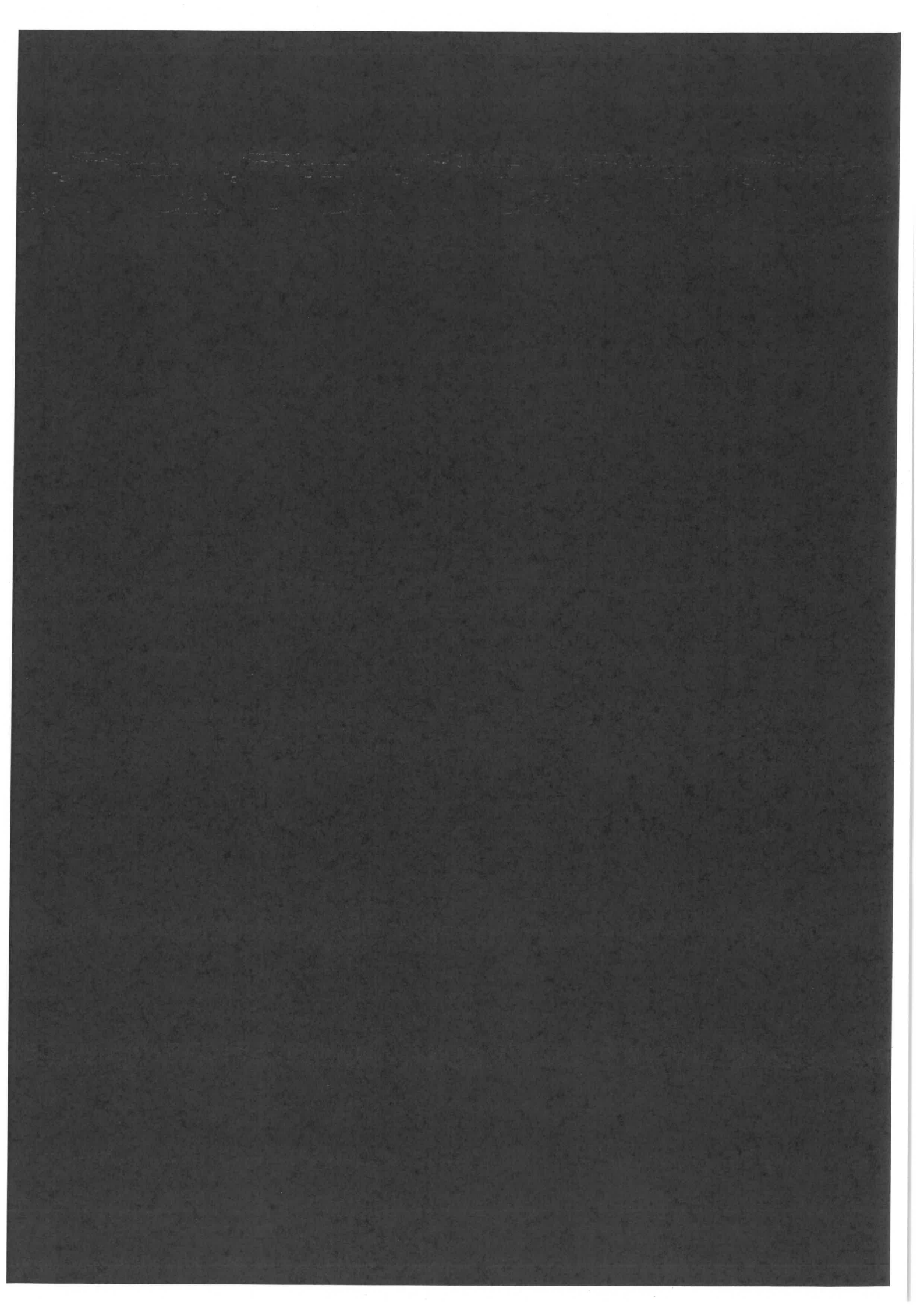
Post: APRA AMCOS, Locked Bag 5000 Strawberry Hills NSW 2012

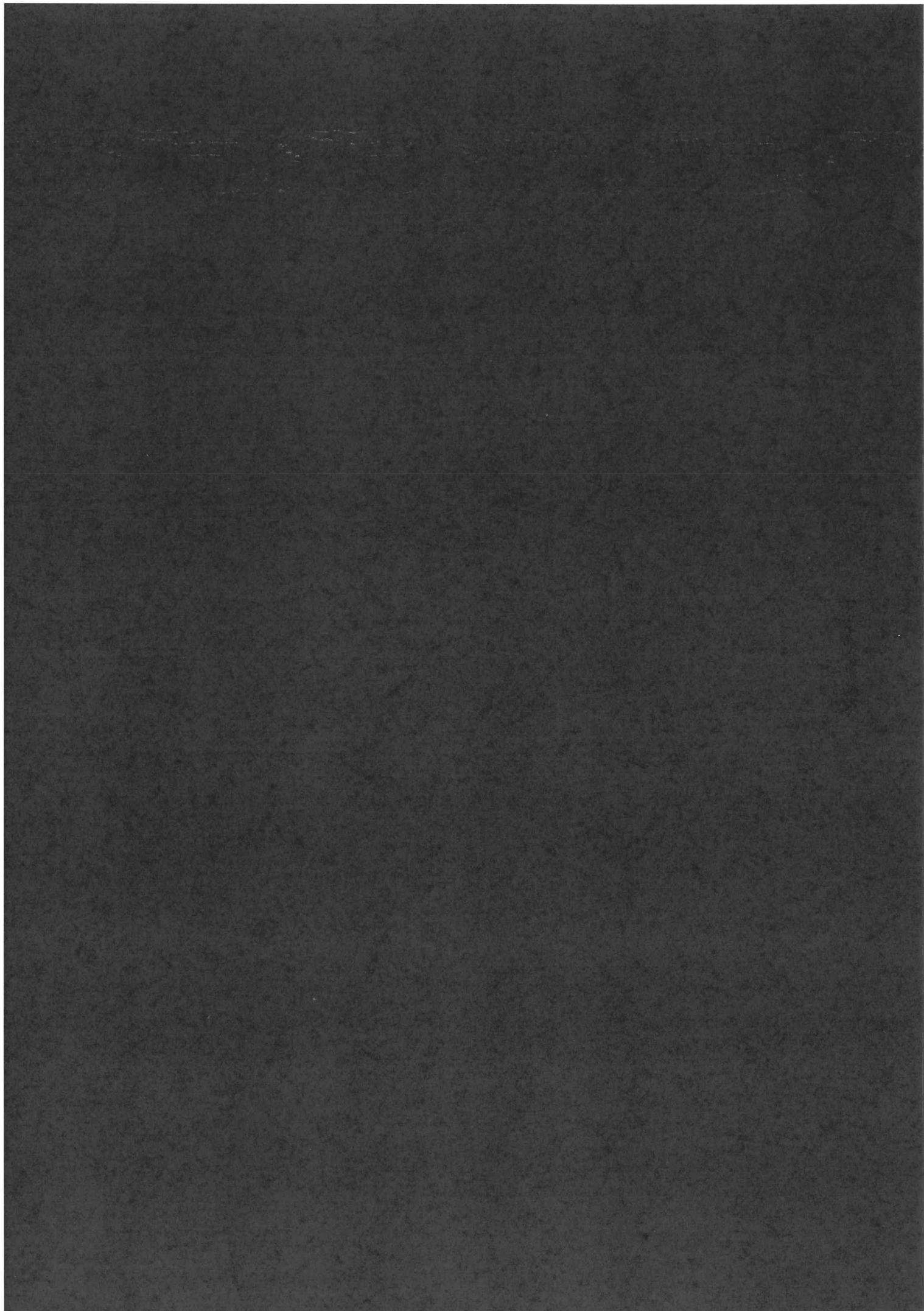
Email: Send a scanned copy of the completed form to nonretlic@apra.com.au

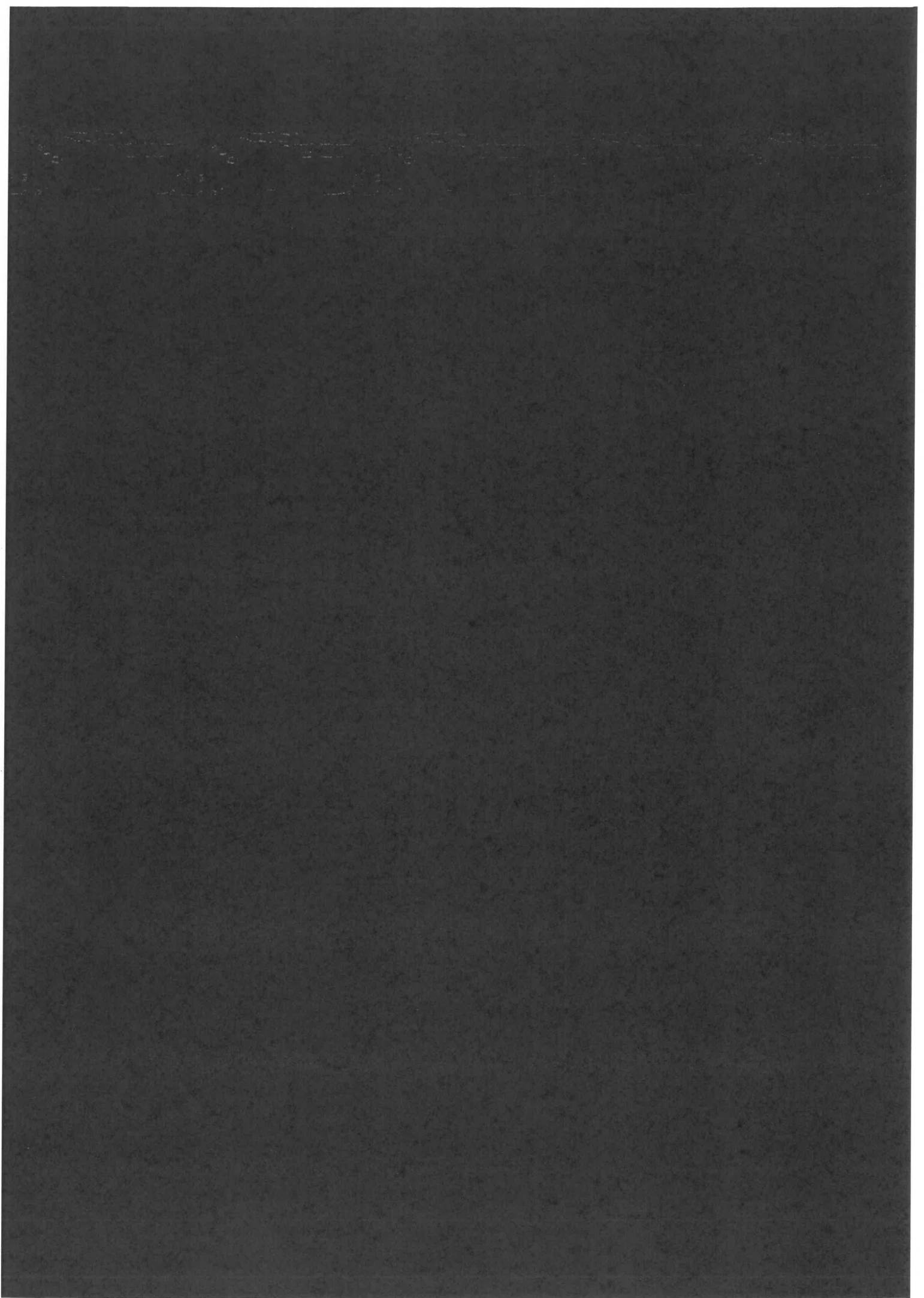
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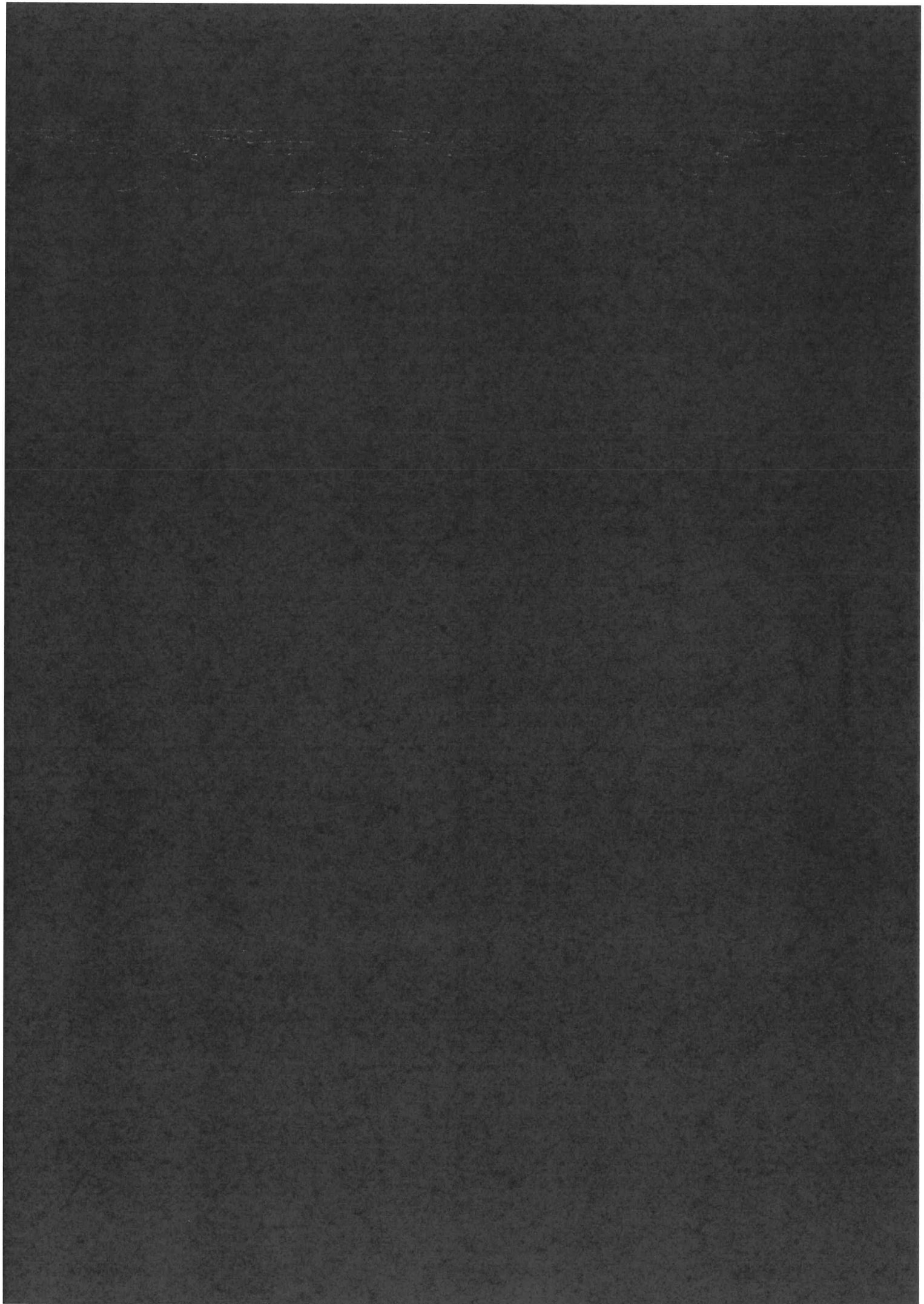












Border Watch Mount Gambier

The Association of Eisteddfod Societies of Australia (AESAs) has sung the praises of its Mount Gambier-based secretary Maxine Chaliner OAM who recently received the APRA-AMCOS Good Music Citizen award.



Write a comment...



APRA AMCOS

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APRA AMCOS
July 2019
Get your risks covered, with the right insurance: Aon's individual performer Public liability policy is endorsed, comprehensive and affordable. <https://go.onq/6B4kbp>



Message



#business-in...

Why Aon?

We're here to help you

Aon currently protect over 15,000 clients in the Entertainment industry and work closely with our endorsed partners APRA AMCOS, Australian Music Association, Music Australia and Folk Alliance Australia. These conversations have led to Aon developing a product to fill a needed gap in the industry, the Musicians Support Policy.

Our policy's cover range is affordable and tailored for individual musicians and singers. It's designed to support you for life.

