

Resolution Pathways

Supplementary Submission

October 2019

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This is a supplementary submission to reflect discussions between the Resolution Facilitator and the ACCC. It focusses on further details of aspects in my primary submission on charges for the Resolution services.

The Goals:

My understanding of the funding model's objectives is that the ACCC, and stakeholders like the AHA, want to ensure that **costs are not a barrier** to bringing a dispute up for resolution.

Simplicity is important as it provides certainty. That certainty - on both process and costs - needs to be clearly signalled up-front.

It is important to ensure parties, including APRA AMCOS, are trying **low cost resolution options** before the high cost ones.

Finally, it is important to recall that in mediation there is NO decision maker (its' results are consensual) so asking an independent to opine how much is in dispute or who should pay is tricky. MOST disputes currently go to some sort of mediation.

Current Model:

The current model relies on BOTH the level of royalties paid by a licensee and also the amount in dispute.

Suggested Refinement:

My suggested simplification to the current process is that the threshold should be how much a licensee is paying in royalties, (not the value of the dispute).

If it is a mediation, then it is relatively inexpensive for a large player (no more than \$3000 for a day based on a half share).

If it is a determination, a large player can seek costs from the expert engaged to decide. Using 'the amount in dispute' as the factor that triggers contribution seems to add unnecessary uncertainty and complexity, contradicting the objectives of simplicity and certainty.



Setting the level of license fees for 'large' and 'small' may need to be refined once there is more data on the impact of One. Music.

I think that those levels plus any cap (previously suggested by me), should be the subject of consideration in 18 months- time when the full effect of One. Music is clear.

The ACCC has my permission to make the submission public

Sincerely



Shirli Kirschner

Resolution Facilitator.

