



In Relation to the Re-Authorisation of APRA AMCOS and PPCA

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on behalf of the **Australian Venues Association**
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To whom it may concern,

The Australian Venues Association supports the rights of copyright owners to receive fair compensation for the commercial use of music. We would like to see a scheme that incorporates a commercial premium for usage without taxing the activity of patrons within any establishment. A simple base metric across all industries with a multiplier for the size of the premises.

Where live music is performed a separate study is needed to determine the most equitable outcome that reflects the ownership of the copyright and the benefit derived from the usage in a fair and reasonable fashion. If no copyright is being performed no fee should be paid or if copyright is owned by the performer APRA AAMCROS or PPCA should be excluded from the fee structure and of course where copyright material is being performed a premium should fall to the owners of the rights.

In relation to the proposed 5 year extension, we would like to lodge a request for a smaller time frame for the authorisation of 1 year only, along with a recommendation that the ACCC direct that a review of the operations and fee structures of both APRA AAMCROS and the PPCA be undertaken by a suitably qualified and independent management organisation; McKinsey or PWC etc.

We would ask that the terms of reference of any review be set by the ACCC in conjunction with the Council of Small Business and input from the AHA, the AVA and the RCA.

In brief:

- Venues have no ability to negotiate with either members of the One Music cartel. Mediation occurs after a dispute has occurred and disproportionately favours the larger organisations. Many small operators cannot afford the stress or legal fees required to engage in this process and it is incumbent on the ACCC to ensure that the arrangements are fair and equitable.
- There are no reasonable or practical alternatives to these arrangements for the majority of our members.

- One Music has been operating in New Zealand as the ACCC report points out, but it should also be noted that the fee arrangements there are substantially lower. Australian fees are the highest in the world.
- Input or output arrangements have been set with no proper consultation, independent study or review. A license to operate as a regulator has been given to a body controlled by three private profit driven enterprises.
 - Fee structures are complex and inconsistent between the two organisations
 - Regulating private activity within commercial premises
 - Inequitable between industries
 - Red tape
 - Potential catastrophic implications for late night music festival and entertainment industry
 - Intrusive and ongoing reporting requirements
- There has been no proper distinction made between music creators or rights holders. Over 60% of revenue (up to 80% in some cases) raised through these mechanisms is directed to three major music companies.
- Licenses are openly offered as blanket licenses rather than collection for specific copyright usage. This is not copyright collection but copyright protection and the fee schedules and power of the agencies collecting on behalf of three private companies should reflect that.
- There is no way to fairly assess individual copyright use as the database of music is and will always be incomplete. The metrics will never catch up as many venues use recordings that are out of date, that come from countries that have no music licensing systems (Jamaica being the most egregious example) and as this is the case the overwhelming result is a system that disproportionately favours the recording industry.
- Inadequate governance structures throughout both organisations. We would ask that a board position within APRA AAMCROS and PPCA be allocated to a suitably qualified person representing the interests of the industry from where revenue is collected.
- We would recommend that Peter Strong or another representative of the Small Business Council be given board roles and that the governance structure and governance requirements of these two organisations be reviewed by a suitably qualified governance expert reflecting the regulatory nature of the powers being granted separate to any review of their organisation or fee structure.

The complexity of change should not deter the ACCC or the OneMusic Cartel from reassessing their arrangements within the context of the Australian economy, nor should the private arrangements between bodies that have complex legal structures with related bodies act as a barrier to essential Australian principles of equity, reasonableness and a fair go.