

Supplementary Submission Resolution Pathways

I provide this further submission after receiving feedback from the Stakeholder Group and the Governance Committee on the issues of:

1. What the Resolution Pathways can and might cover?
2. Independence and funding; and
3. Reporting

Summary of Recommendations

1. That the Resolution Pathways facility covers all disputes arising under the eco-system created by the structure of authorising APRA. That subsidies are set for disputes with APRA itself, but additional funding be available for any other disputes within the eco-system.
2. Block funding be committed to for each year for the period of the authorisation (in an amount to be determined by APRA in consultation with the Governance Committee of Resolution Pathways, with a stipulation that a portion of the funds be set aside to allow capital works and discretionary matters.
3. That the format of reporting be the domain of the governance committee with the ACCC having the right to request additional information or additions on an annual basis.

1. What Resolution Pathways can and might cover?

1.1 Scope

One of the key discussion points for the Stakeholder Group and Governance Committee is what disputes Resolution Pathways can and might cover.

The answer impacts resourcing strategy, the matters to be reported, as well as the constitution of the steering committee and Governance Committee.

Some members of the Stakeholder Group and Governance -Committee suggest that only writer member disputes are covered, given that it is funded by APRA-AMCOS royalty collections.

Other stakeholders/committee members suggest that the ACCC ought to be concerned only with disputes involving APRA-AMCOS as a party. This would make Resolution Pathways predominantly a licensee dispute resolution pathway that excludes member-to-member disputes.



1.2 Broader role

I suggest using Resolution Pathways as a dispute resolution system that is available for any dispute in the APRA-AMCOS eco-system: performing rights in musical works that is created as a result of APRA-AMCOS's appointment by its members to collectively license the performing rights in their musical works and collect and distribute licence fees for the use of those works, and which has a centralised works registration system as a result.

This would also encourage the keeping of data on disputes for all issues within the APRA-AMCOS eco-system allowing for a better allocation of resources overall. This would also provide information to the ACCC that relates to the changing needs of the APRA-AMCOS eco-sphere system over time.

2. Funding

2.1 Subsidies

It is useful to separate out the scope of Resolution Pathways and the funding/cost of using it. Some matters can be funded on a user pays basis. It is relevant to consider which matters should be funded on the basis outlined by the ACCC in its current conditions of authorisation for APRA-AMCOS. That basis includes subsidies.

In the event the scope is broadened, the funding approach in the current authorisation could continue to be primarily allocated to resolve disputes with APRA itself, at the subsidised rates.

However, overhead can also be allowed for additional services within the eco-system such as member to member disputes. The level of additional subsidy (if any) can be decided by the program.

2.2 Mechanics for Funding

Independence and the ability to be flexible about the scope of what is subsidised could be achieved by the allocation of fixed annual funding that coincides with each year of the authorisation.

The block funding could be directed in compartments to ensure:

- Stable overhead for the period (regular meetings with steering and governance committee, reporting, servicing of issues as they arise);
- Capital expenditure (website, matter management, matter mapping);
- Discretionary funding for matters that have merit and need to be funded over and above the contribution of those paying and emergency funding for contingencies.



It might be useful for the ACCC to ask APRA and the Governance Committee of Resolution Pathways to consider a quantum for the funds and a mechanism for allocation to ensure sufficient funds are retained for capital use (treated like the sinking fund for a property.)

3. Reporting

At present, APRA-AMCOS and Resolution Pathways report annually to the ACCC. It also dictates a specific format that revolves around particular interventions, assuming that they will be used by the pathways.

The annual reporting is helpful. A different way of providing the reporting format would be to allow the Governance Committee to consider and approve a reporting format annually, with notice to the ACCC.

The ACCC could provide a base of matters to be included (eg: type of matters, the number of matters and details of any evaluations received) and reserve a right to request changes to any reporting format if required.

