

From: [REDACTED]
To: [REDACTED]
Cc: [REDACTED]; [REDACTED]
Bcc: [AA1000661 Australasian Performing Right Association Limited Emails](#)
Subject: AA1000661 - APRA authorisation - request for information [SEC=OFFICIAL] [ACCC-ACCCANDAER.FID3770939]
Date: Friday, 12 April 2024 3:39:25 PM
Attachments: [image001.gif](#)
[image002.jpg](#)

OFFICIAL

Dear Ms Haddock,

In reference to the Australasian Performing Right Association (APRA) application for authorisation AA1000661, we request that APRA:

- 1) specify the particular sub-sections of section 45 from which APRA is seeking to be exempted, and
- 2) confirm that APRA is only seeking authorisation of its distribution rule that: 'no less than 50% of any distribution for a work must be allocated to the relevant writer(s)' and no other aspects of its distribution arrangements authorised. We note in this regard that APRA has previously sought ACCC authorisation of all aspects of its distribution arrangements, which may be considered to be an agreement between competitors (ie APRA members) in breach of the *Competition and Consumer Act 2010* (Act).

Further, APRA submits at para 31 of its application that the application 'is effectively an application for re-authorisation' of the conduct authorised in 2013 and 2018 and '[a]ccordingly, APRA refers to, and relies upon, its applications, submissions, and accompanying annexures filed in respect of the 2018 and 2013 Applications for the purpose of this Application.' The present application is for revocation and substitution with a new authorisation and we do not consider that it is open to APRA to incorporate the material provided in relation to previous applications simply by reference. The ACCC is required by sections 89(3) and 89(4) to maintain a register of applications and all documents furnished to the ACCC in relation to an application. If APRA proposes that the ACCC have regard (pursuant to section 91C(4) of the Act) to any material submitted in relation to previous applications, it will need to provide that material to the ACCC in relation to this application and identify those parts (if any) that it submits should be excluded from the public register, with the reasons for doing so, and should identify which parts of the material is relevant to the present application.

Please provide a response to these matters by **COB on 19 April 2024**.

In regards to the progression of the ACCC's authorisation process, I can advise that we are continuing to receive late submissions and will not ask APRA for comment on the submissions until we have received and processed the majority of the submissions. We also expect to request further information from APRA at that time in order to inform the ACCC's consideration of APRA's application.

If you have any questions in relation to this email, please do not hesitate to contact myself or Tanya Hobbs on 02 6243 1029.

Regards,

Tess Macrae *(she/her)*

Director | Competition Exemptions Branch | Mergers, Exemptions & Digital Division

Australian Competition & Consumer Commission

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The ACCC acknowledges the traditional owners and custodians of Country throughout Australia and recognises their continuing connection to the land, sea and community. We pay our respects to them and their cultures; and to their Elders past, present and future.
