

To Whom it May Concern,

We write to you to express our views on APRA's recent application for re authorisation to continue its arrangements for the acquisition and licensing of performing rights.

We do not disregard the continued positive work of APRA and their associates, however for APRA to continue to operate as a monopoly, it's important that they are doing everything within their power to ensure fees are distributed fairly and accurately.

The main concerns we have are around transparency and accuracy of the distribution of fees as well as the utilization of MRTs in an ever evolving technological landscape.

These concerns specifically relate to question 7 in the request for member submissions via the ACCC. It is our view that APRA need to be more transparent with their details of accounting and distribution (Condition C2) and update their transparency reporting accordingly (Condition C4)

Our concerns specifically relate to nightclubs, festivals, bars and any venues with DJs.

1. APRA should have full responsibility for ensuring all One Music forms (LPRs / Live Performance Reports / Tracklists) are submitted and accounted for specifically for major events.
  - a. Currently artists submit these forms either at the festival or after the festival and it is apparent that some are lost or unaccounted for. There is also a lack of education around this meaning that artists don't always understand the importance of submitting tracklists.
    - i. There is also no current transparency or advocacy around this figure or how much artist income has not been paid to the artist whose music has been played. Eg. If an artist has submitted their performance report to the festival, there is no guarantee that the report is actually given to APRA.
  
2. There needs to be more transparency around the current implementation of MRTs in Australian clubs, as well as the plans for their expansion in coming years. Currently 38.8% of total Nightclub revenue pool (according to the 2023 transparency report) is allocated based on MRT from selected nightclubs. This is a large amount of allocation compared to the allocation from LPRs which sits at 14.4%.

Live Performance	Concerts	4.4%	100.0%	Concerts direct allocation to setlists	Census	Direct
Live Performance	Dramatic Context	<1%	100.0%	Dramatic Context direct allocation to works used	Census	Direct
Live Performance	Live performances <sup>(3)</sup>	2.0%	100.0%	Live performances sample data provided by members via claim	Sample	Third-party
<b>Live Performance Total</b>		<b>6.5%</b>				
Nightclubs	Nightclubs	<1%	10.5%	Analogy from selected radio and TV data	Analogous	Proxy
Nightclubs			38.8%	MRT from selected nightclubs	Sample	Third-party
Nightclubs			36.4%	Third-party Data from ARIA Dance Charts	Sample	Third-party
Nightclubs			14.4%	Nightclub sample data provided by members via claim	Sample	Third-party
<b>Nightclubs Total</b>		<b>&lt;1%</b>				

- a. Currently there are around 30 MRT devices active in Australian clubs across the entire country. This equates to less than 10% of all nightclubs (approximately 355) across the country. Whilst we are mindful that the implementation of MRT in nightclubs and at festivals comes at a cost to APRA (as per their MRT information page on the One Music website) if such a large proportion of the nightclub allocation is being directed to the data from these devices, the pool should be growing at a steady rate.
    - i. There should be a strategic encouragement to get venues to employ MRTs and a public campaign surrounding this. There should be particular efforts focused on festivals and large scale events.
    - ii. Currently there is no regulation around setlists being submitted for standard club nights. Therefore without MRTs the data is uncollected. It is unacceptable then that 90% of venues do not have MRT and that the data surrounding the music being played is completely unaccounted for.
    - iii. If cost is the main constraint around implementing MRT technology we feel that APRA should be looking into alternative devices than their current preferences and engage with their member pool during this process.
  - b. The list of venues operating these systems should be publicly available as well as the expenditure and costs of these systems to APRA. There should also be transparency on any commitments, deals or investments that have been made by APRA into DJ Monitor, KUVVO or Audoo. If there are commitments that mean there is any kind of exclusivity between APRA and these MRT companies, this should be public knowledge and also considered by ACCC when giving APRA their exemption.
  - c. There are currently two operating MRT technologies in Australian and New Zealand nightclubs:
    - i. KUVVO is recognised with DJ hardware called CDJ3000s.
      1. APRA needs to present what the cost would be to install this system in every club that has CDJ3000s. More transparency is needed.
    - ii. DJ Monitor works with other CDJ variants eg. CDJ2000s
      1. APRA needs to present what the cost would be to install this hardware in other venues. More transparency is needed.
3. Since their conception the ARIA Club Charts have run as the only ARIA distributed pool of funds that is 'voted on' weekly. The pool of funds that is paid to artists is substantial at 36.4% of the total Nightclub revenue pool (according to the 2023 transparency report). The current methods to collate the club charts is outdated and needs both an overhaul and transparency.
- a. The Voting

- i. Currently it is stated that Club Chart DJs are to submit a list of the top tracks that have the biggest 'crowd reaction' for their sets that weekend. This format excludes tracks that are played consistently but have a more subtle energy to them.
- ii. There should be thought given to changing this system to DJs having to submit their full tracklist, and that tracklist needs to be verified by MRT.

b. The Voting DJs

- i. The list of voting DJs should be a public list so that the whole industry is at the advantage of knowing who to promote their music to as opposed to only the committee members, and there should be careful thought and consideration to the diversity of voting DJs.
- ii. The diversity should be in regards to race, gender, genre played and geographical location across the country.

4. The Club Chart Committee:

As with all regulatory boards we would like to see a maximum tenure introduced so that there is regular turnover in the people making decisions on this board. We suggest a 3-5 year term. have an understanding of who the voting DJ pool is. This gives great advantage to those labels those committee members represent to be able to service their music directly to the voting DJs. The Club Chart Committee are the only people who have an understanding of who the voting DJ pool is. This gives great advantage to those labels those committee members represent to be able to service their music directly to the voting DJs.

- a. The Club Chart Committee are the only people who have an understanding of who the voting DJ pool is. This gives great advantage to those labels those committee members represent to be able to service their music directly to the voting DJs.
- b. The APRA transparency report from 2022-3 lists in their breakdown of overall distribution across all industries. In this breakdown they state that Nightclubs received a total of "<1%" of the total distribution funds. This is too vague for dance music artists to have an understanding of the pool of funds to which their income is being distributed from.
  - i. APRA needs to say exactly how much of a percentage is being distributed here, greater transparency is needed.
  - ii. Page 8:  
[https://assets.apraamcos.com.au/images/PDFs/About/Transparency-Report\\_FY2023.pdf](https://assets.apraamcos.com.au/images/PDFs/About/Transparency-Report_FY2023.pdf)