

7 March 2023

BY EMAIL ONLY

Lyn Camilleri

General Manager

Competition Exemptions, Mergers, Exemptions and Digital Division

Australian Competition and Consumer Commission (ACCC)

exemptions@accc.gov.au

Dear Ms Camilleri

Interim authorisation - application for authorisation (non-merger) for Live Performance Australia

1. We refer to Live Performance Australia's (LPA) application for authorisation (non-merger) (the Application).
2. LPA hereby seeks interim authorisation of the Authorised Conduct, as defined in the Application, to enable it and the organisations identified in Schedule 1 to the Application (**Members**) to engage in the Authorised Conduct as soon as possible while the ACCC considers the substantive application for authorisation.
3. Noting that APRA as the directly impacted third party has expressed its 'in-principle' support for the authorisation application, interim authorisation is sought for the following reasons:
 - (a) Discussions between OneMusic and individual industry participants in relation to an industry-wide licensing scheme at ticketed music events and eligible temporary music events have failed to produce a licence scheme acceptable to the industry. This failure has created a lack of certainty across the industry, exacerbated by APRA unilaterally terminating the existing industry blanket licence in September 2022. Industry participants are currently operating under interim arrangements whilst the terms of an industry-wide OneMusic licensing scheme remains unresolved.
 - (b) APRA has very recently indicated that it will now offer some Members a new licence (replacing the licence that it terminated in September 2022). However, this licence applies with respect to APRA works only, and will operate only until the issues in relation to the PPCA sound recordings can be resolved.
 - (c) This lack of certainty about a key input for promoters of ticketed music events is inimical to the ability of promoters to compete to create music events and festivals.
 - (d) Interim authorisation will enable LPA to commence negotiations on behalf of Members so as to enable this lack of certainty to be resolved in a more timely manner. As described in the application, the Authorised Conduct is likely to:
 - (i) avoid any further wasted time and cost associated with the negotiation of this licence scheme by allowing LPA to put forward a position on behalf of Members. It also allows the Members to share the costs of the negotiation, rather than incur such costs on an individual basis;
 - (ii) provide a means by which LPA can coordinate with Members to identify and deal with common contractual issues in a more effective and streamlined manner;

- (iii) redress imbalances in bargaining power between Members and OneMusic, particularly with respect to smaller promoters and festival organisers, who would otherwise not be in a position to have any meaningful input in the negotiations with OneMusic;
 - (iv) allow the Members to become better informed of relevant market information which is likely to improve their input into contractual negotiations with OneMusic and to achieve a more efficient and balanced contract. This will enable Members to individually become more informed and engaged participants in negotiations, improving their input into the negotiations with OneMusic. This improved input may lead to terms of supply that better reflect their circumstances, resulting in more efficient outcomes.
- (e) In the absence of interim authorisation, Members are likely to continue to engage with OneMusic on an individual basis, undermining the benefits that would otherwise be obtained by a collective bargaining process, as outlined above.
- (f) The Authorised Conduct will not:
- (i) reduce competition between Members in the acquisition of copyright licences from OneMusic; or
 - (ii) impact upon Members' ability to compete vigorously in arranging and promoting ticketed music events,
- as Members already acquire copyright licences on the same terms and conditions.

4. Please do not hesitate to contact us if you have any questions.

Yours faithfully
MinterEllison



Paul Schoff
Partner

Contact: Tova Gordon T: [REDACTED]
Partner: Paul Schoff T: [REDACTED]
OUR REF: 1399704

APPLICATION FOR AUTHORISATION (NON-MERGER)

LIVE PERFORMANCE AUSTRALIA 7 MARCH 2023

1. Applicants for authorisation

1.1 Contact details

Name: Australian Entertainment Industry Association (trading as Live Performance Australia) (ABN 43 095 907 857) (**LPA**) on behalf of itself and the organisations specified in Schedule 1

Address: Live Performance Australia
Level 1, 15-17 Queen Street
Melbourne Victoria 3000

Telephone: 03 8614 2000

1.2 Contact person

Name: Paul Schoff

Position: Partner, MinterEllison

Telephone: [REDACTED]

Email: [REDACTED]

1.3 Description of business activities

LPA is the industry association for Australia's live performance industry. Its role is to protect and promote the interests of its members, which include:

- promoters and producers of live music and performance events;
- performing arts companies;
- theatres;
- venues and performing arts centres;
- arts and music festivals;
- stadiums and arenas; and
- allied industries such as ticketing companies, technical supplies, independent cinemas, exhibition venues and performing arts colleges.

LPA has a broad role in supporting and promoting the interests of the live performance industry. This includes:

- negotiating industrial and workplace agreements on behalf of its members;
- providing advice to members on industry issues such as workplace relations, taxation and investment, copyright, licensing and insurance;
- lobbying government on industry issues such as venue infrastructure, investment incentives and regulatory changes;
- conducting research and collecting data;
- developing industry codes of practice and best practice guides; and
- providing its members with professional development and networking opportunities.

1.4 Email address for service



2. Other persons on whose behalf authorisation is sought

LPA seeks authorisation on behalf of the live music promoters, arts festival organisers and music festival organisers listed in Schedule 1 to this application (the **Members**). This encompasses 129 live music promoters and arts festival organisers who are LPA members, as well as 5 music festival organisers who are not LPA members, 3 of whom are owned or part owned by LPA members. LPA also seeks authorisation on behalf of those identified music festival organisers.

Each of the Members are engaged in the business of arranging and promoting ticketed live music events across Australia. These activities are described further in Sections 6 and 7 below.

3. The proposed conduct

3.1 Copyright licences

An essential part of the live music events promoted by LPA's members involves obtaining a licence to use the relevant copyright works during ticketed live music events. These licences are granted by:

- (a) the Australasian Performing Right Association Limited (**APRA**) in respect of musical works and any literary works normally associated with those musical works (lyrics) where the right to perform in public is owned or controlled by APRA in Australia (the **APRA Works**); and
- (b) the Phonographic Performance Company of Australia Ltd (**PPCA**) in respect of:
 - (i) sounds recordings owned and controlled by a PPCA licensor and which has been released on a label owned or controlled by a PPCA licensor; and
 - (ii) music videos in which the copyright in the sound recording used in that video is owned or controlled by a PPCA licensor,(together, the **PPCA Sound Recordings**).

With respect to live entertainment, as discussed further below, APRA now not only licenses APRA Works, but also acts as an agent for PPCA in respect of PPCA Sound Recordings and licenses these together as OneMusic Australia (**OneMusic**).

The practice that has developed in Australia, at least with respect to APRA Works, is that licences for live music events are obtained by event promoters, including the Members. As discussed further below, there are limited, if any, alternatives to APRA (in its own name or as OneMusic) and PPCA for Members to obtain licences in APRA Works or PPCA Sound Recordings.

OneMusic will usually offer licences under industry-based licensing schemes that have been formulated by APRA on its own behalf and on behalf of PPCA. The objective and intent of such schemes is that all licensees are licensed on the same terms (such as the licence fee) for the same licence and proposed use. OneMusic has not referred the relevant scheme applicable to LPA's members to the Copyright Tribunal (**the Tribunal**) as it may do under sections 154 or 155 of the *Copyright Act 1968* (Cth) (**Copyright Act**).

3.2 Description of the proposed conduct

LPA seeks authorisation with respect to the acquisition of copyright licences, in particular:

- (a) negotiation with:
 - (i) OneMusic; and
 - (ii) APRA and PPCA, including in the event that they participate in the negotiations in their own capacity or OneMusic is restructured or ceases to operate as it is currently constituted;

on behalf of the Members, on the terms and conditions, including licence fees, of copyright licences;

- (b) representing the Members before the Copyright Tribunal, in respect of matters which are about the acquisition of the licences described at paragraph 3.2(a); and
- (c) representing the Members, through any alternative dispute resolution process including Resolution Pathways, in respect of matters which are about the acquisition of the licences described at paragraph 3.2(a),

(collectively, **the Authorised Conduct**).

It will be voluntary for Members to participate in the proposed conduct. Each Member will be able to negotiate and deal with OneMusic on an individual basis.

The proposed conduct does not include a collective boycott.

3.3 Relevant provisions of the *Competition and Consumer Act 2010 (Cth)* (the CCA)

The relevant provisions of the CCA that might apply to the proposed conduct are:

- (a) cartel conduct (Division 1 of Part IV); and
- (b) contracts, arrangements or understandings that restrict dealings or affect competition (s 45).

3.4 Rationale for the Proposed Conduct

Background – copyright collecting societies and the creation of OneMusic

APRA and PCCA are copyright collecting societies or copyright management organisations with respect to copyright works and other subject matter created under the Copyright Act.

APRA represents over 100,000 members who are songwriters, composers and music publishers. It provides licences to organisations and distributes royalties to its members. APRA is the only collecting society in Australia that provides public performance licences covering the copyright in the musical works and their associated lyrics. A public performance licence from APRA is a blanket licence that covers APRA's entire repertoire. Since 1997 APRA has also administered the rights controlled by Australasian Mechanical Copyright Owners Society (**AMCOS**) and operated as APRA AMCOS when licensing the rights of APRA and AMCOS.

PCCA is a national not for profit organisation that represents the interests of recording artists and record labels. It licenses a separate copyright that subsists in the sound recording and/or music video of a musical work, including the right to cause the sounds and/or images to be heard and/or seen in public (often also referred to a public performance right). PCCA grants licences for the playing of recorded music and music videos in public.

In July 2019, a joint initiative between APRA and PCCA created OneMusic. APRA, trading as 'OneMusic Australia' acts as an agent for PCCA in licensing PCCA's public performance rights. APRA licenses its own catalogue directly, and in its own capacity.

OneMusic therefore provides a centralised means for granting copyright licences to organisations who wish to play, perform, copy, record or make available APRA and PCCA licensors' music, including publicly performing and playing music at a live music event.

In the context of a ticketed live music event, including live music concerts held as part of an arts festival or a music festival, depending on what and how the music is played, the Members may require two separate copyright licences in order to publicly perform or play music to ticket holders at an event:

- (a) licences in APRA Works from APRA; and
- (b) licences in PCCA Sound Recordings from PCCA.

For APRA, each licensee (such as a Member) is one of many licensees. However, for many licensees, an APRA licence is a necessary input into their businesses of organising and promoting live music events. Consequently, because of the importance of music performance to

their business, they have little alternative other than to enter into agreements with APRA. Many licensees have limited, if any, alternatives to APRA's blanket licence¹.

On 13 July 2020, the ACCC granted APRA a five-year authorisation to continue arrangements for the acquisition and licensing of music performance rights (**2020 Final Determination**).

Important findings from the 2020 Final Determination include:

- (a) APRA is a "near monopolist supplier and acquirer of rights to commercially popular musical works in Australia" and is therefore able to maximise its profit by engaging in price discrimination across user groups - offering different groups different licensing terms and conditions according to their willingness to pay²; and
- (b) while APRA does not restrict output in the sense that it does not refuse access to its works as a bundled product, the conduct of only supplying an 'all or nothing' bundle is itself a restriction on the form of supply and therefore output³.

The Copyright Act makes provision for disputes about the level of APRA's licence fees and other aspects of APRA's arrangements to be heard and dealt with by the Tribunal. The Tribunal is meant to act as a constraint on the exercise of market power by copyright collecting societies, by making decisions with respect to the reasonable terms and conditions of copyright licences, including licence fees. However, some businesses are likely to be deterred from using the Tribunal to resolve a dispute with APRA because of the cost and time involved. In particular, in the 2020 Final Determination the ACCC considered the Tribunal constrains APRA's ability to exercise its market power only beyond the point where the cost to the user of seeking recourse to the Tribunal would be less than the difference between the price which the user could negotiate with APRA directly and that which it considers that the Tribunal would be likely to impose. For many users, this means that the Tribunal is unlikely to impose any constraint at all on the exercise of market power by APRA⁴.

Furthermore, information asymmetry between APRA and the many different music users due to lack of transparency about APRA's licensing arrangements also impacts the extent to which users are able to advocate their cases in the Tribunal as a constraint on APRA's exercise of market power.

In the previous 2014 APRA authorisation (**2014 Final Determination**), the ACCC introduced a revised alternative dispute resolution pathway (**Resolution Pathways**), which required APRA to implement a revised Resolution Pathways scheme managed by an independent facilitator, which was re-authorised in the 2020 Final Determination. The Resolution Pathways options are: (i) informal resolution, (ii) mediation, (iii) expert view and (iv) a binding expert decision. The purpose of the Resolution Pathways process is to provide a more affordable and practical way for licensees to resolve disputes with APRA and to provide a further check on APRA's market power. LPA is a Consultative Committee member of Resolution Pathways.

Live Music Event Industry-Wide Licence Scheme Negotiations

Since it was established in 2019, OneMusic has put in place some industry-wide licence schemes, pursuant to which a single licence agreement applies to the use of APRA Works and PCCA Sound Recordings by entire industries. By way of example, such schemes have been established for the use of APRA Works and PCCA Sound Recordings by airlines, cruise ships, dance schools, fitness providers, sports promoters and retail providers.

Between May 2019 and November 2022, OneMusic released a number of so-called 'consultation' papers in relation to a proposed licence scheme applicable to events organised by the Members, as set out below.

On 20 May 2019, OneMusic released its first consultation paper setting out the proposed licence scheme, including the rates, upon which APRA Works and PCCA Sound Recordings could be used at:

- promoted music events and festivals; and

¹ ACCC, Final Determination on APRA re-authorisation (13 July 2020), paragraph 4.76

² ACCC, Final Determination on APRA re-authorisation (13 July 2020), paragraph 4.76

³ ACCC, Final Determination on APRA re-authorisation (13 July 2020), paragraph 4.79

⁴ ACCC, Final Determination on APRA re-authorisation (13 July 2020), paragraph 4.195

- general entertainment events where music is used but not the primary focus.

On 15 December 2021, OneMusic released its second consultation paper, with a revised licence scheme upon which APRA Works and PCCA Sound Recordings could be used at:

- ticketed promoted events and eligible outdoor festivals;
- dance parties; and
- ticketed special purpose events.

On 31 August 2022, OneMusic released its final position paper, with a further revised licence scheme, upon which APRA Works and PCCA Sound recordings could be used at:

- ticketed music events and eligible temporary music events; and
- general entertainment events and free music events.

In late September 2022, APRA notified participants in the industry that:

- it was unilaterally terminating the existing industry blanket licence (the Promoted Music Event Blanket Licence Agreement); and
- ticketed music events would thereafter be subject to a new OneMusic licensing scheme.

This occurred as the first post-COVID-19 summer season of touring and festivals was about to commence, such that there was uncertainty as to the basis upon which the licensing of those tours and festivals would be determined. The industry was under significant pressure to agree to the proposed OneMusic licencing scheme in order to resolve that uncertainty as quickly as possible.

On 17 November 2022, OneMusic released its final position paper with respect to ticketed special purpose performances and an addendum to the final position paper on ticketed music events and eligible temporary music events.

Since this process commenced, industry participants and other stakeholders, including LPA and Members, have provided feedback to OneMusic in relation to the terms of the proposed licence schemes with a view to establishing a licence scheme that is effective and fair to all parties.

While interim arrangements necessitated by the unilateral termination of the Promoted Music Event Blanket Licence Agreement have been put in place, as at March 2023, OneMusic has failed to produce an acceptable licence scheme. LPA has been informed by some Members that there are fundamental issues with OneMusic's approach that are unlikely to be able to be resolved by way of negotiations between OneMusic and individual Members.

Fundamentally, the Authorised Conduct seeks to, to some extent, redress a substantial imbalance of bargaining power that currently exists between OneMusic, as a near monopolist, and each Member which is seeking to acquire an integral input for its business from OneMusic. This is in circumstances where OneMusic is seeking to license Members on the same terms i.e. under the same scheme.

It is intended that the Authorised Conduct will provide some degree of counter weight to OneMusic's substantial market power, by enabling LPA to negotiate the terms of the licence scheme with OneMusic on behalf of the Members, instead of Members being merely 'consulted'.

It is anticipated that some of the benefits which will flow from the Authorised Conduct will include LPA:

- (a) being able to obtain music licence rights for the Members on more balanced terms (including licence fees and payment structures);
- (b) being able to reduce transaction costs by streamlining the negotiation processes between OneMusic and each Member, rather than OneMusic currently seeking to negotiate music licences with each Member individually and each Member having to negotiate with OneMusic individually;

- (c) absent any licence agreement being concluded, increasing efficiencies resulting from LPA being able to utilise the Resolution Pathways or the Tribunal processes, on behalf of the Members;
- (d) reducing information asymmetries between the negotiating parties by facilitating input into terms and conditions from each Member, further promoting the future development of music licences in Australia; and
- (e) improving transparency as to how licence fees are calculated by OneMusic.

3.5 Proposed term for the authorisation

LPA is seeking authorisation for a period of 10 years.

4. Documents

Not applicable.

5. Directly Impacted Third Parties

APRA and PCCA will be directly impacted by the authorisation of collective bargaining because the Members will be likely to have greater input into licence terms relative to individually negotiated or 'take-it or leave-it contracts'.

6. Products and / or services supplied by LPA's members

LPA does not trade. The Members compete with each other to engage performing artists such as musicians, secure venues and sell tickets to their events.

The Members:

- supply services to performing artists, by arranging and promoting the live music events, either as a series of stand-alone concerts or as part of an arts or music festival, at which the artists perform in Australia in return for a fee, which may be a fixed amount and / or a percentage of box office revenue; and
- acquire the goods and services required for a ticketed live music event or music festival to be staged in Australia, which includes venue hire and may also include acquiring ticketing, security, staffing and food and beverage services, depending on their arrangement with the venue.

Licences from OneMusic are a necessary input into the Members' businesses, as the acquisition of licences is one of the services that the Members supply to artists, which under the licensing scheme proposed by OneMusic will be available to all industry participants on the same terms.

7. Description of the live music event industry

The live arts and entertainment industry is a complex ecosystem reflecting a diverse range of art forms (e.g. contemporary and classical music, musical theatre, theatre, comedy, dance, opera, cabaret, and circus/physical theatre). The industry supports more than 500 performing arts companies around Australia and a large range of businesses (i.e. music promoters, festival promoters, theatre producers, ticketing companies, technical suppliers, venues, and other service providers). Business of all sizes (i.e. freelancers, sole traders, small to medium businesses, not-for-profit companies, commercial entities and multinational companies) form an interdependent industry where all parts of the industry are interconnected.

In 2019, it was estimated that live music events (including music festivals) contributed \$12.5 billion to the Australian economy and employed over 42,000 people (including freelancers, sole traders and casuals).⁵

According to LPA's annual Ticket Attendance and Revenue Report, contemporary music events contribute the largest proportion to overall industry ticket sales revenue and attendance. In 2019, contemporary music events accounted for 43% of ticket sales revenue and 35% of attendance.

⁵ EY (2020), *The economic contribution of Australia's Live Entertainment Industry: How has COVID-19 impacted the industry?*, December 2020

When combined with contemporary music festival events, the share was 52% of ticket sales revenue and 41% of attendance.

Typically, there are four key parties involved in the presentation of promoted music events and festivals:

- the artist, performer, band, DJ, musical group or ensemble, or orchestra that ultimately delivers the service (i.e. the live entertainment experience) to ticketholders;
- the promoter, who takes on the financial risk of providing the service (i.e. the live entertainment experience) and is also responsible for securing the venue, appropriate licences and technical suppliers (such as audio, visual, security, freight, paramedics) and marketing the event. Music promoters range in size from sole traders, to small/medium/large businesses, to multinational companies;
- the venue (or site) at which the live music event or festival takes place. This may include pubs, clubs, concert halls, music halls, arenas, stadiums, greenfield sites or public outdoor spaces; and
- in some cases, the ticketing company that sells tickets to consumers on behalf of the promoter. Some venues offer in-house ticketing services, while other venues have an exclusive arrangement with a ticketing provider to provide ticketing services on behalf of the venue. In addition, some promoters will do their own ticketing.

8. Estimated market shares

LPA estimates that the Members represent approximately 85% of the share of supply of ticketed live music performances in Australia by revenue.

9. Competitive constraints

Existing competitors

The Members do not compete in respect of the acquisition of licences from OneMusic. As stated above, licences are a necessary input into each of their businesses, which under the licensing scheme proposed by OneMusic will be available to all of the Members on the same terms and are not finite or limited.

In terms of OneMusic, the 2020 Final Determination expressed the view that APRA/OneMusic was a near monopoly with exclusive rights to members' works.

While the Members have an opportunity to negotiate licences with APRA's members directly, such as where APRA holds the member's rights on a non-exclusive basis, or with rights' holders who are not members, given that there are so few members or non-members for businesses to directly negotiate licences with, there are little, if any, effective competitors to APRA, and therefore OneMusic.

Further:

- (a) as set out in paragraph 3.4 above, a business wanting to publicly play or perform music often requires the business to obtain two separate copyright licences, so that the business may have to negotiate with at least two separate copyright collecting societies for rights to a single piece of music (or alternatively deal directly with multiple copyright holders if APRA does not control the rights); and
- (b) OneMusic is a near monopoly buyer and so rights' holders have little commercial incentive to operate independently of OneMusic to deal directly with an individual business. In essence, a business that wishes to play music has little choice but to deal with APRA and, therefore, OneMusic.

Further, the Resolution Pathways process, first mandated by the ACCC as a condition of the 2014 Final Determination, and reauthorised in the 2020 Final Determination, appears to be providing little effective restraint on OneMusic.

The 2020 Final Determination noted that there is a lack of transparency among licensees about the existence of the Resolution Pathways process, a lack of transparency around how the

Resolution Pathways process operates (particularly around the fees involved) and a perception that APRA is able to exert influence over the scheme due to its market power.

Steps are presently being taken to deal with these challenges. For example, on 10 November 2021, the ACCC notified APRA that it was not satisfied with its revised fee methodology explanation, as required under Condition C1.2 of the 2020 Final Determination. Among other things, the ACCC noted that none of the fee methodology explanations contain a description of the methodologies adopted by APRA to calculate licence fees used to set that rate, nor refer in sufficient detail to the underlying data used in the formulation. Accordingly, the ACCC considered that APRA should proceed to appoint an independent reporter under Condition C5.2 of the 2020 Final Determination. Further, the 2020 Final Determination noted that, in so far as the Tribunal was concerned, information asymmetry between APRA and music users due to lack of transparency about APRA's licensing arrangements impacted on the extent to which users are able to advocate their cases in the Tribunal. The current and continued lack of transparency around pricing is also likely undermining the effectiveness of the Resolution Pathways process.

Likely new entry by competitors

Any person can become a member of LPA provided that the person is approved by LPA's Executive Council and:

- is the proprietor of a theatre or other place designed or capable of being used for any public entertainment or assembly;
- carries on business as an entrepreneur and/or producer and/or venue of entertainments open to the general public, whether live entertainments or entertainments and events recorded on any media or by any other means and whether such entertainments take place or are intended to take place in theatre halls, restaurants, music bowls, arenas, stadiums, entertainment centres, convention and exhibition centres, cinemas, casinos or other places or by any means of communication;
- carries on business providing goods and services for a Member or Members of the Association such as, but not limited to, costumes and millinery, scenery, stage properties, lighting, sound, publicity material, programmes, tickets and ticket sales and other materials and/or services required by such Member or Members; or
- carries on business in any form of entertainment including, but not limited to, arts, leisure, amusements or sporting activities.⁶

A licence will be available under the proposed licence scheme to any person who conducts an event that falls within the definition of 'ticketed live music event' or 'eligible temporary music events' under that scheme.

The 2020 Final Determination noted that there is no credible threat of entry by rival major collecting societies in the near to medium term due to high entry barriers in the form of sunk costs in specialised knowledge and systems, economies of scale and scope, and network effects.

It was also noted that the introduction of OneMusic would only *"increase the already high barriers to a rival collection society being established in Australia"*.

Further, under the Copyright Act a body may apply to the Minister to be declared as a works collecting society for all relevant copyright owners or for specified classes of relevant copyright owners. This is an additional regulatory factor to be taken into account when assessing the height of the barriers to entry faced by potential 'new entrants'.

Countervailing power of customers and / or suppliers

As noted above, OneMusic has a near monopoly in the acquisition and supply of performing rights to music. Licences are a crucial input for the Members, who must acquire licences from OneMusic in order to operate their businesses, except in the very limited circumstances where APRA does not hold the exclusive rights. Consequently, there is little countervailing power, including from each of the Members.

10. Public benefit

⁶ Refer to Rule 5 - [Australian Entertainment Industry Association \[R2019/159\] Rules](#).

The authorisation will result in at least three main public benefits:

(a) **Reduced transaction costs**

The attempts by OneMusic to impose an industry-wide licence scheme by engaging in a 'consultation process' over more than three years (noting a significant pause in the consultation process in 2020 and 2021 due to the impact of COVID-19 on the industry) has to date been unsuccessful. Whilst some progress has been made, there remains significant work to be done to reach an acceptable position on a number of complex issues.

A single negotiation process involving OneMusic and LPA would avoid any further wasted time and costs associated with the negotiation of this licence scheme by allowing LPA to put forward a position on behalf of Members. It also allows the Members to share the costs of the negotiation, rather than incur such costs on an individual basis.

(b) **Improved input into contracts for Members**

The proposed authorisation will provide a means by which LPA can coordinate with the Members to identify and deal with common contractual issues in a more effective and streamlined manner. In particular, LPA will be able to collectively develop proposals and responses to any counter proposals to provide to OneMusic on behalf of the Members, which effectively takes into account each of the Members' businesses.

It will redress imbalances in bargaining power between the Members and OneMusic, particularly with respect to smaller promoters and festival organisers, who would otherwise not be in a position to have any meaningful input in the negotiations with OneMusic. There is also a prospect that collective negotiation will improve transparency with respect to the rationale underlying OneMusic's licensing.

It will allow the Members to become better informed of relevant market information which is likely to improve their input into contractual negotiations with OneMusic to achieve a more efficient and balanced contract. This will enable the Members to individually become more informed and engaged participants in negotiations, improving their input into the negotiations with OneMusic. This improved input may lead to terms of supply that better reflect their circumstances, resulting in more efficient outcomes.

(c) **Streamlined dispute resolution**

In the event that agreement cannot be reached on price or non-price licence terms, authorisation will allow increased efficiencies in the alternative dispute resolution and/or Tribunal processes.

11. Public detriment (including likely competitive effects)

LPA does not consider there to be any public detriment in circumstances where participation by LPA's members is voluntary and OneMusic will establish an industry-wide licence either by negotiation or following any application brought in the Tribunal being determined.

12. Contact details of relevant market participants

Name: OneMusic Australia

Telephone: 1300 162 162

Email: hello@onemusic.com.au

Declaration by Applicant

The undersigned declare that, to the best of their knowledge and belief, the information given in response to questions in this form is true, correct and complete, that complete copies of documents required by this form have been supplied, that all estimates are identified as such and are their best estimates of the underlying facts, and that all the opinions expressed are sincere.

The undersigned undertake(s) to advise the ACCC immediately of any material change in circumstances relating to the application.

The undersigned are aware that giving false or misleading information is a serious offence and are aware of the provisions of sections 137.1 and 149.1 of the Criminal Code (Cth).

Signed by Paul Schoff, solicitor for LPA



Signature of authorised person

Partner, MinterEllison

Office held

Paul Schoff
Name of authorised person

This 7 th _____ day of March 2023

Schedule 1 - LPA Member List

	Organisation Name	Contact Name	Contact Position	Personal Email	Phone number	LPA Member (Yes / No)
1	Arts Projects Australia					Yes
2	WOMADelaide Foundation					Yes
3	Adelaide Festival					Yes
4	Adelaide Fringe Incorporated					Yes
5	Artrage Inc (Fringe World)					Yes
6	Central Australian Singing Inc					Yes
7	Darklab Pty Ltd t/a Dark Mofo					Yes
8	Destination NSW (Vivid)					Yes
9	Festival of Voices					Yes
10	Major Brisbane Festivals					Yes
11	Melbourne Cabaret Ltd					Yes
12	Melbourne Fringe					Yes
13	Melbourne International Festival of the Arts					Yes
14	Moorilla Estate Pty Ltd - Mona Foma					Yes
15	Perth International Arts Festival					Yes
16	Sydney Festival (The)					Yes
17	Ten Days on the Island Ltd					Yes
18	The Australian Festival of Chamber Music					Yes
19	The Darwin Festival Ltd					Yes
20	Bluesfest Byron Bay Pty Ltd					Yes
21	Canberra International Music Festival Ltd					Yes
22	Fuzzy Operations Pty Ltd					Yes
23	Melbourne Jazz Ltd					Yes
24	Port Fairy Spring Music Festival					Yes
25	Queensland Music Festival					Yes
26	Splendour in the Grass Pty Ltd					Yes
27	Wangaratta Festival of Jazz					Yes
28	Abstract Touring Pty Ltd					Yes
29	Ben Maiorana					Yes
30	Billions Australia					Yes
31	Chinatown Cinema Corporation					Yes
32	Chugg Entertainment					Yes
33	Cole Bishop Trustee for The Bishop Family Trust					Yes
34	David Roy Williams Entertainment					Yes
35	Destroy All Lines					Yes
36	Down Under Promotions					Yes
37	Duet Entertainment and Sports Pty Ltd					Yes
38	Dynamic Management Pty Ltd					Yes
39	Feel Presents Pty Ltd					Yes
40	Fibra Entertainment Pty Ltd					Yes
41	Frontier Touring Company					Yes
42	GAYM Entertainment Pty Ltd					Yes
43	Lennard Promotions Pty Ltd					Yes
44	Live Nation Australasia					Yes
45	Lucky Ent Pty Ltd					Yes
46	Mellen Promotions Pty Ltd					Yes
47	Metropolis Touring P/L					Yes
48	Mistletone Enterprises					Yes
49	Niche Productions & Touring Pty Ltd					Yes
50	Rokit Entertainment Pty Ltd					Yes
51	Secret Sounds Pty Ltd					Yes

	Organisation Name	Contact Name	Contact Position	Personal Email	Phone number	LPA Member (Yes / No)
52	Spiritworks Pty Ltd					Yes
53	TEG Dainty Pty Ltd					Yes
54	TEG Live Pty Ltd					Yes
55	TEG Van Egmond					Yes
56	Top Shelf Productions Pty Ltd					Yes
57	Zaccaria Concerts and Touring Pty Ltd					Yes
58	BABBA Pty Ltd					Yes
59	The Stagemaster Inc t/a The Street Theatre					Yes
60	Vision Hound Pty Ltd					Yes
61	Andrew Kay and Associates Pty Ltd					Yes
62	Cartell Music					Yes
63	The Roots Music Agency					Yes
64	In The Dark Presents Pty Ltd					Yes
65	Opera Australia					Yes
66	Adelaide Symphony Orchestra					Yes
67	Australian Art Orchestra Pty Ltd					Yes
68	Australian Baroque Ltd					Yes
69	Australian Brandenburg Orchestra					Yes
70	Australian Chamber Orchestra					Yes
71	Australian World Orchestra Ltd					Yes
72	Bach Akademie Australia Ltd					Yes
73	Camerata - Queensland's Chamber Orchestra Inc					Yes
74	Canberra Symphony Orchestra					Yes
75	Melbourne Symphony Orchestra					Yes
76	Musica Viva Australia					Yes
77	Omega Ensemble					Yes
78	Queensland Symphony Orchestra					Yes
79	Sydney Symphony Orchestra					Yes
80	The Australian Haydn Ensemble Inc					Yes
81	WASO Holdings Ltd					Yes
82	ALG Management Pty Ltd					Yes
83	Artback NT Incorporated					Yes
84	Auspicious Arts Projects Inc					Yes
85	Backrow Productions (Aust) Pty Ltd					Yes
86	BBC STUDIOS AUSTRALIA PTY LTD					Yes
87	Blake Entertainment Pty Ltd					Yes
88	Country Arts SA					Yes
89	Cre8ion Pty Ltd					Yes
90	Metro Arts					Yes
91	Northern Territory Major Events Company Pty Ltd					Yes
92	Quiet RIOT Creative Pty Ltd					Yes
93	Showwork Pty Ltd					Yes
94	Sydney International Piano Competition					Yes
95	Neil Gooding Productions Pty Ltd					Yes
96	Century Entertainment Pty Ltd					Yes
97	TP Events Pty Ltd					Yes
98	Albury Entertainment Centre					Yes
99	Brisbane Powerhouse Pty Ltd					Yes
100	Brunswick Street Venue Pty Ltd					Yes
101	Bunbury Regional Entertainment Centre					Yes
102	CarriageWorks					Yes

	Organisation Name	Contact Name	Contact Position	Personal Email	Phone number	LPA Member (Yes / No)
103	City of Greater Bendigo (Bendigo Venues & Events)					Yes
104	Comedy Lounge Pty Ltd					Yes
105	Interstar Pty Ltd (Regal Theatre)					Yes
106	Mackay Entertainment & Convention Centre					Yes
107	Theatre North Inc					Yes
108	Theatre Royal Management Board					Yes
109	Darwin Entertainment Centre					Yes
110	fortyfive downstairs					Yes
111	Adelaide Festival Centre Trust					Yes
112	Aligned Leisure Pty Ltd					Yes
113	Arts and Culture Trust					Yes
114	Arts Centre Melbourne					Yes
115	Belconnen Arts Centre Incorporated					Yes
116	Blue Mountains City Council					Yes
117	Canberra Theatre Centre					Yes
118	City of Karratha					Yes
119	Geelong Performing Arts Centre Trust					Yes
120	HOTA Gold Coast Pty Ltd					Yes
121	Illawarra PAC Ltd - Murrumbidgee Theatre Co					Yes
122	Northern Rivers Performing Arts Inc					Yes
123	Parramatta City Council - Riverside Theatre					Yes
124	Penrith Perf&Visual Arts Ltd (Joan Sutherland PAC)					Yes
125	Queensland Performing Arts Centre (QPAC)					Yes
126	Shoalhaven City Council					Yes
127	Sydney Opera House Trust					Yes
128	The Art House Wyong Shire PACC Ltd					Yes
129	The Trustee for Dadon No. 37 FT - Birds Basement					Yes
130	CMC Rocks Pty Ltd					No (owned or part owned by LPA Members)
131	St Jerome's Laneway Pty Ltd					No (owned or part owned by LPA Members)
132	MMF Pty Ltd					No
133	Untitled Group Pty Ltd					No
134	Festival X Pty Ltd					No (owned or part owned by LPA Members)