

# BANKI HADDOCK FIORA

LAWYERS

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27 June 2019

Victoria Christie  
Australian Competition and Consumer Commission

**BY EMAIL: adjudication@acc.gov.au**

Dear Ms Christie

## **CB – MOOD MEDIA AND STINGRAY GROUP – SUBMISSION**

We act for Australasian Performing Right Association Limited and Australasian Mechanical Copyright Owners Society Limited (**APRA AMCOS**).

We refer your letter dated 12 June 2019 regarding the collective bargaining notification from Mood Media Australia Pty Limited and its related bodies corporate, and Stingray Group Inc and its related bodies corporate dated 31 May 2019 (**Second Notification**).

We also refer to the collective bargaining notification from Mood Media Australia Pty Limited and Stingray Group Inc dated 1 February 2019 (**First Notification**).

APRA is the collecting society in Australia in respect of the public performance and communication rights of songwriters and music publishers. This typically covers the performances of music in more than 147,000 Australian and New Zealand businesses, including retail shops, nightclubs, restaurants and festivals, among many other settings, as well as the communication of musical works online, such as in download and streaming services, and on commercial television and radio. AMCOS is the collecting society in Australia in respect of reproduction of music in certain formats. This covers the reproduction of songs and compositions on CD, DVD, online, for use as production music and for radio/TV programs. Together, APRA and AMCOS control the copyright for such purposes in almost all commercially available musical works, by virtue of assignments from its local members and affiliations with similar overseas societies. Since 1997, the two organisations have been administered in tandem, and this submission represents the united view of both.

APRA AMCOS represents more Australian copyright owners than any other party. APRA AMCOS has more than 100,000 members. They have a diverse membership, ranging from unpublished writers to major music publishers.

APRA AMCOS understands that the principal difference between the First Notification and the Second Notification is that the latter includes the related bodies corporate to Mood Media and Stingray as notifying parties. APRA AMCOS therefore takes the same position in respect of the Second Notification as it did with the First Notification.

It respectfully submits that the Second Notification is misconceived for the reasons set out in our letter of 5 March 2019 in response to the First Notification.

However, APRA AMCOS does not oppose the Second Notification and would not object to dealing with Mood Media, Stingray Group and their related bodies corporate together, and reiterates the matters set out in our letter of 5 March 2019.

APRA AMCOS would be happy to participate in ADR with Mood Media, Stingray Group and their related bodies corporate together, should they wish to do so. As stated above, any negotiated outcome will form the basis of the terms of the BMS industry scheme, unless Mood Media, Stingray Group and their related bodies corporate are able to so distinguish their respective businesses that it would be reasonable for them to be offered different licence terms than the rest of the BMS in the market.

Yours sincerely



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