

29 April 2024

Tess Macrae  
Director | Competition Exemptions Branch | Mergers, Exemptions & Digital Division  
Australian Competition & Consumer Commission  
Naarm  
Level 17, 2 Lonsdale Street  
MELBOURNE VIC 3000

**BY EMAIL -** [REDACTED]

Dear Ms Macrae

**APPLICATION BY AUSTRALASIAN PERFORMING RIGHT ASSOCIATION LIMITED FOR  
REVOCATION OF AUTHORISATION AA1000433 AND SUBSTITUTION OF A NEW  
AUTHORISATION AA1000661**

We refer to your email dated 12 April 2024, our letter dated 19 April 2024, and your email dated 23 April 2024.

**APRA's Proposed Conduct**

In our letter dated 19 April 2024, we confirmed that APRA is seeking authorisation in respect of all aspects of its distribution arrangements.

In accordance with the ACCC's request on 23 April 2024, the purpose of this letter is to clarify the content of APRA's Proposed Conduct as defined in Section 4.1 of the Application Form and paragraph 24 of APRA's submission:

- (a) APRA's input arrangements arising from the standard form of assignment for APRA's members (whereby APRA requires its members to assign to it the performing rights in all of the works owned or controlled by the member), subject to the resignation, opt-out and licence back provisions of APRA's Constitution (**Input Conditions**);
- (b) APRA's reciprocal arrangements with overseas collecting societies by which the collecting societies grant each other the exclusive right to license works they respectively control (**Reciprocal Terms**);
- (c) APRA's output arrangements, in particular APRA granting blanket licences for users to perform in public or communicate to the public any of the works in its repertoire (**Blanket Licences**); and
- (d) APRA's distribution arrangements arising from APRA's constitution – in particular, Article 93 and APRA's "Distribution Rules" (**Distribution Arrangements**).

(together, the **Proposed Conduct**).

As described at paragraph 24(d) of APRA's submission, APRA's "Distribution Rules" – itself required by CISAC6 – requires APRA to allocate at least 50% of royalties in relation to any work to the composer/author of the work (**50% Rule**).

### **Reasons for seeking exclusion over attachment 2b**

APRA's reasons for seeking exclusion over attachment 2b include:

- (a) paragraph 6: this information is an important part of APRA's internal enforcement strategy;
- (b) paragraph 31: APRA considers this information to be a confidential component of its business practices;
- (c) paragraph 103: this information is subject to contractual confidentiality obligations between APRA and a third party;
- (d) paragraph 104: this information relates to confidential commercial negotiations between APRA and a third party;
- (e) paragraph 116: this information relates to confidential licence agreements between particular third parties;
- (f) paragraph 126: this information is an important part of APRA's internal enforcement strategy;
- (g) paragraph 148: this information is an important part of APRA's internal enforcement strategy; and
- (h) paragraph 174: this information relates to confidential arrangements between APRA and third parties.

The above reasons are consistent with the ACCC's Guidelines for excluding confidential information from the public register for authorisation processes.

### **Publication on ACCC Register**

We confirm that APRA has no concerns with the ACCC's emails dated 12 April and 23 April 2024, and our letters dated 19 April and 24 April 2024 and their attachments (other than attachment 2b for the reasons described above), being placed on the public register.

Please do not hesitate to contact me if you have any questions about this matter.

Yours sincerely



Kate Haddock  
Partner

T: [Redacted]  
[Redacted]