

ARIA

Australian Record Industry Association

2 July 2004

Mr Tim Grimwade
General Manager
Adjudication Branch
Australian Competition & Consumer Commission
470 Northbourne Avenue
Dickson ACT 2602

Dear Mr Grimwade

**Application for Authorisation Nos. A90918 – A90925
Australasian Performing Right Association Limited (APRA)**

I refer to your letter of 4 June 2004 to Mr Denis Handlin, the Chairman of the Australian Record Industry Association (ARIA).

Background

ARIA is a trade association representing the interests of the Australian recorded music industry. It currently has approximately 100 members ranging from the local subsidiaries of the multi-national record companies (BMG, EMI, Sony, Universal and Warners), and key Australian independent companies (such as Festival Mushroom and Shock) through to small labels and distributors. Its key objective is to advance the interests of Australian record companies and it does this through a variety of activities including government liaison and lobbying, education and information programs, the collation and publication of industry statistics, the calculation and publication of the weekly ARIAnet sales charts and anti-piracy activities.

Relationship with APRA

As you are no doubt aware, a sound recording will typically embody two separate copyrights - the copyright in the notes and lyrics (i.e. the song or the "musical work" in copyright terminology) and the copyright in the recorded version of the song (i.e. the "sound recording" in copyright terminology). APRA is concerned with the administration of rights in musical works and, specifically, the broadcast and public performance rights in musical works. ARIA and its members are concerned with the administration of copyright in the sound recordings.

As such, neither ARIA nor its members are members of, or licensors to, APRA nor do they receive distributions from APRA. The only exception to this would be in circumstances where a single corporation controls copyright in both musical works and sound recordings – however, even in those

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circumstances, such corporations typically organise themselves into separate operating divisions and maintain separate accounting.

Accordingly, ARIA is not in a position to express any informed view on the effectiveness or otherwise of the APRA arrangements and the consequent public benefit which may or may not flow from such arrangements.

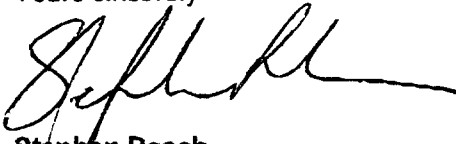
That said, ARIA does strongly support the collective licensing of statutory copyright licences such as those administered by APRA. Collective licensing fulfils a number of important objectives:

- It ensures that all copyright owners, both large and small, are able to receive equitable remuneration in respect of the compulsory licences (e.g. for the broadcast and public performance of musical works) granted under the Copyright Act – a copyright owner has no discretion as to whether or not it will grant such licences and the collective licensing system ensures that those copyright owners who do not have the financial resources to individually monitor and administer the use of their copyright material will still receive a fair return;
- It provides certainty to licensees who, in many cases, will have no knowledge of the identity of relevant copyright owners. It also provides the convenience of a single licence covering a multiplicity of copyright owners and relevant copyright material;
- In the case of such compulsory licences, the Copyright Act typically invests the Copyright Tribunal with the jurisdiction to determine the relevant licence fees in circumstances where the parties are unable to agree. This provides appropriate protection for all parties against the possibility of a negotiating impasse.

In summary, whilst we are not in a position to express any informed views on the structure and detail of the APRA arrangements, ARIA does support the principle of collective licensing as it provides a clear public benefit to both consumers and copyright owners alike.

We would be more than happy to expand on these views should you wish.

Yours sincerely



Stephen Peach
CEO