



**Australian
Competition &
Consumer
Commission**

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Our Ref: C2007/799
Contact Officer: Monica Bourke
Contact Phone: 02 6243 1351

27 July 2007

Dear

**Re: Phonographic Performance Company of Australia
application for revocation and substitution A91041 & A91042
- PRE-DECISION CONFERENCE**

The Phonographic Performance Company of Australia (PPCA) has requested that the Australian Competition & Consumer Commission (the ACCC) convene a conference in relation to the draft determination issued by the ACCC on 18 July 2007.

The draft determination follows an application by PPCA for revocation and substitution of its collective licensing arrangements, specifically input licences, output licences, licence out arrangements and distribution arrangements for public performance rights and transmission rights in sound recordings and music videos.

The draft determination proposes to grant authorisation subject to a number of conditions for a period of 5 years.

Details about the pre-decision conference

A pre-determination conference provides a valuable opportunity for applicants and interested parties to make oral submissions to the ACCC about its draft determination.

The ACCC will hold the conference on **14 August 2007**. The conference will be held at:

Chisholm Room
Angel Place Conference Centre
123 Pitt Street
Sydney NSW 2000

Conference registration will be from 12:45pm and the conference will commence at 1:00pm. It is expected that Mr Ed Willett, Commissioner, will chair the conference.

Under the *Trade Practices Act 1974* (the Act), the conference may be attended by the applicant and other interested parties. If you wish to attend, you should notify the ACCC of

your intention by **cob 7 August 2007** and briefly indicate why you or your company or organisation has an interest in the matter. Notifications must be in writing and addressed to:

The General Manager
Adjudication Branch
Australian Competition and Consumer Commission
GPO Box 3131
Canberra ACT 2601

You can also notify the ACCC by e-mail to: adjudication@accc.gov.au or by facsimile on 02 6243 1211.

You should provide details of a contact name, telephone number, mailing address and, if possible, a facsimile number or e-mail address so that you can be notified of any late changes to conference arrangements.

If you represent a company or organisation you should also provide a list of attendees and their position titles, and indicate who will be the chief spokesperson.

I would also note that, while conference participants may bring outside legal or other professional advisers to assist them, the Act provides that these advisers are not entitled to participate in conference discussions.

Attached for your information are procedures usually followed at pre-decision conferences.

Written submissions

Whether or not you choose to attend the conference you can also lodge a written submission in response to the ACCC's draft determination. Written submissions are due on **10 August 2007**.

A copy of this letter has been placed on the ACCC's public register. If you require any further information in regard to the conference or wish to clarify whether you may be considered an 'interested person' within the terms of the Act, please do not hesitate to contact Monica Bourke on 02 6243 1351.

Yours sincerely

Scott Gregson
General Manager
Adjudication Branch

AN OUTLINE OF THE PROCEDURES **USUALLY FOLLOWED AT PRE-DETERMINATION CONFERENCES**

The Australian Competition and Consumer Commission (the ACCC) tries to conduct such conferences as informally, flexibly and speedily as possible. Where necessary a conference may be adjourned and reconvened at a later time.

An interested party attending a conference may have the assistance of outside legal or other professional advisers. Although such persons may attend the conference to assist; they are not entitled to participate in the discussion.

The conference will serve a useful purpose in that it gives the ACCC and all interested parties the opportunity to meet face-to-face to discuss the operation and effect of the applicant's conduct and the ACCC's draft determination. The applicant and/or interested persons has/have the opportunity to persuade the ACCC to accept their view. The ACCC benefits from direct contact with the parties, and its perceptions of public benefit and competition are tested in a forum of interested parties where points are often quickly and forcefully made.

1. Preliminary procedures

- (a) When you arrive at the conference you will find that a seating plan may be available. You should identify yourself to the ACCC staff before the conference begins and indicate clearly if you expect messages to be left for you during the conference. Further, please complete the attendance book when arriving at the conference. This assists ACCC staff to identify attendees for the purpose of recording the discussion.
- (b) The Chair (a Commissioner) will open the conference by welcoming those present and outlining the requirements of the Trade Practices Act and the manner in which the conference will be conducted. An agenda may be circulated.
- (c) If you intend to present a written comment (and you are encouraged to do so), it is helpful if the ACCC receives it before the conference date. It can then be copied and distributed at the conference. In this way, both the ACCC and other parties present are assisted, and your submission also forms part of the conference record. If you cannot complete the written submission earlier, it is helpful if you come to the conference with extra copies which can be distributed.
- (d) If you intend to present a submission at the conference and you wish it (or certain details in it) to be excluded from the public register, you should make your request to the Chair at the time of presenting the document, and you should state in general terms the reason for your request. The Chair may request other parties present to leave the conference for a short period, so that you may be given the opportunity, if necessary to expand on your reasons.

If your request for the document (or parts of it) to be excluded from the public register is denied you may ask for the document (or parts of it) to be returned to you. Any material returned to you will ordinarily not be taken into consideration by the ACCC in making its final decision (unless, of course, it was supplied from another source).

Any document you present without making any request for it to be excluded from the public register will be placed on the ACCC's public register, and the information it

contains may be used by the ACCC in making its decision. Where information is excluded from the public register, the information may also be taken into account, although such material will not be placed on the public register.

2. General procedures

- (a) The conference has been convened to discuss the draft determination, to canvass points of view and to assist the ACCC's weighing of issues and its interpretation of the information given to it.
- (b) The procedure is discretionary. The Chair controls the order of discussion, and may take particular topics separately, so that all the discussion, on any given topic may be heard at the one time.
- (c) The conference is not a court, and there is no right of cross-examination. You may request the Chair to ask questions of other parties present, but the Chair retains the discretion as to whether your questions will be put. The Chair, of course, may also directly question the parties at the conference, and they have discretion whether or not to answer.
- (d) ACCC staff present will make a record of the discussion. This will be in minute form, not a verbatim record. The conference record is placed on the public register, and all who attend the conference will receive a copy.
- (e) When the Chair believes that all present have been given a reasonable opportunity to express their views, he/she may terminate the conference.
- (f) The Chair (and any other Commissioner at the conference) cannot give a final decision at the close of the conference. Each Commissioner is only a representative of the ACCC and is required to report back to the ACCC, which will make the final decision.

3. Other matters

- (a) Following the pre-determination conference, the ACCC will review its draft determination in the light of discussion and further submissions made at the conference (or within a set period of time after the conference), and will publish its final determination as soon as possible thereafter.
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Name and title	Organisation
Ms Robyn Ayres Executive Director	Arts Law Centre of Australia
Mr Chris Creswell	Information Law and Human Rights Branch, Attorney-General's Department
Mr Murray Green Director Corporate Strategy & Governance	Australian Broadcasting Corporation
Mr Peter Kell Chief Executive Officer	Australian Consumers Association
Mr Peter Burnett National President	Australian Hotels Association
Mr Stephen Peach Chief Executive Officer	Australian Record Industry Association Ltd
Glenn McDonald	Business Competition Branch New Zealand Commerce Commission
Ms Joan Warner Chief Executive Officer	Commercial Radio Australia
Ms Julie Flynn Chief Executive Officer	FreeTV Australia
Mr Steve French General Manager	Competition and Consumer Policy Division Department of Treasury
Ms Helen Williams AO Secretary	Department of Communications, Information Technology & the Arts
Dr Richard Letts Executive Director	Music Council of Australia
Ms Gillian Clyde Corporate Counsel	Screenrights
Mr Michael E Anderson	Austereo Group Ltd
Mr David Costello Chief Executive Officer	Clubs NSW
Mr Kim Williams Chief Executive	Foxtel
Mr John Porter Chief Executive Officer	Austar Entertainment
Managing Director	WIN Television
Mr Eddie McGuire Chief Executive Officer	Channel 9 Head Office
Ms Lesley Power Corporate Counsel	SBS Corporation
Mr Warwick Syphers Chief Executive Officer	PRIME Television
Mr David Leckie Chief Executive Officer (Television Broadcasting)	Seven Network Limited
Mr Grant Blackley	Network Ten Group Pty Ltd

Chief Executive Officer (Television Broadcasting)	
Mr Ken Roberts Executive Chairman	Celtex Ltd
Mr Ern Rose Director	Metropolis Audio
Chairman	Ausmusic
Managing Director	Stockland Shopping Centres
Mr Stuart Watters	Association of Independent Record Labels
Mr Chris Chapman Chair of ACMA	Australian Communications and Media Authority
Ms Evelyn Richardson Chief Executive Officer	Live Performance Australia
Mr James Hewison Chief Executive Officer	Australian Film Institute
Mr Michael Perjanik Chairman	Australian Performing Rights Association
Ms Mary Rainey-Perry President	Australian Music Therapy Association Inc
Mr Raffaele Marcellino Dean of Australian Institute of Music	Australian Institute of Music
Mr Duncan Shaw Executive Director	Australian Retailers Association
The President	Australian Screen Sound Guild
Mr Nick Greiner Chairman	Australian Subscription Television and Radio Association
Mr Denis Parkes President	Independent Cinemas Association of Australia
Ms Margaret Kearney Executive Director	Clubs Victoria Inc
Mr Barry Melville General Manager	Community Broadcasting Association of Australia
Catherine Wolthuizen Executive Director	Consumer Law Centre Victoria
Mr Brian Johns Chair	Copyright Agency Ltd
Mr Tony Steven Chief Executive Officer	Council of Small Business Organisations of Australia
Mr Rod Laing Chairman	Country Music Association
Mr David Batten	Australian Nightclub and Bar Association

Chief Executive Officer	
Mr Phil Burgess Group Managing Director Regulatory, Public Policy, and Corporate, Media Relations	Telstra
Mr Gary Williams Director - WSCM & Marketing	Westfield Ltd
Mr Brett Godfrey Chief Executive Officer	Virgin Blue
Mr Peter Feros Managing Director	AMP Shopping Centres
Mr Peter Horton Company Secretary and General Counsel	Woolworths Ltd
Mr Jason Murray Managing Director	Just Group Ltd
Ms Lara Andreasen Legal Counsel	Amalgamated Holdings Ltd
Mr Stuart McInnes Managing Director	Hoyts Cinemas
Mr Paul Zahra General Manager – Stores and Operations	David Jones Ltd
Ms Jodi Dixon Manager, Regulatory Affairs	Coles Myer
Mr Con Castrisos President	Restaurant and Catering Australia
Mr Robert Steele Secretary	Federal Association of Teachers of Dancing (Aust) Ltd
Ms Laretta Stace Chief Executive Officer	Fitness Australia
Managing Director	Ogden IFC
Managing Director	Crown Casino
Managing Director	Greyhound Australia Charters
Ms Sandy Vershoor General Manager	Adelaide Fringe Inc.
Ms Josephine Ridge General Manager	Sydney Festival
Ms Vivian Hickman General Manager	Melbourne International Arts Festival
General Manager	Perth International Arts Festival
Mr Lyndon Terracini Chief Executive Officer	The Brisbane Festival
Chief Executive Officer	Merivale Group
Mr Roy Menachemson Chief Executive Officer	AMF Bowling Centres Australia Pty Ltd

General Manager	Sound Unlimited
Mr Peter Chellew General Manager	The Push
General Manager	Australian Music Retailers Association
Mr John Griffiths	Musicological Society of Australia Inc
Ms Leigh Small Executive Director	Sydney Dance Company
General Manager	The Enmore Theatre
Ms Helen Jacobe Director of Venue Operations and Services	Queensland Performing Arts Centre
Mr Frank Garonzi General Manager	JB Hi-Fi Ltd
Ms Katie Page Managing Director	Harvey Norman
Mr Greg Smith Managing Director	Clive Peeters
Mr Ron Murray Managing Director	Murrays Travels
Mr Richard Evans Executive Director	The Australian Ballet Centre
Mr Gary Barnes General Manager	Australian Choreographic Centre
Mr Rob Baum Convenor	International Dance Therapy
Mr Jonathon Stewart Wood Manager	CHB Charters Pty Ltd
Mr Craig Allen Robert Director	Jukebox Hire Pty Ltd
Mr Paul Fletcher Director Corporate and Regulatory Affairs	Optus
Ms Judith Anderson General Manager	Queensland Ballet
Mr Steven Roth General Manager	West Australian Ballet
Ms Angela Driver Administrative Manager	Tasdance
Mr Nick Hughes Company Manager	Restless Dance Company
Ms Amanda Card Executive Producer	The One Extra Company
Mr Alan Oxley Chairman	Melbourne & Olympic Parks Trust
Kon Gouriotis OAM Executive Director	PowerHouse Arts Complex

Mr John O'Donnell Managing Director	EMI Music Australia
Ms Karen Don General Manager, Legal and Business Affairs	Universal Music Australia
Mr Ed St John Chief Executive Officer	Warner Music Australia
Mr Denis Handlin Chairman & CEO	Sony BMG Music Entertainment
General Manager	Hi Fi Bar & Ballroom
General Manager	The Esplanade Hotel
Ms Libby Baulch Executive Officer	Australian Copyright Council
Mr Adrian Beresford-Wylie Chief Executive	Australian Local Government Association
The President	Outdoor Council of Australia Sports House
Mr Steve Mason National President	Parks and Leisure Australia
Mr Brent Espeland A/g Chief Executive Officer	Australian Sports Commission
Mr Chuck Harmison General Manager	National Basketball League
Mr David Gallop Chief Executive Officer	National Rugby League
Andrew Demetriou Chief Executive Officer	Australian Football League
Mr John O'Sullivan Head of Commercial Operations	Football Federation of Australia
Mr Gary Flowers Managing Director & Chief Executive Officer	Australian Rugby Union
Mr Greg O'Neill President	Australian Amusement, Leisure & Recreation Association
Mr John Parker Secretary	Disc Jockey Association
Ms Denise Nicholas	Hire & Rental Association
The Manager	Advanced Association of Beauty Therapists
Mr Andrew Woodward President	Hairdressing & Beauty Industry Association
The Executive Office	Professional Hairdressers Association
The General Manager	Calisthenics Victoria
Ms Jane Allen	Gymnastics Australia
Mr Neil Pentecost President	Cinema Owners Association of Australia (COAA)
The General Manager	Australian Chamber of Commerce & Industry
Mr Tony Stevens Chief Executive Officer	Council of Small Business Organisations of Australia

Mr Jay Fowler Chief Executive Officer	Small Business Association of Australia
The Manager	Consumer Affairs Division of the Commonwealth Department of the Treasury
Mr John Grim Officer Administrator	Copyright Agency Ltd
Business License Information Officer	Economic Development Authority
The Executive Office	Ausdance (NSW)
Ms Rose Godde Executive Officer	Ausdance (VIC)
The Secretary	Australian Callers Federation
The President	Australian Clogging Association
Mr Barry Wall	Australian Dance Review
Mr Barry Fisk	Australian Dancesport Federation Inc
The Executive Office	Australian Performing Arts Centre Association
The Executive Office	Australian Rock 'n' Roll Dance Council Inc
Ms Barbara Legge Secretary	Australian Round Dance Association
The General Manager	Dance Therapy Association of Australia
The General Manager	Dancesport Australia – National Office
Mr Trevor Connell	Australasian Special Events Backalley Production Company
The Executive Office	NSW Festivals & Events Association
The General Manager	Australian Institute of Fitness
The General Manager	Australian Personal Trainers Association
Ms Jocelyn Shanks	Fitness Industry
The General Manager	The Fitness Industry Development Incorporation
Ms Liz Young Director	Australian Funeral Directors Association
Mr Terry Condon Executive Officer	Club Managers Association of Australia
Danielle Dent	Hospitality Management Company
The General Manager	Hospitality Training Association Inc
Mr Todd Blake Chief Executive Officer	Restaurant and Catering Association of Victoria
Mr Robert Goldman Chief Executive Officer	Restaurant and Catering NSW
The General Manager	Australian Booksellers Association
Mr Jayson Westbury Chief Executive Officer	Australian Liquor Stores Association
Ms Karen Dickie	Australian Newsagents Federation Ltd
Mr Duncan Shaw Executive Director	Australian Retailers Association
The General Manager	Australian Video Retailers Association Ltd
Ms Sandra Przibilla	Liquor Merchants Association of Australia

Director	
The General Manager	National Retail Association
The General Manager	Retail Liquor Industry Council
The General Manager	ACT Sports
The General Manager	Australian Council for Health, Physical Education & Recreation National Office
The General Manager	Bowls Australia Inc
The General Manager	Ice Skating Australia
The General Manager	Synchronised Swimming Australia Inc
The General Manager	Australian Institute of Travel & Tourism Federal Secretariat
The General Manager	Museums Australia Inc
The Manager	DMX Music Pty Ltd
The General Manager	Sky Channel Pty Ltd
Mr Bill Healey Director National Affairs	Australian Hotels Association
Mr Jim White Director	Vital Entertainment Solutions
Mr Marcus Seal Chief Executive Officer	Shock Records Head Office – Melbourne
David Wallace	Cabaret Owners Association of Western Australia Ltd
Wayne Krelle Deputy CEO	Clubs Australia
General Manager	New Mardi Gras Limited