



**Australian
Competition &
Consumer
Commission**

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22 October 2013

Ms Kate Haddock
Partner
Banki Haddock Fiora

By email: haddock@bhf.com.au

Dear Ms Haddock

Re: Australasian Performing Right Association Ltd application for revocation and substitution A91367-A91375 - PRE-DECISION CONFERENCE

The Australian Hotels Association National Office has requested that the Australian Competition & Consumer Commission (the ACCC) convene a conference in relation to the draft determination issued by the ACCC on 15 October 2013 proposing to grant conditional authorisation to the Australasian Performing Right Association Ltd (APRA) for its standard arrangements for the acquisition and licensing of the performing rights in its music repertoire.

As you are aware, the draft determination follows an application by APRA for reauthorisation (application for revocation and substitution) in respect of arrangements for the acquisition and licensing of performing rights in music. The ACCC concluded in its draft determination that it was satisfied, subject to conditions of authorisation, that the public benefit flowing from the proposed arrangements was likely to outweigh any anti-competitive detriment and proposed to grant conditional authorisation to the applications.

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

The ACCC will hold the conference on **8 November 2013**, at the ACCC's Melbourne office with video conferencing facilities available in the ACCC's Brisbane, Canberra, Perth and Sydney offices. The conference will commence at 11am. Commissioner Dr Jill Walker will chair the conference.

Under the *Competition and Consumer Act 2010* (the Act), the conference may be attended by the applicant and other interested parties. Please advise the ACCC of the names of APRA's representatives who will be attending, their position titles and the ACCC office in

which they will attend, and indicate who will be APRA's chief spokesperson. Please provide this information by **cob 1 November 2013**. You may address this information to:

The General Manager
Adjudication Branch
Australian Competition and Consumer Commission

By email: adjudication@accc.gov.au

You can also notify the ACCC by post to GPO Box 3131, Canberra ACT 2601, or by facsimile on (02) 6243 1212.

I would also note that, while conference participants may bring outside legal or other professional advisers to assist them, the Act prohibits these advisers from participating in conference discussions.

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

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, please do not hesitate to contact Tess Macrae on (03) 9290 1835.

Yours sincerely

A handwritten signature in blue ink, appearing to be 'Richard Chadwick', with a long horizontal stroke extending to the right.

Dr Richard Chadwick
General Manager
Adjudication Branch

AN OUTLINE OF THE PROCEDURES USUALLY FOLLOWED AT CONFERENCES IN RELATION TO APPLICATIONS FOR AUTHORISATION

The Australian Competition and Consumer Commission (ACCC) tries to conduct such conferences as informally, flexibly and speedily as possible.

An interested party attending a conference may have the assistance of outside legal or other professional advisers, however, 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 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 benefits and detriments 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 should identify yourself to ACCC staff before the conference begins. 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 *Competition and Consumer Act 2010* and the manner in which the conference will be conducted.
- (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 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) 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.

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. (See the ACCC's [Guidelines for excluding information from 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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