



Australasian Performing Right Association Ltd authorisation applications A91367 - A91375

Interim authorisation decision

24 October 2013

Decision

The Australian Competition and Consumer Commission (the ACCC) has granted interim authorisation to the Australasian Performing Right Association Ltd (APRA) to continue its arrangements for the acquisition and licensing of performing rights in music. APRA's arrangements have been authorised since 1999 and the current authorisation, granted in 2010, expires on 31 October 2013.

Interim authorisation is on the same terms as the existing authorisations, including the conditions of authorisation C1 and C2 imposed in 2010. Interim authorisation will commence immediately, and will remain in place until it is revoked or the date the ACCC's final determination comes into effect.

The application for authorisation

On 30 April 2013 APRA applied for revocation of authorisations A91187-A91194 and A91211, and their substitution with new authorisation on substantially the same terms for a further six years.

The application relates to APRA's standard arrangements for the acquisition and licensing of the performing rights in its music repertoire.

On 15 October 2013 the ACCC issued a draft determination proposing to grant conditional authorisation in respect of the proposed arrangements for three years.

The authorisation process

Authorisation provides protection from legal action for conduct that may otherwise breach the competition provisions of the *Competition and Consumer Act 2010* (the **Act**). Broadly, the ACCC may grant authorisation if it is satisfied that the benefit to the public from the conduct outweighs any public detriment, including from a lessening of competition. The ACCC conducts a public consultation process to assist in determining whether a proposed arrangement results in a net public benefit.

Interim authorisation

The ACCC has decided to suspend the operation of authorisations A91187-A91194 and A91211 and grant conditional interim authorisation to applications A91367-A91375 consistent with section 91(2)(f) of the *Competition and Consumer Act 2010*.

Consultation

The ACCC undertook interested party consultation in order to consider the request for interim authorisation. The ACCC received public submissions in support of interim authorisation from the Australian Hotels Association National Office, the Australian Hotels Association (Victoria), the Queensland Hotels Association, the Australian Retailers Association, Clubs Australia, Live Performance Australia and ALH Group.

Reasons for decision

Interim authorisation allows APRA's existing arrangements to remain in place while the ACCC completes its assessment of the substantive application. Due to the large number of submissions received in response to the application and the concerns raised by interested parties, the ACCC will not have completed its assessment before the existing authorisations expire.

In granting interim authorisation the ACCC considers that allowing APRA to continue with its existing arrangements will avoid disruption to APRA, its members and licensees.

Reconsideration of decision

The ACCC may review the decision to grant interim authorisation at any time should the ACCC's assessment indicate that this is appropriate. The ACCC's decision in relation to the interim authorisation should not be taken to be indicative of whether or not final authorisation will be granted by the ACCC.