

Blanch, Belinda

From: Stuart Watters [REDACTED]
Sent: Wednesday, 6 November 2013 5:09 PM
To: Adjudication
Cc: Macrae, Tess; Channing, Darrell; Mark Brownlee; Jay Mogis
Subject: TRIM: Australasian Performing Right Association Ltd application for revocation and substitution A91367-A91375 - PRE-DECISION CONFERENCE

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To the General Manager

As an interested party attending the pre-decision conference on Friday November 8th on behalf of Nightlife Music Video PTY LTD, I am the nominated spokesperson for the company and will have Jay Mogis also in attendance in an advisory capacity.

Nightlife supports APRA's re-authorisation under the conditions proposed but would like to seek further clarification on additional matters.

Condition C3 – Transparency of licence fees:

- publish a single document outlining license fees in plain English within 6 months.

The transparency of license fees has long been a concern for many of Nightlife's clients, and this condition implemented correctly, should provide relief and ultimately reduce APRA's burden in the context of complaints and/or disputes and their administration. We are concerned with the complicated and subjective nature of what, and who exactly determines 'Plain English'. While these conditions stem from APRA's further submission that describes how they intend to address the recent critique from members and licensees alike, it would be beneficial if the content of these new documents was moderated independent of all parties involved. Hence, we propose the finer details of this condition be subject to independent and external critique before being presented to stakeholders for feedback and further input. Additionally we would propose that this framework for consultation be made available for further comment and input from relevant stakeholders.

There are also grounds for the inclusion of APRA's Annual Re-assessment forms to be treated to the implementation of a 'Plain English' approach, and should include clear information on license costs such that the end users benefit from understanding their public performance liability moving forwards.

Condition C5 – Alternative Dispute Resolution:

- a completely revised 3 tier Dispute Resolution Process that **may** also be accompanied by plain English marketing.

Nightlife welcomes any potential revision to the ADR process, and can foresee that the more independent this process is, the more effective it will become for licensees with complaints and/or disputes, and APRA respectively. While it is understood that any discussion regarding the new proposed dispute resolution regime is limited at this Pre-Decision Conference and that there will be a further meeting prior to the final determination from the ACCC being issued, it is critical to the success of that regime that any 'industry experience' that is referred to may be interpreted as 'Music Industry' or 'Copyright', but this does not necessarily qualify someone to understand the working public performance environment; therefore leaving a potential imbalance. It is therefore critical that, in light of the above comment with regard to Condition C3, we would propose that the independent consultant recruited by APRA is also involved in the determination of the 'Plain English' guide as there is a direct correlation between the dispute and the application of the tariffs in question. If those at the beginning of the dispute resolution process do not understand the

environment they are seeking to resolve, then the view is that their capacity to resolve the dispute is compromised.

Yours sincerely

Stuart Watters



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