

OUT13/36100

Dr Richard Chadwick
General Manager
Adjudication Branch
Australian Competition and Consumer Commission
GPO Box 3131
CANBERRA ACT 2601

Dear Dr Chadwick

Australasian Performing Right Association Ltd authorisation

I refer to the ACCC's proposed conditional authorisation of three years' duration for the Australasian Performing Right Association Ltd (APRA).

The APRA has a monopoly role affecting approximately 82,000 businesses, with the vast majority being small businesses. As such, APRA has significant market power in relation to its dealings with users. It is therefore essential that it is regulated in an appropriate fashion.

As previously advised, I firmly believe that the authorisation should be of a more limited duration, of approximately six to twelve months, and no longer.

As stated by a number of stakeholders at the conference held by the ACCC on Friday 8 November, the ACCC should insist that APRA consult with stakeholders and develop a satisfactory plain English guide to the licence fee categories prior to the ACCC considering granting a lengthier authorisation to APRA.

The plain English guide should provide:

- Transparency on the pricing structure for licences, given there is currently a lack of understanding regarding licence types, fees and terms;
- Guidance around the best licence option in cases where venues use two or more types of licences from time to time (for example, hotels and nightclubs); and
- A plain English application form.

APRA's progress in relation to the plain English guide clearly needs to be monitored by the ACCC, as APRA has not successfully addressed these issues previously. This is why there have been sustained, widespread complaints from businesses in relation to a number of issues, including the transparency of the licence fee structure.

Additionally, it is essential that stakeholders are properly consulted, with the resulting documents available for public scrutiny. This is standard practice and is essential in order

to arrive at arrangements that are practical and equitable. The ACCC may have a role to play in terms of driving this process as an impartial arbiter.

Please note I will be providing comments to Ms Shirli Kirschner in regards to the provision of dispute resolution services. In this regard, it is essential that the dispute resolution service is adequately resourced, so that disputes are resolved relatively quickly to provide certainty for the affected parties.

The dispute resolution service should also be accessible and affordable, given small businesses generally lack the resources in terms of money and time that are available to larger businesses.

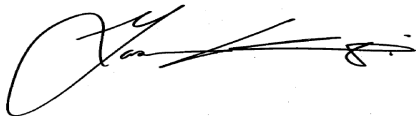
As with the plain English guide, the design of the dispute resolution mechanism should be settled prior to the ACCC considering the granting of a longer term authorisation than 6-12 months.

I note that the granting of a longer authorisation would reduce the incentive for APRA to resolve these issues in an expeditious fashion with other stakeholders. By authorising a further period of three years, the ACCC would potentially be opening up a situation in which the issues continue to remain unaddressed and small businesses continue to be in a disadvantaged position.

Furthermore, resolving these issues in a timely fashion would actually be to APRA's advantage, as it would reduce the amount of disputation between themselves and other stakeholders and allow APRA to concentrate on their core business.

Thank you for giving me the opportunity to comment on the ACCC's intention to grant APRA an interim authorisation. Should you wish to discuss any of the issues raised in this submission please contact Adam Spivakovsky, Senior Advisor, Advocacy on (02) 8222 4833.

Yours sincerely



Yasmin King
NSW Small Business Commissioner
5 December 2013