

HISTORY OF REGULATION OF APRA

1. In 1932 the Parliament of the Commonwealth of Australia held a Royal Commission on Performing Rights (**Owen Royal Commission**). The Commission examined the operations of APRA, and made certain recommendations regarding amendments to the *Copyright Act 1912*.
2. As a result of the recommendations of the Owen Royal Commission, section 13A was inserted into the *Copyright Act 1912*, providing for voluntary arbitration in disputes between copyright owners and music users.
3. The Commission found that:

On the whole [APRA] carries on its business on sound lines, is managed by capable and reasonable men, protects to the best of its ability the interests of the copyright owners it represents, accounts, as best it can, to those whose money it collects, and attempts to afford information to those who use or seek to use the music it claims to control.
4. In 1943, the Standing Committee on Broadcasting conducted an examination of APRA's conduct. The Committee agreed with the conclusions of the Owen Royal Commission and recommended that the *Copyright Act 1912* be amended to include provisions for compulsory arbitration.
5. Since the 1950s, the Commonwealth legislature has appointed various expert groups to advise on the review of copyright laws, partly to ensure their compliance with the Berne Convention.
6. The *Copyright Act* was introduced following the 1959 recommendations of the Committee Appointed by the Attorney General of the Commonwealth to Consider What Alterations are Desirable in the Copyright Law of the Commonwealth (**Spicer Committee**). A copy of the Spicer Report is available on request.
7. In 1983 the Commonwealth Government established a Copyright Law Review Committee (**CLRC**). The "digital agenda" amendments to the *Copyright Act* arose out of a report of the CLRC. (The CLRC no longer operates.)
8. Australian copyright law reflects Australia's obligations under the Berne Convention (that is, the various Acts of the Berne Convention for the Protection of Literary and Artistic Works). The protection of the public performance and communication of copyright works is a requirement of the *Brussels Act 1948*.
9. At the time the *Brussels Act 1948* was enacted, Australia made the reservation that the new provisions were accepted on the basis that the Australian government remained free to enact such legislation as it might consider necessary in the public interest to prevent or deal with any abuse of the rights conferred upon owners of copyright.
10. It was pursuant to this reservation that the Spicer Committee recommended the establishment of the Copyright Tribunal.
11. The Spicer Committee recommendations were designed to prevent an abuse of monopolistic power by collecting societies. The Committee described APRA as "useful both from the point of view of the copyright owners and the music users".

12. Similar developments occurred in other territories and performing right tribunals or “rate courts” have since played a significant role in the regulation of collecting societies in all developed countries.
13. In 1995, Mr Shane Simpson presented the results of a review of the activities of Australian’s collecting societies, commissioned by The Australian government.
14. The report provides an informative, though now seriously dated, overview of the societies that operate in Australia. A copy of the report is available on request.
15. In June 1998 the House of Representatives Standing Committee on legal and Constitutional Affairs tabled its report of the inquiry into copyright, music and small business. As a result of that inquiry, APRA now offers complimentary licences to business that perform music in public by means of radio or television, for the benefit only of their staff, provided that the business has fewer than 20 staff members. Details of the scheme are available on request.
16. The arrangements for which APRA seeks authorisation have been in place for approximately 83 years. The mechanisms that safeguard the public interest inherent in copyright and the operation of centralised collecting bodies such as APRA have evolved over nearly 100 years to their current form.
17. Such arrangements and mechanisms represent decades of consideration of copyright and collecting societies. APRA submits that the result of this scrutiny is an efficient system of copyright administration that has provided the Australian public with significant benefits and, if the requested authorisations are granted, will continue to provide the public with the benefits.