

NIGHTCLUB OWNERS FORUM

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21st May 2013

Dr Richard Chadwick
Australian Competition and Consumer Commission
GPO Box 3131
CANBERRA ACT 2601

FILE No:
DOC:
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Dear Dr Chadwick



Australasian Performing Rights Association (APRA) application for revocation of authorisations A91187 – A91194 & A91211 and substitution of new authorisations A91367 & A91375 – interested party consultation

Your reference: 51243

The Nightclub Owners Forum (NOF) would like to express its concerns over the monopoly status of APRA and the impact of this not only the viability of the Australian Hospitality industry and its patrons, contractors and employees but the Australian economy given that to the best of our knowledge most monies collected are paid to APRA affiliates overseas.

Another Melbourne based licensee representative organisation, the ALLM is submitting a detailed submission which the NOF supports, so we will not go over the same details in this submission.

But we would make the strong point that the operation and impact of APRA cannot be considered in isolation of the other monopolistic copyright collection agency, the Phonographic Performance Company of Australia Ltd (PPCA).

Essentially licensed premises have to pay at least two exorbitant fees for the one piece of music and sometimes 3 times or more in effect if they source their music from a third party provider which many do.

There is a historic basis for the formation of the two copyright societies but the question needs to be seriously asked whether it is in the public interest for the

two monopolistic societies to continue to operate as separate entities with no competition.

The ACCC should request that the Commonwealth Government conducts a formal enquiry into the feasibility and merits of forcing the two agencies to merge, and a more transparent and fair modus operandi and fee collection structure. Ideally, the copyright system should be opened up to competition so that the hospitality industry can shop around for the best deal, and can do so in the knowledge that they are more effectively supporting the Australasian music industry and Australasian economy.

Essentially, as it stands nightclubs and bars, either individually or collectively do not have anywhere near the resources required to mount legal challenges against the actions of either society.

When the PPCA several years ago was awarded massive fee increases by the Copyright Tribunal despite an appeal by the Australian Hotels Association (AHA) costing the AHA around \$750,000 in legal fees, APRA simply followed suit knowing it could do so without any real opposition.

Both societies have the capacity to fund significant legal cases to support their own selfish objectives ironically using the massive amount it collects in fees from nightclubs and bars, and in turn ensuring that nightclubs and bars are significantly weakened in their capacity to mount any challenge or protest.

A fairer more competitive system must be introduced as a matter of urgency and this should be the ACCC's prime objective in this review.

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Yours sincerely



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