



ACCC Reference: 51243

To Tess Macrae

Dear Tess,

I'm writing as the owner of Home Nightclub Sydney and as an interested party in response to APRA's application for revocation of authorisations A91187 – A91194 & A91211 and substitution of new authorisations A91367 & A91375.

Home Nightclub has been operating for over 15 years and my husband and I have owned it for just over 9 years and have been paying APRA fees for the whole period. My husband Simon Page was present at the Copyright Tribunal in 2007 when the nightclub tariffs were revised but unfortunately, the nightclub community was massively under-represented and ill-prepared. From what I understand of this ruling, the new tariff was based on one bit of commercial market research. The new tariff subsequently came through and as I said at the time, it was not right.

I have been speaking to my nightclub associates and it's fairly evident that the nightclub tariff isn't working. We all get charged different rates based on a different formula. The rate is actually 71c per person but some of my associates are paying as low as 57c per person. But more importantly, to get around the high tariff rate, APRA will negotiate and agree on lower attendance figures. We've been paying consistently on attendance figures for many years now but in speaking to some of my associates, many nightclub operators are allowed to pay on a fraction of their actual attendance figures after negotiations with APRA. I can only assume from these deals, that APRA are acknowledging that the nightclub tariff is too high. It's clear that the tariff is incorrect and not implementable but I'm still sure of one thing: if operators were made to pay the full tariff as specified by APRA, many nightclubs would have to close their doors. I agree with principle that the tariff needs to be based on attendance as a metric. This is something we as nightclub operators know and as part of operating our nightclubs, we have to count how many people are present. It is the rate per person that is not realistic or consistent for the use.

A common misunderstanding that I would like to clear up is that nightclub operators have a problem with compliance. This is not true and in fact I enjoy supporting and employing artists on a regular basis. I have a strict policy that all DJs must play legal copyright music and I ask them to sign a form stating they will do this. My concern is whether all this money that is being collected by APRA

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is distributed correctly back to the original artists. When I ask my touring artists who play their won original works, if they get paid by APRA, the answer is often no.

APRA have requested that I install DJ Monitor as a condition of my APRA license. I had to reject this for a number of reasons. Firstly, they sought to put it in one room and use that data to distribute the money they collected from me to pay artists but we have several rooms throughout the venue all playing very different styles of music so it simply didn't make sense. I was also genuinely concerned that it would mean a tariff hike for me. There were no other nightclubs using it and I wasn't going to agree to something that I felt was flawed. Furthermore, what I find quite insulting is that DJ Monitor was – and still is – promoting my nightclub as a venue that was using their technology before APRA had even asked my permission to install it. To this day, I cannot fathom how another organization can use my logo as part of the conditions of my licence.

I appreciate that APRA are there to perform a role to assist songwriters and creators to get what is rightfully theirs but my concerns are:

1. There is no transparency around the nightclub tariff and its application
2. The increase in the nightclub tariff is not reaching the artists
3. The DJ Monitor system of music recognition is flawed
4. DJ Monitor are advertising it is installed in my nightclub when it's not.

I'm worried that if there isn't change, things will only get worse and nightclub owners won't know how much they have to pay and at what cost. APRA needs to consult with the industry and come up with a scheme that works. The alternative is that more nightclubs will shut down and that isn't good for owners, people going to clubs and event the artists as they won't get paid – there will be no clubs collecting money on their behalf.

Sincerely,

Susanah Page