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**Australian
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7 June 2013

Ms Kate Haddock
Partner
Banki Haddock Fiora

By email: haddock@bhf.com.au

Dear Ms Haddock

**Authorisation A91367-A91375 submitted by Australasian Performing Right Association
Ltd –
request for further information**

I refer to your application for revocation and substitution lodged with the Australian Competition and Consumer Commission (the ACCC) on 30 May 2013.

Interested party consultation

The ACCC has received a number of public submissions in response to the Australasian Performing Right Association Ltd's (APRA) application. These are available from the ACCC's public register (www.accc.gov.au/AuthorisationsRegister).

The ACCC invites APRA to respond to the concerns raised in interested party submissions.

Request for further information

In addition to responding to interested party submissions, the ACCC would appreciate APRA's response to the following specific issues:

Complaints received by APRA

1. Please provide a summary of the number of complaints received by APRA (other than matters referred to ADR or the Copyright Tribunal) for each year since 2006 (this may include the Report to the Code Reviewer). If possible, please break this down into:
 - a. the type of complainant (e.g. nightclub, gym, composer, record company etc)
 - b. the topic of the complaint (e.g. licence fee, licence category, licence back/opt out, royalty payments etc)
 - c. whether the complaint was resolved and how.

It may be relevant for APRA to define what it classifies as a 'complaint'.

2. The ACCC notes that the number of ADR cases remains low relative to the level of concern expressed in submissions to the ACCC received from APRA users. Does APRA have a view on the current level of ADR take-up, or on ways to further improve its accessibility?

Licence fees

3. Please provide copies of the documents relied upon by APRA's staff in assessing or reassessing the tariff payable by an APRA user, other than the APRA Licence Application forms. This may include information about the tariffs and definitions for the different categories of licence. Is this information made available to APRA users?
4. What assistance are licensees or prospective licensees provided in filling out their APRA Licence Application forms?
5. Please tabulate the licence fees for each licence category and each year since 2006 and any reasons for changes in these fees. How are APRA users consulted prior to increases in licence fees?
6. Please describe any commission paid to APRA staff involved in assessing the licence fees payable by an APRA user.

Licence back, opt out

7. The ACCC notes that the take-up of licence back and opt out remains relatively low. Please expand on the ways APRA has or intends to increase industry awareness of licence back and opt out facilities. Does APRA consider that there are other reasons for the current take-up rate, and does this depend on the licence category?

Conduct of APRA and its staff

8. Please respond to the concerns of interested parties about the conduct of APRA and its staff in interactions with APRA users in the context of the Code of Conduct for Australian Collecting Societies.
9. What is the frequency of 'spot checks' of premises requiring an APRA licence? If available, please provide data for each year since 2006, including a breakdown by type of venue.

Royalties paid

10. Please respond to concerns raised in submissions that APRA is not distributing enough of the licence fees it collects to its members and that APRA's administration costs are too high.
11. Please describe the mechanisms used by APRA to ensure that all APRA members receive fair royalties. For example, insofar as APRA uses radio distribution pools to distribute background music licence fees, how does APRA ensure that royalties are paid for performance of specialist music that is not picked up in this or other pools?

Please provide the requested information and a response to interested party submissions by **21 June 2013**. Please also see the ACCC's publication [Guidelines for excluding information from the public register](#).

This letter has been placed on the ACCC's public register.

Should you have any queries in relation to this matter, please do not hesitate to contact Tess Macrae on (03) 9290 1835.

Yours sincerely

A handwritten signature in blue ink, consisting of a stylized 'R' followed by a long horizontal line.

Dr Richard Chadwick
General Manager
Adjudication Branch