

Our Ref: 51243
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**Australian
Competition &
Consumer
Commission**

5 September 2014

Mr Jonathan Carter
General Counsel
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Dear Mr Carter

Australasian Performing Right Association Ltd application for revocation and substitution A91367 - A91375 – conditions of authorisation

Thank you for your updates on the steps the Australasian Performing Right Association Ltd (APRA) is taking to comply with the conditions of authorisation set out in the Australian Competition and Consumer Commission (ACCC) authorisation determination of 6 June 2014, and your request for additional time until 1 November 2014 to establish the alternative dispute resolution (ADR) consultative committee.

Conditions C1 and C2 of authorisations A91367-A91375 require APRA to produce plain English guides to its licences and to the opt out/licence back provisions. APRA representatives demonstrated the guides on APRA's website at the ACCC's offices on 26 August 2014. The ACCC is satisfied with the progress APRA is making in addressing conditions C1 and C2. Relevantly, while I note the interactive nature of APRA's new licensing website, I also note that APRA has published the guide as a single document on APRA's website. I also note that APRA has provided the ACCC with a copy of the guides.

Condition C3 of authorisations A91367-A91375 requires APRA to establish an Alternative Dispute Resolution Scheme (ADR Scheme) that is managed by a Facilitator for the resolution of any disputes between APRA and a licensee or potential licensee of copyright held by APRA, or a member or potential member of APRA. Condition 3.6 requires APRA to ensure the Facilitator establishes a consultative committee within three months of the ACCC's final determination.

The ACCC recognises that:

- the objectives and functions of the consultative committee (as specified in condition C3) relate to the operation of the ADR Scheme, which is required to be operational by 31 March 2015 (rather than in 2014);
- Resolve Advisors is continuing to consult extensively with interested parties (including with potential members of the committee) in advance of the formal establishment of the consultative committee;

- taking additional time to ensure appropriate membership of this committee, and the related sub-committees, will lead to a better outcome for the consultative committee and the ADR Scheme.

In these circumstances, the ACCC does not propose to take any action in relation to APRA's non-compliance with the timeframe stipulated in condition 3.6 on the basis that APRA will ensure that the consultative committee is established by 1 November 2014.

Based on your advice, it appears that APRA is undertaking careful project planning to ensure that all other conditions of authorisation will be met.

This letter has been placed on the ACCC's public register. If you wish to discuss any aspect of this matter, please do not hesitate to contact Tess Macrae on (03) 9290 1835.

Yours sincerely

A handwritten signature in blue ink, appearing to be 'Richard Chadwick', with a long horizontal line extending to the right.

Dr Richard Chadwick
General Manager
Adjudication Branch