

B # Music Management



25 March 2014

ACCC
Adjudication Branch
Lvl 35, 360 Elizabeth St.
Melbourne

RE: A91367-A91375 – Australasian Performing Right Association Ltd – submission

Dear Adjudication Branch,

My name is Robert Crain and I am a member of the Australian Performing Rights Association. I have previously made submissions to ACCC in regards to the abovementioned matter and I have been contacted by the ACCC to provide a further submission in respect to the establishment of a Committee to oversee the ADR, thank you for the opportunity to provide a submission on this important matter.

IN GENERAL

It is my experience and the experience of many others (members and non-members) that I have spoken to is that the best interests of the entire membership are at the forefront of the APRA Board or Administration...I have made my position clear on a number of specific issues in previous submissions. It is with this general provision in mind that I make my views known in respect to the proposal outlined in the ACCC's communication dated March 24, 2014 via email.

ADR COMMITTEE

In accordance with the bullet points in the communication;

- Yes I do support the introduction of an ADR Committee
- The ADR is a service provided to the Membership of APRA and it should be funded in its entirety from the revenues collected by APRA on behalf of its members.
- What should the Duties and Responsibilities of the ADR Committee be;
 - Reviewing candidates and making binding recommendation for appointment to the position of Facilitator
 - Reviewing candidates and making recommendations for appointment to an ADR Panel to address disputes.
 - Reviewing candidates and making binding recommendations for appointment to the ADR Committee (note the actual appointment would be an APRA administrative process based on the Committee's recommendations)
 - The Committee should be reviewing the operation and function of the ADR Scheme as well as the results and decisions flowing from the ADR Scheme. Feedback from the members and users of the ADR Scheme should be sought,

collected and provided to the Committee as a result of a regular administrative practice of APRA, the Committee members may seek to get further input or clarification on their own accord if they feel it is necessary.

- The ADR scheme should be reviewed by the Committee in consultation with the APRA Board and Administration on an annual basis and an external source should be commissioned to review the ADR Scheme perhaps every three years.
- Monitoring the Schemes budget and reporting on that budget to the APRA Board.
- The Committee, to avoid actual or perceived bias, should be made up of two Unsigned Writer Musician Members At Large, A Signed or Fully Employed (one who is making a full time living within the confines of the Music Industry) Member At Large, A Representative of The APRA Board and the appointed Facilitator.
- The Committee must at all times be seen to be acting judiciously and fairly on behalf of the entire membership.
- Positions on the Committee must be arrived at either, initially by appointment by the ACCC or by a **members one member one vote ballot**, post the initial term the Committee will review and recommend candidates for appointment to the Committee annually and the recommended Members will take the appropriate seat on the Committee after Administrative Appointment by APRA.
- Note that the current electoral process for APRA Board Positions as well as other elected positions is flawed in its very nature as it relates to the entire membership. The membership voting process is completely and totally weighted in favour of the Major Recording Labels and Companies and should not be used in respect to the initial appointment of ADR Committee Members as it will be loaded with people whose decisions will be, in all instances, favourable to those whom they are either employed by or indebted to. The direct appointment by the ACCC of the initial ADR Committee would be the best and least expensive manner in respect to the selection and appointment of the initial ADR Committee.
- Further, and this has matter has been addressed in previous submissions by myself and other member organizations, the current bias membership voting process is nothing short of a joke and must be addressed so that the whole of the membership is equally represented in the decision making process. Currently the APRA Board Members represent the Major Recording Labels and Companies and not the whole of the membership which they, as agents on our behalf, collect licensing fees. The ACCC must take steps to end the stranglehold of the Majors over our Rights Body APRA and a perfect starting point is here with the direct appointment of the ADR Committee.

Regards

Robert Crain
APRA/AMCOS Writer Member