

# BANKI HADDOCK FIORA

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25 March 2014

Ms Tess Macrae  
Senior Project Officer  
Adjudication Branch  
Australian Competition & Consumer Commission  
Level 35, 360 Elizabeth Street  
MELBOURNE VIC 3000

## **BY EMAIL**

Dear Ms Macrae

### **AUTHORISATION A91367 – A91375 SUBMITTED BY AUSTRALASIAN PERFORMING RIGHT ASSOCIATION LIMITED – DEVELOPMENT OF PLAIN ENGLISH GUIDES**

I refer to the discussion regarding APRA's development of plain English guides to its various licence schemes at the reconvened pre-decision conference held on 21 March 2014.

The purpose of this letter is to advise you of the progress APRA is making with the development of its plain English guides and the next steps that APRA plans to take in this regard.

Based on the matters set out in the draft determination, APRA sought quotations from three communications specialists with plain English expertise. APRA subsequently engaged Mr John Sharpe to prepare the guides. A confidential copy of Mr Sharpe's *curriculum vitae* is attached.

It has become apparent to APRA that a single comprehensive guide to all of APRA's licence schemes would be a complex and confusing document, and would contain a large amount of information that would be of little use to any single licensee. For example, a hairdresser is unlikely to require information regarding a promoted concert licence scheme. Accordingly, Mr Sharpe is preparing draft guides on an industry basis – for example, a guide to the licences that might be required by the hospitality industry, and by the fitness industry and so on.

By way of example, an early draft of our Guide for Hotels is attached for the Commission's consideration. APRA would appreciate any feedback the Commission may have in relation to this guide so that it can take the Commission's views into account when preparing subsequent guides.

A list of all the guides being prepared is attached. APRA also proposes to include on its website a single table listing (and linking to) all available licence schemes.

APRA previously has made submissions regarding its views as to the inappropriateness of being required to consult regarding the content or form of the plain English guides. APRA reiterates those submissions, and will make further submissions in this regard in its next submission responding to matters raised by third parties at the 21 March conference.

However, as previously stated APRA is willing and intends to engage with interested third parties during the course of development of the guides. APRA proposes to publish the attached Guide for Hotels (and others as they become available) in draft form on its website, and invite comment from any interested parties.

Over the next 2 months, as further guides are drafted, APRA will notify those representative bodies of which it is aware, that the relevant guides are available for comment. APRA will consider any comments received, and take those into account on the advice of its communications expert. This process will be commenced in sufficient time to allow third parties to consider the draft materials and make comments, so that the materials can be revised and finalised for the Commission's final review in June.

APRA confirms that the guides will be finalised and published by 30 June 2014.

Yours sincerely

A handwritten signature in black ink, appearing to read 'KHaddock', written in a cursive style.

Kate Haddock  
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# MUSIC IN YOUR HOTEL



Licensing Enquiries 1300 852 388 [licence@apra.com.au](mailto:licence@apra.com.au) [www.apra-amcos.com.au](http://www.apra-amcos.com.au)

**This licence covers hotels, pubs, bars and taverns. It does not cover music at clubs, accommodation hotels, karaoke bars, motels, nightclubs or restaurants.**

Music is an essential part of a lively hotel and bar business. Our licence covers all your music uses managed by APRA AMCOS. This licence allows you to use music from any legal source to make your place a great spot for people to enjoy time with family and friends, to be entertained and eat and drink well.

An APRA AMCOS licence meets your Copyright Act obligations and ensures the songwriters and composers who create the music are paid a fair rate for their work.

Under this licence you can legally use music at your premises as background music; featured music including live performances, DJs and karaoke; music for dance use and music on hold. You can also make copies for those purposes. You may also need licences from other organisations such as PPCA (see below).

You will need extra licences from us if you have other music uses - for example in a [dance class](#) {hyperlink} or a [function centre](#) {hyperlink}.

image

## How much does it cost?

- 1. Background Music - General Area**

Tablets, smartphones, CD players, background music systems - **\$191.28** each device per zone

Radios and small TVs **\$123.78** each (groups of four small TVs are charged as one TV)

TVs (105cm/42inch or larger) **\$393.83** each

Audio Jukeboxes **\$281.30** each

Video Jukeboxes **\$393.83** each
- 2. Background Music** for a dedicated restaurant/dining area with its own sound source

Tablets, smartphones, CD players, background music systems  
**\$259.77** for a dining area greater than 300m<sup>2</sup>  
**\$129.87** if smaller

Radios and small TVs  
**\$129.87** for a dining area greater than 300m<sup>2</sup>  
**\$103.91** if smaller
- 3. Copying Music** for playback on tablets, smartphones, CD players

**\$148.53** to copy up to 500 tracks

**\$247.53** to copy up to 1,000 tracks

**\$99.02** for each extra 500 tracks
- 4. Music On Hold** for your telephones.

**\$148.21** for 1-5 phone lines (plus \$37.06 to copy music)

More than five phone lines? Contact us.
- 5. Live Music**

If you pay the musicians a fee and no share of door receipts (or there is no admission charge): **2.2% of your gross spending on musicians.**

If you pay the musicians a share of door receipts but no fee: **1.65% of the total share of door receipts you pay the musicians or their agents.**

If you pay the musicians a fee and a share of door receipts: **2.2% of your gross spending and 1.65% of total share of door receipts you pay the musicians or their agents.**
- 6. Featured Recorded Music**

**15.312c per person** who can hear the performance OR **1.86% of gross admission** fees, whichever is greater
- 7. Karaoke**

**\$18.26** for each day of karaoke
- 8. Music for Dance Use**

**\$0.78 for each person** admitted to the physically separate area of a hotel, pub etc providing the music for dance use.

*(Due to increase to \$0.91 in November 2014 and to \$1.05 in November 2016.)*

*(Rates include 10% GST. Fees are not negotiable. Refer to licence application for full terms and conditions.)*

## Example 1

Lisa's hotel has background music playing from four small TV screens playing a Foxtel music channel in the downstairs lounge of the hotel and background music playing from Spotify in the separate dining area. There are also four TAB screens in the public bar\*. On Saturday nights the bistro section is cleared of furniture and turned into a dance area. Lisa now wants to provide another form of featured music (a DJ, live performance or karaoke) on Fridays with free admission. She wants to know what this will cost in extra APRA AMCOS licence fees.

TYPE OF USE	TARIFF NEEDED	CALCULATION	COST
Background music in dining room (e.g. Foxtel music channel)	Background music dining	Restaurants smaller than 300m <sup>2</sup> \$129.87	\$129.87
Copying music	Background music copying (500 tracks)	\$148.53	\$148.53
Four small-screen TVs	Background music (charged as one large screen)	4 x \$123.78 = \$495.12 but capped at \$393.83	\$393.83
DJ – with dancing Saturday night	Music for Dance Use	Nightly patrons: 100 x 78c x 52 weeks	\$4,056.00
<b>CURRENT COST</b>			<b>\$4,728.23</b>
<b>EXTRA COST FOR FEATURED MUSIC OPTIONS</b>			
Live Artist	Live Music	Gross expenditure on the artist: \$600 @2.2% x 52 weeks	\$686.40
DJ – no dancing	Featured Recorded Music	Nightly patrons: 80 x 15.312c x 52 weeks	\$636.98
Karaoke	Karaoke	\$18.26 x 52 days	\$949.52

\*TAB/KENO screens not counted as they have no audio.

## Example 2

Sam's hotel has background music playing from an iPad that can be heard throughout the hotel. In the public bar and lounge area there are two large TV screens playing free-to-air TV that can be heard by his customers in those areas. Sam wants to provide live music twice a week and estimates the musicians or their agents will receive \$800 per week, but first wants to understand the APRA AMCOS licensing implications.

TYPE OF USE	TARIFF NEEDED	CALCULATION	COST
Background music system (tablet)	Background music	\$191.28	\$191.28
Copying music	Background music copying (500 tracks)	\$148.53	\$148.53
Two large-screen TVs	Background music	4 x \$393.83	\$787.66
<b>CURRENT COST</b>			<b>\$1,127.47</b>
<b>EXTRA COST FOR TWO NIGHTS OF LIVE ARTISTS</b>			
Live Artist	Live	Artist's share of door receipts: \$800 per week @1.65% x 52 weeks	\$686.40

## What does **APRA AMCOS** do with my fees?

We care about ensuring the licence fees you pay are distributed in the most efficient and accurate way possible. We deduct our expenses from the revenue we receive and then distribute your fees to the songwriters, composers and music publishers whose works we have licensed to you.

This means for every dollar we collect, about 87 cents is returned to music creators. At 13 per cent, our costs compare very favourably to organisations providing the same service overseas. For example, in the UK the figure is 16 per cent and in Germany 18.5 per cent.

- Fees from background music, music on hold and copying go into royalty pools and are distributed according to data on music use from radio stations, ARIA chart placings and music video channels.
- If you use a background music supplier, we have arrangements with many to pay your fees directly to the music they report to us.
- Fees from live music are distributed according to live performance returns submitted by our members and music copyright societies.
- Fees from Music for Dance Use and Featured Music tariffs are paid 45% to the ARIA Club Chart, 33% to our radio royalty pools and 22% according to data collected by music recognition software in venues such as hotels and nightclubs.

## Do I have to go through **APRA AMCOS** to play music in my hotel or pub?

**No.** There are a couple of different ways to get permission to play music in your business.


**APRA AMCOS Licence.** Our licence is a one-stop shop for the world's repertoire of music and we believe it provides the easiest and most cost-effective way to access public performance rights to music.

**Direct Licensing.** Our members may license their music directly to music users, including for live performances and you are free to discuss this with them. You can find more details on our website under *Dealing directly with copyright owners.*


**Promoted Concerts.** We usually license national promoters directly for all dates in a tour, including any at hotels. APRA AMCOS will advise you if the promoter has included your venue on their licence agreement. If so, you do not need to include box office figures for these performances in your annual declaration of music use.


## Music means business


Playing music can encourage your customers to stay longer, spend more and visit more often.


 **80%** of pubs and bars say music relieves tension and awkward silences.

 **80%** of pubs and bars believe customers and staff would complain if the music was switched off.

 **56%** of bars/pubs and clubs said they would rather lose a day's trade than permanently stop playing music for customers.

 **68%** agree that music encourages repeat business.

 **73%** agree that playing music increases sales or results.

 **93%** of bars and pubs agree that playing music creates a better atmosphere for customers..

image

## How long does the licence last?

Your licence will continue unless either you or we choose to end it with at least one month's notice. Licence fees are renewed and reassessed each year to take into account changes in your situation.

## When do I pay?

You pay when you first take out the licence, then just once a year. If your APRA AMCOS licence fee is more than \$1,000, we will put you on quarterly payments (with no interest) or you can choose to pay once a year. Extended payment terms are available. To find out more, contact our Accounts Team on 1300 852 388.

## What music can I use?

We've done the hard work for you so our licence allows you to use any commercially released music from anywhere around the world.

## Need some help?

If you need advice on where to find music or what works best in your fitness centre, we'd be happy to help. Read our [Music Choices Guide](#), call our Client Relationships Team on 1300 852 388 or speak to your local APRA AMCOS representative.

## Comments and complaints

We care about the service we give you and we welcome your feedback. If you'd like to comment on our service, email [licence@apra.com.au](mailto:licence@apra.com.au).

Read about our [formal complaints procedure here](#) {hyperlink}

## Disputes

If you do not agree with how we apply this licence to your business, with our fees, or with any of our services, you can use our convenient dispute resolution system. Email [disputes@apra.com.au](mailto:disputes@apra.com.au) or call XXXXXXXX.

Read about our [dispute resolution system here](#) {hyperlink}

## Copyright

You can get independent information on copyright from the Australian Copyright Council [www.copyright.org.au](http://www.copyright.org.au). {hyper link}

**APRA AMCOS (the Australasian Performing Right Association and the Australasian Mechanical Copyright Owners Society) is a collective management organisation which licenses performing, communication and reproduction rights in music on behalf of more than 87,500 members and 107,000 licensees with 170 affiliated organisations worldwide.**

*This fact sheet is a guide only. Refer to the licence for full terms and conditions.*

## Will the rates change?

Apart from yearly CPI reviews in some areas, APRA AMCOS will not increase or change licence fees without first consulting the industry.

image

## Other licences

If you are using sound recordings controlled by PPCA (Phonographic Performance Company of Australia) contact PPCA at [ppca.mail@ppca.com.au](mailto:ppca.mail@ppca.com.au) (02) 8569 1111.



## Need more information?

Contact our Client Relationships Team on 1300 852 388 or email [licence@apra.com.au](mailto:licence@apra.com.au).

image

<b>No</b>	<b>Guide</b>	<b>Status</b>
1.	Hotels and Bars	Finished
2.	Hotels, Motels & Other Places of Accommodation	With Comms
3.	Nightclubs	TBC
4.	Restaurants & Cafes	With Comms
5.	Retail	With Comms
6.	General Businesses	With Comms
7.	Fitness Centres	Finished
8.	Fitness Instructors ( <i>Jen per MP's suggestion</i> )	TBC
9.	Recreation & Leisure Centres	With Comms
10.	Corporate/Music In The Workplace	With Comms
11.	Churches	With Comms
12.	Dance Schools	With Comms
13.	Councils	With Comms
14.	Community Bands etc	TBC
15.	Sporting Codes and Sport Events	With Comms
16.	Halls & Function Centres	With Comms
17.	Transport	With Comms
18.	Cinema & Film Festivals	With Comms
19.	Ice & Roller Skating Rinks	With Comms
20.	Events	TBC
21.	Featured Music ( <i>as a standalone guide</i> )	With Comms
22.	Community Broadcasters	TBC
23.	Narrowcasters	TBC
24.	General Websites (Online Mini)	TBC
25.	VOD	TBC
26.	Digital Music Services (Downloads, Streaming & Ringtones)	TBC
27.	Educational	TBC
28.	Business 2 Business Services	TBC
29.	Audio Manufacturing	TBC