

Hello, my name is John Prior. I'm the secretary of **The Association of Australian Musicians**. Thank you for the opportunity to speak on behalf of our members, many of whom are also APRA members.

Since the last ACCC conference three months ago, we've met APRA executives and written regarding our concerns, but we only received a response last week and we are still in dialog with APRA. We believe both parties are making genuine efforts to work through these issues. In that case to allow everyone enough time it is our submission that it is open to the commission to grant a further interim license to allow the dialog to continue.

The Australian music industry generates **billions** of dollars annually and APRA collects \$250m, but in a private conversation APRA's Sally Howland told AM committee members Adrian Keating and I that most Australian APRA writer members now earn **less than \$400 royalties** each year and Australia Council's ArtFacts website shows the mean average income for musicians is close to the poverty line.

Our association hosts an online **forum** for discussing how to fix the Australian music industry and our members nominate **more Australian music in the media** and **reforming collection societies** as the two most important reforms.

ACCC Commissioner Dr Jill Walker acknowledges that: "As a virtual monopoly, APRA has significant market power in relation to its dealings with users and its arrangements can also create inefficiencies for its members", which is a view endorsed by AHA, LPA, MEAA, MUA and the Association of Australian Musicians.

Communications Minister Malcolm Turnbull recently said: "Why do we need industry specific regulation when we have the ACCC?"

The ACCC pursues matters of significant public interest and any conduct resulting in substantial consumer or small business detriment, including cartels, anti-competitive agreements, and the misuse of market power, which is what we are experiencing in the music industry.

So we are here today to respectfully ask for ACCC's help to save the Australian music industry from extinction.

Please refer to page 4 of this document. Our members are concerned that eight of APRA's twelve Directors are signed to the three majors, including the managing directors of the three majors, plus five of the other directors are signed to the majors.

Please refer to page 5 of this document. Utilizing control of APRA's Board of Directors, the big three majors Sony, Universal and Warner operate as a cartel that controls commercial media airplay, restricts competition by blocking most Australian music from commercial media and controls all music royalty collection organisations in Australia including APRA, AMCOS, PPCA, ARIA, AMPAL and AMPCOM.

Through APRA, the majors also influence and control dispute resolution practices, song-writing associations, music charts and awards, live touring, advertising jingles and soundtracks. The Majors also control online downloads and streaming as major stakeholders of Itunes and Spotify.

Controlling APRA gives the majors disproportionate bargaining power in negotiations with CRA at AMPCOM regarding which songs commercial radio plays, local content levels and the playlists that determine who receives royalties.

The majors pay stations to play their artists through advertising budgets and local artists can't afford to compete, so local music is rarely broadcast on commercial radio or television, which means most of our best local artists can't tour or sell products and venues are cutting back on live music, or closing, which systematically damages our local music industry economy.

On page 6 of this document, Aircheck's weekly music charts consistently show that the majors distribute 100% of the 40 most played songs on Australian commercial radio and that only 10 to 15% of songs are by Australian artists. Australian artists have to sign with US majors to get on Australian commercial radio in order to tour and sell their music.

88% of 74,000 APRA writer members, and the vast majority of all Australian musicians are independent, not signed to publishers.

More Australian independent musicians on the board of APRA will ensure its vast resources are used protecting and enhancing the rights of local musicians and "developing and reflecting a sense of Australian identity, character and cultural diversity" defined in the Broadcast Act.

Subsequently, this will revive the local recording and live music industries, keep more music royalties in Australia, create more stable employment for tens of thousands of Australians, create a booming music export market and increase music tourism to Australia, all of which will add billions to the Australian economy.

Media convergence reduces cultural diversity and local music content in the media. **Communications Minister Malcolm Turnbull** recently said proposed new media laws would not reduce local content. The Code of Conduct relating to the **Broadcast Act** clearly states that there should be a minimum of 25% Australian content in the media. Commercial stations generally play less than 25%. CRA, which represents many commercial radio stations now owned by large foreign media corporations, claims there isn't enough quality local music. This assertion remains unchallenged by APRA. It is AM's submission that APRA is not fulfilling its duties to its Australian copyright owner members by failing to resist this assertion.

It is further submitted that given the complex network of relationships between participants in this market that this leads to distortion of free competition in the market for Australian music notwithstanding artistic merit.

The majors adhere to a business model that is inconsistent with **the higher purpose of music in society** to educate, celebrate, entertain, inspire, help understand feelings, promote a community consciousness and enable communities to take pride in local talent. Music is the very fabric of society, not just a corporate tool to brainwash the masses. Australian musicians take their experiences from living here. Australian music has a distinctive Australian sound and energy because Australian musicians make it in Australia

and foreign owned corporations should not dictate the natural evolution of our local music culture.

According to Australia Council and ATO, two million Australians play a musical instrument, 200,000 perform part-time and 15,000 are full-time professional musicians, so our community's interaction with music and the music industry is a matter of public interest.

Local businesses, venues and community media pay licence fees to APRA and many play independent Australian music, but APRA maintains lax reporting methods and deposits most of these fees into the same distribution "pool" as commercial media fees, which are distributed according to commercial media playlists negotiated at AMPCOM. The result is that when Australian independent music is played in Australian shops and venues, the royalties usually go to major US artists like Pink and Justin Bieber.

Venue operators in our forum say that due to the rising APRA and PPCA fees, they've cut back on music. As a result, APRA jeopardises Australian musicians' income from live performance fees and live performance royalties. The majors only have to raise APRA fees further to increase market share of our \$2b national live music industry and further marginalize Australian musicians and venues.

ACCC has a responsibility to ensure that APRA operates transparently and effectively for Australian musicians and in the public interest before reauthorisation.

APRA Publisher Directors

Damian Trotter - Managing Director of Sony/ATV and EMI Music Publishing.

Robert Aird - Managing Director of Universal Music Publishing.

Matthew Capper - Managing Director of Warner/Chappell Music Australia.

David Albert – Long-term label deal with Sony Music Australia. Sony lawyer Damian Rinaldi is now in-house counsel and Business Affairs Manager at Alberts.

Ian James - Managing Director of Mushroom Music, distributed by Warner.

Philip Walker - Chairman of Origin Music Group, former Managing Director of Warner/Chappell Music Australia.

APRA Writer Directors

Jenny Morris – Signed to Warner, RCA (Sony), Liberation Blue (Universal).

Mike Perjanik - Signed to Warner/Chappell Music.

Eric McCusker - Signed to Origin, Alberts (Sony), EMI (Sony), Columbia (Sony), RCA (Sony), Polydor (Universal), Warner.

Chris Neal - Signed to Origin. He works with his son Braedy who's signed to Sony/ATV.

Nigel Westlake – Independent artist.

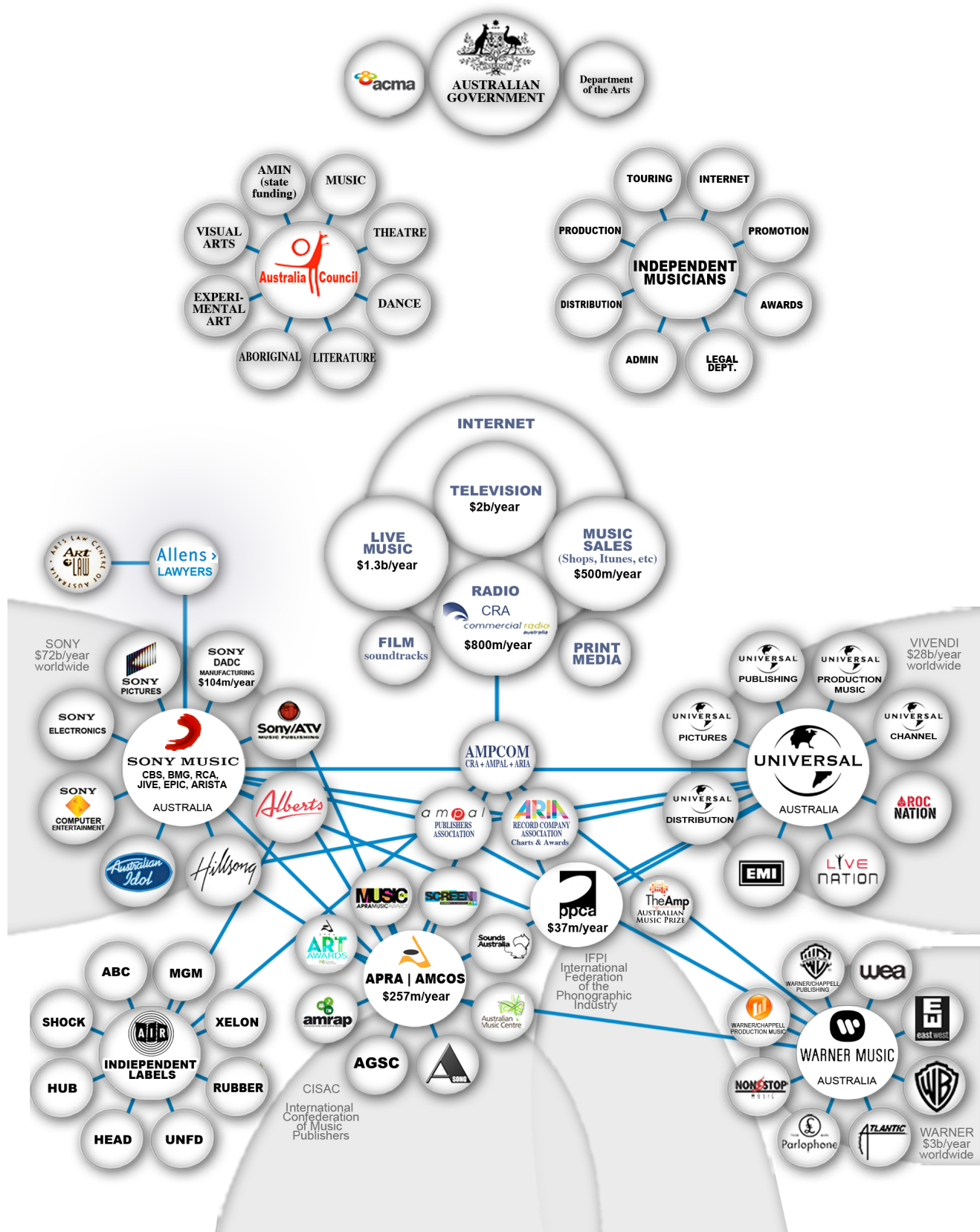
Don McGlashan – Independent artist representing New Zealand APRA members.

APRA General Counsel

Jonathan Carter - Formerly in-house counsel at Sony Music Australia.

THE AUSTRALIAN MUSIC INDUSTRY

EXECUTIVE POSITIONS



National Radio Airplay Chart

Current

February 27 - March 5, 2014

Powered by AirCheck™

Rank		Title	Artist	Distribution	TW	LW	Difference		Weeks	Life
TW	LW				Spins	Spins	Spins	%		Spins
1	1	Happy	Pharrell Williams	Sony	891	871	20	2.3	15	10851
2	8	Rather Be	Clean Bandit Feat Jess Glynne	Warner	738	667	71	10.6	10	2781
3	7	Say Something	A Great Big World & Christina Aguilera	Sony	703	669	34	5.1	19	4171
4	4	Take Me Home	Cash Cash Feat Bebe Rexha	Warner	697	684	13	1.9	16	3994
5	2	Jump	Rihanna	Universal	688	696	-8	-1.1	6	3619
6	11	The Man	Aloe Blacc	Universal	680	641	39	6.1	8	4305
7	9	Best Day Of My Life	American Authors	Universal	678	666	12	1.6	21	3993
8	6	Swing	Joel Fletcher & Savage	Universal	669	675	-6	-0.9	18	7658
9	5	Addicted To You	Avicii	Universal	656	682	-26	-3.8	16	9373
10	14	Brave	Sara Bareilles	Sony	638	565	73	12.9	42	2224
11	10	Rude	MAGIC!	Sony	637	658	-21	-3.2	18	11318
12	15	Undressed	Kim Cesarion	Sony	604	549	55	10	12	3928
13	3	All Of Me	John Legend	Sony	602	694	-92	-13.3	21	11342
14	13	Free	Rudimental Feat Emeli Sande	Warner	600	580	20	3.4	45	6246
15	12	Trumpets	Jason Derulo	Warner	595	588	7	1.2	24	9355
16	20	She Looks So Perfect	5 Seconds Of Summer	EMI	572	475	97	20.4	4	1534
17	18	If I Lose Myself	Alesso Vs OneRepublic	Universal	510	497	13	2.6	45	3291
18	23	Braveheart	Neon Jungle	Sony	504	428	76	17.8	5	1510
19	19	Headlights	Eminem Feat Nate Ruess	Universal	492	486	6	1.2	15	2621
20	25	You're Beautiful	Nathaniel Willemse	Sony	483	380	103	27.1	3	864
21	17	God Only Knows	MKTO	Sony	455	534	-79	-14.8	14	6300
22	31	Stupid Love	Jason Derulo	Warner	443	324	119	36.7	3	803
23	21	Red Lights	Tiesto	Universal	429	474	-45	-9.5	12	6341
24	16	Strong (Remix)	London Grammar	Universal	412	536	-124	-23.1	13	6402
25	22	Demons	Imagine Dragons	Universal	407	433	-26	-6	53	10768
26	28	Air Balloon	Lily Allen	Warner	406	361	45	12.5	8	1689
27	27	12th Of July	ILUKA	Universal	401	367	34	9.3	7	841
28	29	Can't Remember To Forget You	Shakira Feat Rihanna	Sony	400	341	59	17.3	8	3013
29	32	Dark Horse	Katy Perry Feat Juicy J	EMI	348	319	29	9.1	25	11594
30	117	Shot Me Down	David Guetta Feat Skylar Grey	Warner	347	66	281	425.8	6	441
31	26	Riptide	Vance Joy	Universal	307	370	-63	-17	92	17252
32	34	Adore You	Miley Cyrus Vs Cedric Gervais	Sony	293	304	-11	-3.6	3	697
33	33	Team	Lorde	Universal	279	315	-36	-11.4	25	8291
34	30	Old Scars	Ryan Keen	Warner	275	335	-60	-17.9	8	948
35	24	Can We Dance	The Vamps	EMI	269	398	-129	-32.4	22	8102
36	35	Something I Need	OneRepublic	Universal	267	300	-33	-11	29	12654
37	120	Anywhere For You	John Martin	Universal	250	64	186	290.6	3	319
38	39	Borrow My Heart	Taylor Henderson	Sony	243	252	-9	-3.6	19	8772
39	41	Hey Brother	Avicii	Universal	235	246	-11	-4.5	24	13234
40	107	Calling All Hearts	DJ Cassidy Ft Robin Thicke & Jessie J	Sony	232	74	158	213.5	2	306

The National Radio Airplay Chart is song data from all 54 commercial radio stations in Sydney, Melbourne, Brisbane, Gold Coast, Adelaide, Perth, Central Coast, Newcastle & Geelong. plus triple j & FBi. Mediabase reports each airplay on triple j as one play nationally. Detailed data by song or station, including MTV & Channel[V], is also available on www.AirCheck.net.au