

AUSTRALASIAN PERFORMING RIGHT ASSOCIATION LIMITED
FURTHER SUBMISSIONS IN REPLY
1 APRIL 2014

This is APRA's submission in relation to matters raised in third party submissions received since the pre-decision conference held in November 2013, matters raised at the reconvened pre-decision conference on 21 March 2014, and matters raised in subsequent submissions.

APRA is happy to discuss any of these matters with the ACCC.

1. Alternative Dispute Resolution

1.1 General

1.1.1 APRA engaged Resolve Advisors to design an independent ADR system to assist with the resolution of disputes between APRA and licensees, APRA and members, and between APRA members.

1.1.2 Resolve Advisors has conducted a series of stakeholder consultations with a view to designing that part of the system that relates to disputes between APRA and licensees. For reasons articulated below, that part of the system relating to disputes involving members will follow.

1.1.3 APRA is extremely gratified by the response it has received from licensees to the consultation process, and believes the new ADR system will be of significant benefit to APRA, its licensees and members.

1.1.4 APRA submits that any condition that requires APRA to implement a new ADR system should be principles based rather than setting out prescriptive detail that might prevent APRA and its stakeholders from modifying the system once it is in operation.

1.2 Oversight committee

1.2.1 The ACCC has requested a response to the suggestion that Resolve Advisors report to a committee consisting of APRA members, licensees and an independent chair. APRA has considerable reservations about this proposal. In particular, APRA believes there is no demonstrated need for an additional layer of bureaucracy in a system that is designed to deal with relatively few disputes.

1.2.2 APRA believes that the committee would add further expense to the system to the detriment of APRA members, and increase the formality with which the system operates, to the detriment of all participants. In addition, APRA anticipates considerable difficulty in the appointment and management of such a committee.

1.2.3 The committee would be required to have as members APRA licensees and APRA members. APRA imagines that those licensees and members would need to be representative of their respective stakeholder groups, both geographically and in other ways. APRA anticipates that there would be a considerable level of disagreement amongst each group as to the representative nature of the committee members, even if an election process were to take place. The ACCC can see from the submissions made by the Australian Association of Independent Musicians and by B# Management that there is a considerable level of divergence in the views of just these two member groups as to the representation that would be appropriate.

1.2.4 Whether the committee were to be selected on the basis of an election, or statistical representation, or by reference to skills, the question arises of who would be

responsible for making the relevant appointments. If APRA, the process would be vulnerable to criticism on the basis of a lack of independence. APRA is not aware of any external body that has the funding and is willing to conduct such an undertaking.

1.2.5 If members of the committee are to be paid, that cost must be borne by APRA members (if licence fees are not to increase). If members are to volunteer their time, APRA suspects that the representative nature of the committee would be altered.

1.2.6 APRA is also concerned as to how such a committee might be constituted, if it is to have any power. B# Management suggests, for example, that the committee would undertake many of the functions currently to be performed by the facilitator. APRA would be concerned that there should be a level of liability for such decisions, were this to be the case.

1.2.7 An independent chair of such a committee would also need to be appointed. This would require the establishment of some sort of criteria for that role, and presumably the stakeholders would need to be satisfied regarding the qualifications and independence of such a person. APRA anticipates that the remuneration of the type of person likely to have the skills and independence required would be significant, even if the other members of the committee were to be unremunerated.

1.2.8 In any event, meetings of the committee would need to be funded, either in respect of travel or technology. Under the proposed model, APRA is already paying the not inconsiderable costs of Resolve Advisors, and most of the costs of the independent experts and mediators – for it to have to pay the costs of another body would be an unreasonable burden on APRA. It should be noted that APRA does not pay its costs out of profits or reserves, as is suggested by some of those making submissions. APRA is a company limited by guarantee, and operates on a not for profit basis. All of its income after payment of costs is returned to members. The establishment and maintenance of the ADR system is being paid for by APRA members, and will increase the costs of the organisation, unless licence fees are increased to cover some of the costs of the ADR system.

1.2.9 APRA would be grateful if the ACCC could articulate the problem sought to be addressed by the existence of such a committee. APRA understands that one purpose of such a committee is to increase the level of actual and perceived independence of the ADR system. However, unless the committee is funded independently of APRA, APRA does not see that any additional level of independence actually would be attained. If, however, the problem sought to be addressed is that independent assessment of the success or otherwise of the system is required, APRA submits there may be less burdensome ways of achieving this aim.

1.3 **Submissions relating to ADR – disputes between APRA and licensees**

1.3.1 APRA notes with appreciation the fact that the process of stakeholder consultation undertaken by Resolve Advisors has resulted in a system design that appears to be broadly acceptable to licensee stakeholders.

1.3.2 Resolve Advisors has presented a detailed suite of documents in relation to the proposed ADR system for licensees. It appears to APRA that the significant issues raised by stakeholders are those related to the costs of the system and the independence of the facilitator. These issues are, to an extent, related.

Costs of the system

- 1.3.3 APRA understands that a dispute resolution system can be internal, where the costs of the system are borne by the operating party – APRA’s current system is an example of an internal process; external, where the costs of the system are borne by government; and a hybrid system, where costs are shared (not necessarily equally) between the parties.
- 1.3.4 The current, internal, ADR system offered by APRA has been criticised and appears to be under utilised, although APRA bears its costs wholly. APRA does not believe that an external system (such as that proposed by Mr Hardie) is realistic in the current economic and political climate. APRA strongly believes that if the system is to be partially external, its costs should be partially shared between the parties in dispute. It is APRA’s view that this is extremely important for reasons both of perceived (and actual) independence, and for stakeholder engagement in the system.
- 1.3.5 The system proposed by Resolve Advisors consists of an external infrastructure including a website and a dispute facilitator, for which APRA would bear the entire cost. There is a small filing fee, which APRA does not consider is at a level that presents a barrier to disputing licensees. Parties would also contribute to the cost of the expert or mediator, at levels that depend on the amount of the licence fees in dispute. Following helpful discussions with the AHA, APRA and the AHA have agreed on a costs structure that reduces any disincentive for licensees to refer disputes over small amounts of money, while preserving the principle of contribution to costs. In the proposed structure, only those licensees whose dispute relates to an amount of more than \$10,000 would share the costs of the expert or mediator. For other disputes, there is a slightly higher filing fee, except for disputes over very small amounts where the filing fee is \$50. The AHA has provided details of the essential terms of the matters agreed upon, to the ACCC.
- 1.3.6 APRA notes that it was also agreed with the AHA that this costs structure should be trialled for a period of 12 months.

Independence of the facilitator

- 1.3.7 APRA notes that Mr Hardie is the only licensee stakeholder who has expressed any objection to the appointment of Resolve Advisors as facilitator. Those that do object do so on the basis of the existing retention of Resolve Advisors by APRA.
- 1.3.8 It is APRA’s view that Resolve Advisors is best placed to act as facilitator, including because of its role in designing the system and its consultations with stakeholders.
- 1.3.9 A significant element of the system design that is relevant to independence is the appointment of the panel by the independent facilitator following suggestions made by stakeholders, including APRA. Many of those making submissions have referred to the ability of licensee stakeholders to nominate experts and mediators to the panel, and APRA welcomes that suggestion.
- 1.3.10 Other factors that would contribute to perceived and actual independence include:
- (a) an ability on the part of any party to bypass the facilitator and proceed straight to determination or mediation;
 - (b) reporting by the facilitator to APRA and licensees (and the ACCC);

- (c) published KPIs for the facilitator;
- (d) publication of binding determinations;
- (e) a relatively long term contract between APRA and the facilitator (perhaps tied to the length of the authorisation), and remuneration that is not tied to the number or results of resolutions; and
- (f) as discussed above, a transparent process for the appointment of the pool of mediators and experts.

1.3.11 APRA also notes that the LPA has made a number of helpful submissions in relation to independence.

1.3.12 In response to the submissions made by the Victorian Small Business Commissioner, who in this context must be considered as a competitor of Resolve Advisors for the provision of dispute resolution services, APRA notes that to its knowledge, no licensee has in fact ever referred a dispute between it and APRA to any of the State or Commonwealth Small Business Commissions for resolution or otherwise. APRA is concerned that the processes offered by each State Commissioner are slightly different, and that there would be a resulting lack of consistency were APRA to simply refer all licensees to the relevant State Commissioner. APRA is also unsure of the capacity of each State Commissioner (and, as suggested, private ADR facilities where the Commissioner does not have the relevant power) to gather the data and make reports to stakeholders that will be of great benefit in the system proposed by Resolve Advisors. Finally, APRA believes there are considerable benefits in having a panel of expert mediators and experts nominated by stakeholders, resulting in a level of expertise in the relevant industries that is not, with respect, present in the system offered by the various Small Business Commissioners.

1.3.13 APRA notes that only three parties have expressed reservations about the appointment of Resolve Advisors as the facilitator. Mr Hardie operates a number of large, successful nightclubs in Western Australia. One has apparently requested that his name be kept from the Register, however a signed copy was provided to APRA. That party is neither an APRA member nor licensee. The other party who has expressed a reservation is B# Management, whose submission is referred to further at 1.4.6 below.

Implementation of the system

1.3.14 There is obviously a significant degree of continuing uncertainty regarding the final terms of the condition of authorisation relating to ADR, in particular what role (if any) a committee will have in the system and whether the ACCC objects to APRA engaging the services of Resolve Advisors as independent facilitator.

1.3.15 APRA considers it would be inappropriate to instruct Resolve Advisors to proceed with its implementation of APRA's new ADR system until the ACCC has published its condition relating to ADR as part of its final determination. APRA understands that the ACCC does not propose to release its final determination in connection with APRA's application for authorisation until late May or early June. In these circumstances, APRA is concerned that it will not be possible for it to finalise the terms of its engagement of an independent facilitator and implement the new ADR system by 30 June 2014.

1.3.16 APRA submits that any condition of authorisation relating to ADR should provide that APRA implement the new ADR system by the later of 30 June 2014 and the date 10 weeks after the date of publication of the ACCC's final determination.

1.4 **Submissions relating to ADR – member disputes**

1.4.1 As part of its consultation with Resolve Advisors, APRA has considered the development of an improved ADR facility for disputes involving members. Although it was initially thought that this could be developed concurrently with the system for disputes with licensees, a number of factors suggest this is inappropriate:

- (a) there are two types of disputes involving members: disputes between a member and APRA, and disputes between members (usually regarding royalty allocation). The system should be able to deal with both types of disputes, and this is more complex than the system designed for licensees, where all disputes involve APRA as a party;
- (b) the operation of the licensee system is likely to highlight procedural issues which will be able to be corrected;
- (c) for the reasons articulated by various parties, the pool of mediators and experts will need to be different to the pool for licensee disputes, and this will require consultation with members;
- (d) as the Arts/Law Centre points out, many APRA members are even more cost conscious than small business licensees, and the cost structure will need to be different.

1.4.2 The matters set out above mean that the system design for members is likely to require a considerable period of consultation, and APRA is advised that a more realistic timeline for implementation is by 31 December 2014. APRA has an incentive to resolve disputes with members quickly, given that it is a membership organisation and the Board consists of members.

1.4.3 The main submission received in relation to ADR for member disputes is that made by the Arts/Law Centre. Much of that submission is based on the mistaken assumption that APRA did not intend to provide a system for member disputes.

1.4.4 APRA notes that the Arts/Law Centre seems to be confused between APRA and PPCA, and has adopted much of the language used to describe the relationship between PPCA and its members. It may be for this reason that Arts/Law has a mistaken understanding of the way that the APRA ADR for disputes between members actually works. The current ADR for disputes between members has been developed over many years, and reflects attempts by APRA to limit the amount of money that is held in suspense in relation to disputes that may be protracted over many years.

1.4.5 Given that Arts/Law has misunderstood the current APRA member ADR facility, and that APRA is about to design a new ADR system for such disputes, there seems little benefit in addressing the many misconceptions contained in the Arts/Law submission. However, if the ACCC wishes APRA to correct any of those matters for the record, APRA would be happy to do so.

1.4.6 APRA notes the matters raised in the submission from B# Management, and agrees that it is appropriate to consider such suggestions in the selection of the panel of mediators and experts for member disputes.

2. Plain English guides

APRA has made a separate submission in relation to the plain English guides. APRA rejects the proposal that its licence applications should be subject to a condition regarding the nature of their drafting. First, the redrafting of APRA's numerous licence schemes is a significant task, and many of the licence schemes would require a long process of industry negotiation, even as to terms other than price. Secondly, APRA is already undergoing a process of tariff simplification and review, which again is the subject of detailed industry negotiation. Finally, the Copyright Tribunal of Australia has jurisdiction over the terms of all of APRA's licences (and a number of APRA's licences are in a form approved by the Tribunal), and APRA is concerned that the conditions of its authorisation should not seek to impede the exercise of that jurisdiction.

3. Australian music on radio

APRA notes the submissions made by Wrokdawn, and respectfully submits that those matters are unrelated to the subject matter of this authorisation.

4. Issues raised by the Association of Australian Musicians

A copy of APRA's letter to the Association is attached.

5. Issues raised by ALLM

5.1 Parallel importation of music

5.1.1 During the 21 March pre-decision conference, representatives of the ALLM again raised the prospect of being able to "parallel import" performing right licences. APRA understands this to be a different proposal to that of being able to deal directly with APRA members, which can of course already occur.

5.1.2 ALLM seems to believe that it would be more cost effective for it to acquire performing right licences from foreign collecting societies, on the assumption that those societies would:

- (a) be able to offer access to the world's repertoire of works; and
- (b) offer licences in Australia at the same rate as is offered in that society's local territory.

5.1.3 Conceptually, the idea of parallel importation of performing right licences is flawed. Songwriters and publishers join a single society, and each society licenses the performance of its works by its members in each other territory throughout the world. Thus, the US societies do not control Australian performing rights, but rather control the performing rights in Australian works for the US territory only. Similarly, the US societies have only authorised APRA to license performances of US works in the APRA territories.

5.1.4 ALLM has failed to take into account the practical result of this conceptual flaw.

5.1.5 First, a landscape in which societies could license rights worldwide is, in APRA's opinion, likely to result in the withdrawal of rights from societies that in the opinion of members undervalue those rights. Withdrawals might be made by collecting societies, but are very likely to be made by publishers. This would result in a situation where local collecting societies control a far from complete repertoire, significantly reducing

the benefits of the collective licence and effectively requiring licensees to enter into multiple licence agreements to ensure coverage.

- 5.1.6 Secondly, the market for performing right licences is different in each territory throughout the world, which is why there are different prices charged by collecting societies in those territories. Licence fees are subject to different regulatory regimes, and different legal constraints, as well as normal market forces, all of which affect the prices that can be charged. An overseas society licensing public performances of a particular kind in Australia would be required to look at the same factors that APRA takes into account when setting prices in this market, and may well arrive at the same result.
- 5.1.7 It is important to note that public performance is significantly different in nature to communication over the internet. As APRA has noted in previous submissions, there is a great deal of international activity related to the possibility of worldwide licensing of such communications. These discussions are complex and ongoing, and are likely to result in a greater (but not complete) synchronicity of international pricing for such licences. However, public performance (like local communications such as broadcasts) is inherently a territorial activity. Nightclubs in Melbourne are not in competition with nightclubs in New York, London, or Berlin.
- 5.1.8 APRA has made detailed submissions in its letter of 6 December 2013 regarding the difficulty of comparing international rates for public performances.

5.2 **Disclosing the repertoire**

- 5.2.1 ALLM also asked some questions of APRA on 21 March 2014 relating to APRA's ability to disclose its repertoire.
- 5.2.2 APRA and its sister collecting societies are membership organisations. Members assign the performing right in all works written by them during their lifetimes. While APRA members do "register" their works with APRA, registration is not a requirement for APRA's ownership of the works.
- 5.2.3 APRA's repertoire is constantly changing. Works fall into the public domain each year, and new works are created daily. The new works that are created may not be notified to APRA for some time after their creation. This is not only occurring in Australia, but in each of the countries where there is a society with which APRA has a reciprocal agreement. APRA's local database is in constant communication with the databases held by APRA's sister societies.
- 5.2.4 APRA has a works search facility on its website which enables any member of the public to search for works. The facility does not, and does not claim to, provide unfettered access to APRA's database. APRA also receives works information from licensees, and this information may at any time be incorrect (for example, containing wrong or duplicate titles). The works search also does not provide access to information about production music or advertising jingles. The works search is more likely to be useful for members of the public looking for information about popular music such as might be broadcast on the radio, being works that have been in the worldwide repertoire for a longer period than, say, current European dance music (although searches for current dance music will in many instances be successful). However, because of the assignment or licence of future copyright entered into by all collecting society members worldwide, an unsuccessful works search does not mean that the work is not part of the world's repertoire of works.

5.2.5 As APRA has submitted previously, the publication of an incomplete and ever changing database of more than 10 million works would be an exercise in inefficiency, to little useful end.

5.2.6 APRA understands that ALLM members believe that a significant number of the works performed at their nightclubs are not works controlled by APRA. All APRA licences contain provisions that require APRA to provide information relating to its repertoire if requested, provided the request refers to particular works or works by particular authors. APRA has on a number of occasions explained to ALLM that if its members wish to provide APRA with a list of the works or the authors of works performed at their respective nightclubs, APRA will research the works to determine whether they are controlled by APRA. This would involve identification of the authors of the works (noting that significant numbers of musical works share the same or similar titles) and making inquiries of APRA's sister societies regarding the membership status of the relevant authors.

6. Submission made by J Sainken

APRA is very disappointed that Dr Sainken has chosen to make a submission relating to a confidential settlement of a dispute between a company of which he is a director, and APRA. In particular, Dr Sainken had presented no evidence to the Tribunal, having merely filed a statement of claim of sorts. APRA would be happy to disclose the confidential terms of the settlement to the ACCC if that would be helpful and the other party to the deed of settlement did not object. In the meantime, as Dr Sainken is aware, APRA settled the dispute because it became apparent that:

- (a) the premises the subject of the dispute were in the process of being extensively renovated;
- (b) at the conclusion of the renovations well into 2014, it was likely that the premises would either no longer require a Nightclub licence, or would require a significantly different licensing arrangement for any Nightclub activity;
- (c) APRA was in any event undergoing a tariff simplification process that would likely affect the licensing requirements of the premises by the time it was again using music; and
- (d) accordingly, neither party saw the benefit of engaging in expensive litigation over an issue that was largely hypothetical.



13 March 2014

Ms Tania Smith
For and on behalf the Executive Committee
The Association of Australian Musicians
PO Box 150
ERSKINEVILLE NSW Australia 2043

Via email: tattania@hotmail.com and by post

Dear Ms Smith

Thank you for your letter dated 5 March 2014.

I am sorry you feel as though APRA has not responded properly to the various issues you have raised in the numerous meetings senior APRA staff have held with your organisation in recent months. APRA welcomes your suggestions and is interested in a continuing and constructive dialogue with your organisation.

However, APRA is an organisation with a large and diverse membership. We must act in the best interests of the membership as a whole and we will not be pressured into any particular course of action by any particular lobby group or sub-set of members.

I note your request for a detailed response to your 7 November 2013 submission to the ACCC. I have attempted to summarise APRA's position regarding those issues for you below, using the same sub-headings from your submission.

The State of the Music Industry for Australian Musicians

APRA understands this submission to be a complaint about the decline in earnings of Australian musicians. The submission notes APRA's distributions to local songwriters and composers, as well as to publishers, and the relatively small distributions received by a majority of APRA members.

As has been noted previously, APRA distributes according to performance data. That is, APRA distributes money to copyright owners whose works have been communicated or performed in public. When musical works that are owned by local APRA members are performed (locally, but also internationally) those persons receive the financial rewards of the performance.



Australia is a net importer of music. It is apparent from those licensees that provide detailed reporting of music use to APRA, including television and radio broadcasters, some digital music providers, concert promoters and background music suppliers, that a large amount of foreign music is performed and communicated in Australia.

As you know, APRA has been actively involved in lobbying for preservation of the rules regarding Australian content. APRA also regularly makes submissions on behalf of its members, who include most independent songwriters, to all major inquiries regarding copyright law. However, APRA is also aware that legislators must act within the confines imposed by international obligations, such as under the Australia-US Free Trade Agreement.

With regard to your comments regarding APRA's distributions to publishers, APRA is obliged to distribute in accordance with the contractual information provided to it by members. Where a writer has a contractual relationship with a publisher, APRA will distribute to the publisher in accordance with the directions given to it by the relevant members (but no more than 50%). APRA has no control over whether members choose to enter into publishing contracts.

Voting for APRA Directors

The APRA Board is not "dominated by major international publishing companies." APRA's Constitution provides that the Board is comprised of six writer members (including one New Zealand writer member) and six publisher members. The writer directors are elected by the writer members (the New Zealand writer director by the New Zealand writer members) and the publisher directors are elected by the publisher members. The Constitution provides that no single member can exercise more than 15% of the available votes (that is, each member's vote is capped at 15%). In the case of publisher directors, the voting entitlements of related companies are consolidated before the votes are capped.

Each director is a member of the Board in a personal capacity. In no way can it be said that the APRA Board is dominated by major publishers.

The current publisher directors of the Board are Ian James (Mushroom Music Publishing Pty Limited), Philip Walker (Origin Music Group), Damian Trotter (Sony/ATV Music Publishing), Matthew Capper (Warner/Chappell Music Australia Pty Limited), David Albert (J Albert & Son) and Robert Aird (Universal Music Publishing Pty Limited).

The current writer members of the Board are Jenny Morris OAM, Mike Perjanik, Eric McCusker, Don McGlashan, Chris Neal and Nigel Westlake.

Each director serves a term of a maximum of three years before being required to retire, and may offer him or herself for re-election. Any eligible member may offer him or herself for election as a director, in accordance with the Constitution. Voting for directors is conducted electronically, although members may receive a paper ballot if they so request. Accordingly, there is no barrier to voting.



APRA does not understand the criticism made of its eligibility criteria for voting. To be eligible to vote, a member must have been allocated a distribution credit in the previous two distribution periods. The weighted voting system ensures that APRA represents those members whose works are actually performed in public.

The changes to the make-up of the Board apparently being proposed would require significant changes to the Constitution. APRA notes that it is open to members to avail themselves of their rights under the *Corporations Act*.

Dispute Resolution – Peer Review

APRA is working with Resolve Advisors to design an external ADR system to deal with disputes between members. APRA notes that its ADR recommendation to members in dispute with each other is only a recommendation – it is always open to members to resolve disputes between themselves by agreement, which could well involve the type of system proposed by you.

APRA notes that generally, when members have been in dispute regarding matters of alleged infringement, they have obtained assistance from musicologists.

The suggestions made by you regarding system design are very helpful, and APRA will include the suggestions in the materials provided to its ADR consultant. The system design will also include a process of consultation with members, and of course you will be invited to participate. APRA anticipates that this consultation will occur in the second half of this calendar year, once its ADR system for licensees has been implemented.

Reporting Procedures for Community Media

As APRA has submitted previously, it licenses four community television stations. APRA receives a total \$35,000 in fees from the four stations annually. The stations do not provide any reporting to APRA, and so APRA distributes any licence fees received by analogy with commercial television.

APRA licenses approximately 300 community radio stations. Total APRA licence fees for community radio are also comparatively low, reflecting the non-commercial and voluntary nature of these stations. Consequently, APRA's level of music analysis is based on APRA's analysis of a 4 week sample from certain stations in order that the costs of distribution are not incommensurate with the licence fees received.

In any event, APRA's experience of the community radio sector is that it is not in a position to provide more than the limited reporting currently achieved. The idea that a "simple app" would solve all reporting issues is naïve and shows a misunderstanding of the complex business of reporting and processing large amounts of data.



APRA actively supports the community radio sector through its Music Grants Fund, including funding of the Community Broadcasting Association of Australia's Community Radio Network.

Music Recognition Technology

APRA supports the use of music recognition technology (MRT) where it can be used efficiently. Previous submissions made by APRA have set out the processes that APRA has adopted to trial the use of such technology.

APRA has recently established the Club Music Advisory Group and the Jingle Advisory Group to assess the potential of both MRT and meta-data collection as a means of reducing the administrative burden and costs of self-reporting and improving processing efficiencies. APRA sought expressions of interest from the relevant sections of the membership in constituting the groups to ensure broad representation.

Extensive investigations, both past and present, have highlighted the significant cost of implementing the fast evolving technology. APRA is in the midst of assessing the current 'mix' of appropriate technology providers, the effectiveness and cost of implementation.

Music recognition technology will undoubtedly continue to improve, and will play an increasing role in distribution for APRA members.

Accounting Practices

APRA cannot provide information regarding music use to members where that information is confidential to APRA and the licensee. Members are given information regarding the type of usage from which distributions are derived.

However, APRA is in the process of building a new website, with stage 1 due to be launched July 2014. Contemporaneously, APRA is developing a Member App which will provide members with greater flexibility to both access and log information relevant to their performances and earnings. Stage 1 of the App is due to be launched July/August 2014. It is envisaged that successive iterations of the App will enable members to access detail relating to their various royalty revenue streams, payment details, trends and forecasts.

Additional distribution reporting would also increase APRA's costs significantly, decreasing the amount of money actually distributed to members.

APRA's Licensing and Distribution Practices Applicable to Concerts and Live Performances Generally

APRA has provided the ACCC with information regarding these proposals and the progress of APRA's consultation with members. Your comments as part of that process have been noted, and as APRA has previously advised, the Board will be considering APRA's revised proposals in due course.

APRA's Administration Costs

APRA reports expenditure as required by law. The Board receives detailed management accounts at each meeting, and APRA's accounts are audited annually.

APRA does not see how more detailed reporting of expenditure would result in either greater efficiency, or in increased distribution. In fact, more detailed reporting is likely to have precisely the opposite effect.

Information

APRA cannot respond to a non specific request for "more information". APRA communicates fulsomely with members, particularly via its website but also through its many publications, emails, and events.

The More Aussie Music Campaign

Senior management staff of APRA have met three times with AM management to discuss this campaign, and have been presented with proposals for increasing levels of commitment by APRA. Most recently, it was suggested that APRA's Head of Member Services should join AM's Facebook page and be available weekly to answer questions from AM members.

APRA is very active in its support of Australian musicians. In the 12 months ending 30 June 2013, APRA allocated more than \$900,000 in music grants to over 100 music industry organisations and events, and hosted 221 career development, networking and community events attended by over 8,000 members. APRA is active in supporting and promoting the work of Aboriginal and Torres Strait Islander songwriters, and also manages Sounds Australia, which seeks to build export opportunities for Australian music creators.

In 2013 APRA established the National Live Music Office with the support of the Federal Government. The specific remit of the Office is to increase the number of live music venues in Australia and subsequently the performance opportunities for live-artist performers. To confirm, live music performance is vital to a vast number of APRA's members. In fact, in 2012 APRA surveyed its membership and respondents ranked live-performance opportunities as one of the top 5 issues confronting songwriter members. In the 2013 financial year over 12,000 Australian writers received a live-performance royalty payment from APRA.

APRA unfortunately cannot agree to dedicate time to every member initiative.

APRA has made several suggestions for supporting a broader membership group than the AM membership, including via an industry summit. APRA will continue to explore this idea. However, you will appreciate that an industry summit aimed at the promotion of more Australian content faces at least two obvious obstacles at present, in the form of the legislative limits on content quotas, and the litigation currently on foot between the record industry and commercial radio.



Accordingly, APRA management has discussed with your organisation what might be a more productive strategy to engage in a series of Australian content conversations, specific to relevant industries, including television broadcasters, television production companies, the advertising industry, digital service providers, symphony orchestras etc. APRA's view is that a staged approach to discussions might result in a greater level of cooperation. APRA appreciates that your organisation may wish to pursue a more adversarial approach.

Timetable for Authorisations

APRA appreciates the involvement of AM in its authorisation proceedings. However, APRA does not accept that it is appropriate that the authorisation process be delayed to accommodate AM's log of claims, many of which are more appropriately dealt with as between the company and its members.

I hope you consider the preceding paragraphs to be a proper response to the issues you have raised with APRA in recent months and I look forward to continuing our constructive dialogue over the months ahead.

Yours sincerely

A handwritten signature in black ink, appearing to read "Brett Cottle".

BRETT COTTLE AM
CHIEF EXECUTIVE

Cc: Mr Dean Ormston, Head of Member Services
Ms Milly Petriella, Director of Member Relations