

## Condition C3- Alternative Dispute Resolution Annual Reporting Report Pursuant to Condition C3.16.

1 January 2015- 31 December 2015.

### Overall

The external ADR process for member and licensee disputes is fully operational. There have been 8 referrals in the period. 7 matters have been resolved as set out below. A short summary of the type of matters is set out in the schedule without attribution.

APRA has taken a systems approach and is reviewing the processes behind each dispute to determine they can be improved, amended or enhanced. The consultative Committee has functioned well and there has been no turn-over to date.

The focus for this year will be setting clear performance indicators for the system and extending the services by trialling a member-to-member peer assist program, designed with input from by the same consultative committee.

**Total Referrals: 8**

**Total matters dealt with: 7**

Total Licensee matters: 2

Total member matters: 5

100% Resolved. Costs borne by APRA for the trial period.

**Disputes breakdown (numbers in brackets are the matter numbers)**

**Licensee (2 disputes):**

**Total resolved through informal resolution** (informal resolution of disputes in a manner facilitated by the Facilitator- option 1)

2/2 referred (100 percent)

**Time taken:** (1503) 3 weeks (1506) 2.5 weeks



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From referral to implementation.

Nil referral to options 2,3,4.

**Members** (6 referrals):

1/6 Enquiries with no further action (AER referral, with no response from the applicant to a note from the resolution facilitator.)

**Total resolved through informal resolution** (informal resolution of disputes in a manner facilitated by the Facilitator- option 1)

3/6 referred (100 percent)

**Time taken:** (1502) 1 week (1505) 4 weeks (1507) 8 weeks.

**Total resolved through an independent mediator/mapping** (option 2)

(mapping/2 facilitators): 1 matter

(1501). Mappers: Keith Welsh and Michael McMartin Mappers.

6 months from submission- 3 sessions. Resolved

**Matters outstanding in 2016:** Nil

**Costs:** For all of the disputes under all the options, fees & charges incurred were borne 100% by APRA to encourage stakeholders to use the system in its launch phase. (see C3.16(v) pf the Authorisation).

**Participant Feedback:** see survey monkey

3 Survey received (out of 7 sent) attachment 2.

Private emails of thanks.

Positive feedback by phone about the independent 'mappers'



## C3.6 Consultative Committee Report:

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### Members representatives:

Bill Cullen

Brendan Gallagher

Delwyn Everard (Arts Law Center)

Guy Gross

John Prior John

John Schumann

Kevin Stanton

### Licensees representatives:

Stephen Ferguson (National AHA)

David Cosgrave (USQ)

Harley Sedman

Holly Crain/Evelyn Richardson (Live Performance)

Joel Perricone (Fitness Australia)

Kate Bonnell (ABC)

Sarah Nicholson

Stuart Watters (Nightlife)

### Full committee meetings in the period: 2

**Date:** 26 February 2015 - **time:** 10.30am-12pm

**Date:** August 2015- **time:** 2.30pm-4.30pm

Governance sub –committee head: David Cosgrave (2015 meeting 1)

Peer assist sub-committee head: John Prior (2015 meetings 2)



## Other matters:

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A bespoke website has been developed

[www.resolutionpathways.com.au](http://www.resolutionpathways.com.au).

The link to the APRA website has been established and maintained (C3.17)

<http://apraamcos.com.au/feedback-centre/alternative-dispute-resolution/>

## Peer Assist

We have conceptualised and are about to implement a peer assist program for members as part of a dispute prevention strategy.

This program will make available peers to mentor, guide or provide non-binding advice to members who may have a problem or be unsure about an issue such as how to structure a collaboration, or any other issue or potential dispute they may have.

Shirli Kirschner

Dispute Resolution Facilitator

29 February 2016

Below: summary for background reading

Survey Monkey responses (3)



# RESOLUTION PATHWAYS

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## Summary for background reading

Resolution Pathways is a dispute resolution service established for disputes between APRA AMCOS and its music creator members and its music customers (referred to as music users in the Resolution Pathways).

Resolution Pathways is designed to assist parties to effectively resolve disputes, or to arrange an independent decision on outstanding issues where appropriate. It is intended to streamline resolutions and prevent disputes becoming a commercial roadblock.

The service has an independent advisory committee to advise on the management of the Pathways. There is also a dedicated web site [www.resolutionpathways.com.au](http://www.resolutionpathways.com.au). The Pathways comply with parameters set by the ACCC in its condition of authorisation.<sup>1</sup>

There are three principle Resolution Pathways available and an independent resolution facilitator to assist the parties to select the one that best suits their dispute. Shirli Kirschner was appointed as the first Resolution Facilitator with the ACCC's approval. In addition, each Pathway will have available trained professionals to provide a high level service. Pathways differ in the level of formality, the level of involvement and the cost. The primary Pathways include:

**Mediation:** an informal, flexible process utilising a skilled mediator trained in assisting participants to resolve disputes, without the mediator providing a view. A panel of mediators and their profiles is available on the web site. A hybrid is available for music creators where the trained mediator is also an industry expert who can provide guidance (mapping).

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<sup>1</sup> Australian Competition & Consumer Commission, 'Determination: Application for revocation and substitution of authorisations A91187-A91194 and A91211' p. 90 <<http://apraamcos.com.au/media/3438/2014finaldetermination.pdf#page=99>>



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**Expert View:** A non-binding evaluation given to those in dispute, jointly, by a person who is an expert in the area(s) in dispute. The expert will be selected by the resolution facilitator in consultation with the people in dispute.

**Binding Decision:** A binding decision on the issues in dispute by a person who is an expert in the area(s) in dispute. The expert will be selected by the resolution facilitator in consultation with the people in dispute

## Costs: Resolution Facilitator

Action	Maximum fee to Music User/Music Creator
Initial phone discussion with the Facilitator (up to 45 minutes)	No charge
Subsequent involvement of the Resolution Facilitator where the amount in dispute is less than \$1,500 or there is a Dispute on matters that are not monetary.	\$50.00 incl. GST
Subsequent involvement of the Resolution Facilitator where the amount in dispute is \$1,500-\$3,000.	\$75.00 incl. GST
Subsequent involvement of the Resolution Facilitator where the amount in dispute is over \$3,000.	\$150.00 incl. GST

## Costs: Mediation, Expert View & Expert Decision

Rates vary depending on the amount in dispute, the Pathway chosen, and the expert used. An estimate will be provided by the resolution facilitator together with her recommendation on Pathway. Contact can be made by phone, email or through the website.



# RESOLUTION PATHWAYS

Resolution pathways

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Number	Date start	Date finish	Type of matter	Process/Comments/lessons	evaluation
W <b>1501</b>	2014 Sept	2015	Artist and publisher dispute of ownership in back catalogue	Assessment by the RF Refer to mapping settled.	Sent
W <b>1502</b>	21/04/2015	27/04/2015	Artist contact re splits for authorship	Discussion with RF (3) Provided options including fee for use management services. Resolved no further action.	Sent
L <b>1503</b>	5/5/2015	25/5/2015	Unpaid license fee sent to court	Change in timing of invoices, consolidate the two sites, fix presenting issue	sent Positive email
W <b>1504</b>	20/7	12/10/2015	Dispute with a fellow band member re splits	Had a 45 minute chat about options- and the potential impact of each options.	sent Positive email
enquiry	6/9/2015		ACCC referred	Sent email no response	
W <b>1505</b>	15/7/2015	8/09/2015	Dispute over splits in authorship.	Resolution by discussion with RF offered mapping. Need a clearer process for what is authorship.	sent
L <b>1506</b>	22/9/2015	8/10/2015	Court enforcement and costs. with RF	Alleged confusion over time. RF process to resolve it with changes to timing and bill format for the future.	sent Positive private email
W 1507	2/10/2015	3/12/2015 (needed to wait 60 days of no response)	Splits in ownership with non responsive other party.	Registration changed to mark contribution of a co-producer who never responded to the work or future emails No response from other party. Finalised this matter and Recommendation of formalising the process for a non -responsive party.	Sent (to one side) Thank you email

Note: 15 is the year it was commenced- W is writer-L is licensee

Evaluations returned: 3 (no attribution).

