



Tess Macrae

Director | Competition Exemptions Branch | Mergers, Exemptions & Digital Division
Australian Competition & Consumer Commission

AA1000661 - APRA AUTHORISATION - RESPONSE TO APRA'S RESPONSE TO INTERESTED PARTIES"

BY EMAIL

Dear Ms. Macrae,

We note Ms. Haddock's (for APRA) response to public submissions of the 19th of June, published on the ACCC website and entitled "Response to Interested Party Submissions". We refer to that correspondence and make the following comments:

1. On page 4, under the heading "member submissions," Ms. Haddock claims that all member submissions relating to individual disputes have been resolved through negotiation or ADR. We note that this comment is factually untrue. Neither Heart Music Group nor Martin Bryant's dispute with APRA has been resolved. Therefore, Ms. Haddock's claim that all disputes have been resolved is factually untrue.
2. We note the inappropriateness of APRA providing false information to the ACCC on this issue and caution the ACCC to approach all information provided by APRA with due diligence.
3. We also note Ms. Haddock's comment that the low number of negative submissions from members reflects a broad level of satisfaction among APRA members.
4. It is generally accepted that an overwhelming percentage of music creators, and therefore APRA members, are unhappy with the industry conditions that relate to them. Music streaming and the advancement of file-sharing technology have created possibly the worst conditions for independent artists that have ever existed.
5. The absence of member complaints through the ACCC, as Ms. Haddock suggests, does not reflect broad membership satisfaction. It simply reflects that most musicians do not spend their time making submissions to the ACCC.



6. It is not appropriate for the ACCC to assume that there is general satisfaction among APRA members based on the fact that there are only a small percentage of complaints. To do so would unfairly prejudice APRA members.
7. We also note Ms. Haddock's comment on opt-out and licensing back and note that these provisions are ineffective and infrequently used or known about by members.
8. A ONE Music license covers a licensee to play all of ONE MUSIC's catalogue. Licensing back or opting out creates circumstances where the licensee is essentially being asked to double pay. In commercial reality, these provisions do not serve the intended purpose (to allow members to license directly to the music user and counterbalance APRA's dominance). When a member goes directly to the music user, the music user has already paid a license and will therefore resist the idea of paying the member directly. There may be a very small set of circumstances where this does not happen, but these circumstances are a minority and are not the norm. We are happy to provide evidence and written emails of instances where Heart Music Group has attempted to license directly and received responses from ONE MUSIC licensees that they are already covered for all music, so they will not pay us directly. In these circumstances, APRA has not intervened to facilitate licensing back as they are legally required to.
9. We ask that the ACCC require APRA to respond to Heart Music Group's and Martin Bryant's public submissions and that the points raised within those submissions be addressed individually.

Kind Regards,

Martin Bryant