

Nightlife Music Submission re: Re-Authorisation of Australasian Performing Right Association Limited

5 July 2024

This submission relates to the OneMusic Australia (OMA) Karaoke Tariff and should be considered separate to Nightlife Music's oral submission dated 9/4/24.

Nightlife Music is essentially a record label registered with PPCA, as we represent a Karaoke recording company called Sunfly and have exclusive rights in Australia for Sunfly's Karaoke catalogue. We have registered all Sunfly's recordings with PPCA for public performance, PPCA then on-licence this to OMA who collect the Karaoke tariff from venues around Australia.

For venues using Karaoke, OMA can collect a Karaoke tariff in a number of ways. There is a specific Karaoke tariff (see below), alternatively many venues have Karaoke included as part of a Background or Foreground OMA Licence. This licence may cover a venue for the use of background music, live music or DJs, as well as Karaoke. However, it is unclear as to what percentage of the license is allocated to Karaoke, and this information is not made available to the general public nor to Nightlife Music as a Karaoke rights holder.

When OMA collect the Karaoke tariff, they are collecting on behalf of APRA (for the publishing side) but also for PPCA, who distribute the public performance revenue. Nightlife Music are the only Karaoke supplier registered with PPCA. So, 50% of the public performance revenue, half being from APRA and half being PPCA should be returned to Nightlife Music as royalties. Nightlife Music should also receive Reproduction Royalties for Karaoke use, and these royalties should be separated from Reproduction Royalties for non-Karaoke recordings.

If we refer to the following document (<https://onemusic.com.au/media/Information-Sheets/Karaoke.pdf>), and working on the basis that Nightlife Music provides a karaoke product to approximately 70 Clients around Australia, then:

- 70 venues @ lowest Joint Rights tariff of \$49.92 per day
- Open 100 days a year
- Total karaoke tariff income = \$349,440

These calculations are based on Nightlife clients only, on the lowest tariff, so it would be fair to assume that the total annual karaoke revenue pool in Australia is greater than \$349,000. Nightlife receives on average around \$2,000 p.a. from PPCA. We are unable to determine what Karaoke tariffs are collected via other OMA Licenses (e.g.: a Background Music License for Places of Interest, Activity and Amusement) as this information is not made public.

Again, Nightlife Music is the only karaoke supplier registered with PPCA. If Nightlife Music are acting as a 'record label' for karaoke and seeing lower than expected returns, are other record labels and distributors experiencing the same? There is a lack of transparency around how OMA License Fees are distributed for all recorded music, including for the use of Karaoke.

On numerous occasions we have asked PPCA for clarification on how these royalties are calculated, but to date we are yet to receive an explanation. PPCA have requested a breakdown of our clients and insist this will result in more accurate returns. We have provided PPCA with quarterly play data across Nightlife's entire repertoire, including karaoke plays, however this does not appear to have had any meaningful effect on the royalty returns.

What adds to the concern is the apparent lack of justification or transparency regarding these returns. The absence of a reasonable explanation for such minimal returns raises significant questions about the competitive and fair practices being employed by OneMusic Australia.

Nightlife has long supported the role of collecting societies. Nightlife supports APRA's application for authorisation subject to the following conditions being imposed by the ACCC:

- Transparency around collections from tariffs relating to Karaoke, both the direct Karaoke tariff and foreground music tariff including Karaoke. To date, OMA has not published any data regarding how much money is collected in Australia for Karaoke recordings. This information should be made public, along with the methodology for how the venues are identified and how the tariffs are calculated. Currently this information is not made public and is not included in the annual reporting that is published on the OMA website.
- Additional transparency around Karaoke royalty distributions, including how OMA collects and uses play data for Karaoke revenue collected as part of the Australian public performance royalty pool, noting that Nightlife has previously provided Karaoke play data to PPCA.
- More stringent and regular (quarterly) reporting and KPI's on APRA when using real play data from Background Music Providers (BMPs). This should be matched to accurate data for Karaoke tariff repatriation, and not data from streaming services, radio airplay etc.