

REPORT TO AUSTRALIAN COMPETITION AND CONSUMER COMMISSION

1. Introduction

- 1.1 I have been engaged by APRA to provide an independent report explaining “the processes and methodologies adopted by APRA for calculating licence fees for (each) licence category including underlying data used, and economic analysis or examination” together with some more specific questions.
- 1.2 The particular information to be provided is contained in Attachment B to the Determination of the ACCC in respect of the Application by APRA for a new Authorisation (AA1000433) dated 13 July 2020 (Determination). This Attachment is annexed to this Report at Tab A.
- 1.3 The Determination by the ACCC was made in the context of APRA issuing new revised licences following the creation of its joint licensing initiative between APRA, AMCOS and PPCA. Under this initiative, APRA became an agent for PPCA and issued new joint licences under the OneMusic Australia banner which took into account the expanded rights now available under the one licence.
- 1.4 In the course of revising the rates to take account of the expanded rights contained in the OneMusic licence APRA also took the opportunity to make some changes as to how the rates for some licences should be calculated.

2. Process Followed

- 2.1 In preparing this Report I have:
 - a) considered the Determination of the ACCC and some of the relevant submissions made to the ACCC in the course of its inquiry leading to the Determination.
 - b) sought and received feedback from a selection of APRA licensees relating to the licences issued by APRA and One Music.
 - c) held discussions with the APRA representatives and their lawyers to obtain detailed information, and
 - d) reviewed the licences issued by One Music on behalf of APRA, AMCOS and PPCA.
- 2.2 There are a number of licence categories which I have not included in this Report. These are, for example, licences provided to free-to-air and subscription television stations, radio stations, government and non-government schools, universities and music streaming services.
- 2.3 The licences to which I have not referred are periodically negotiated by APRA with industry or other peak representative bodies. In my view and experience, the user parties to those licences would be made aware of the factors taken into account during the course of negotiations. These industry bodies are well resourced and expertly represented. At times these licences have been the subject of reviews by the Copyright Tribunal (for example *APRA v Federation of Australia Radio Broadcasters* (1991) 46IPR 20). None of these licences were affected by the creation of the OneMusic licences.

- 2.4 I have adopted the approach that the outcome of this Report should be that music users will have accessible resources which are clearly and concisely written so they will be able to understand:
- a) why they need a licence,
 - b) what activities the licence covers, and
 - c) how the licence fee has been calculated.
- 2.5 This in turn should provide a foundation upon which the parties can conduct discussions on the terms of a particular tariff and, if they thought appropriate, dispute its terms through direct negotiation, the Copyright Tribunal or APRA's ADR processes. This approach is designed to overcome the "information asymmetry" referred to at paragraph 4.338 of the Determination.
- 2.6 At an early stage in the course of my appointment, I met with APRA representatives to discuss the information which was to be provided and how to best present that information. Various formats were considered and eventually the format contained in the explanation of the licenses attached to this Report at Tabs O and P was agreed as the best way to achieve the outcome set out above.
- 2.7 The terms of my appointment state that I may include such recommendations of alternative methodologies for calculating licence fees as I may consider appropriate. I have been reluctant to venture into this area. Methodologies for establishing equitable rates can be the subject of considerable debate and have exercised the minds of the Copyright Tribunal on many occasions, where strongly competing views are advanced. In my view it is not appropriate to propose different methodologies without input from all concerned parties. A methodology which is acceptable to APRA may not be acceptable to licensees and vice versa. Such debates are best dealt with in the course of a mediation or arbitration where the parties have the opportunity to present their views.

3. ACCC Guideline

- 3.1 A question raised by the ACCC was whether, and if so how, APRA has regard to the economic framework and pricing principles, set out in the ACCC Guidelines to assist the Tribunal in the determination of copyright remuneration in calculating licence fees. I deal with each element below.
- 3.2 The hypothetical bargaining approach
This has not been used by APRA. I note that it would seem inappropriate to do so when actual "bargains" have been established and have often been in place for many years.
- 3.3 Survey Evidence
APRA has not conducted surveys when establishing the OneMusic fees to determine "willingness to pay".
- 3.4 Appropriate Benchmarks
APRA has benchmarked some of its rates against other rates against which a comparison can be made. These benchmarks are identified in the rate guides.
- 3.5 Rates in Other Jurisdictions
In September 2019, APRA produced a document which compared some of its rates with rates in various jurisdictions. The problem with such comparisons is that the coverage

and licence terms vary from country to country and it is often difficult to obtain a true comparison. A copy of this comparison document is contained at Tab B.

The comparisons that were provided show significant variations between jurisdictions. One interesting comparison is the 'Nightclubs' rate which was determined by the Australian Copyright Tribunal after an extensive hearing and the use of survey evidence. The 'Nightclubs' rate established in Australia is over 4 times higher than in any other jurisdiction.

4. Feedback from Music Licensees

- 4.1 In the course of preparing this report I sought comments from current licensees or their industry representatives. These licensees were selected because they had previously actively engaged in the consultation process with APRA when the OneMusic licences were being drafted. A copy of the letter sent to licensees is contained at Tab C.
- 4.2 The letter was sent to, and received by, 117 licensees. I received a response from 11 licensees but the only substantive responses were from:
 - Australian Hotels Association
 - Nightlife Music
 - Business Music Providers
 - The Australian Venues Association
 - Gold Coast Convention and Exhibition Centre
 - Brisbane Convention & Exhibition Centre
- 4.3 The Australian Hotels Association's response noted that it had been provided with "a high degree of collaboration in devising the new OneMusic scheme". A copy of its response is attached at Tab D.
- 4.4 Nightlife Music's response was directed towards a claim that APRA and OneMusic allowed "the infringement of copyright". It indicated it had made multiple submissions concerning this claim to various bodies, including the Copyright Tribunal, previously. Comment on this claim would appear to be outside my terms of reference.
- 4.5 The Australian Venues Association submitted among other things, that although "adequate notice and an explanation of any proposal changes to a Relevant Scheme were received [...] the explanation of the proposed changes to the Relevant Scheme was lacking". Its concerns and the APRA response are attached at Tab E.
- 4.6 The Brisbane Convention and Exhibition Centre confirmed that it and a number of other convention centres had provided feedback which it said, "resulted in the decision by OneMusic Australia to introduce a flat rate structure". However, it raised issues with the increase in the rate over a 4-year period and noted that fourth year rate was a significant increase compared to what convention centres had been paying previously. The appropriateness of the rate is outside the terms of my inquiry but I do note that there was consultation by APRA in relation to the rate although the outcome of the consultation did not meet the concerns expressed by the Centre. A copy of the response is contained at Tab F.

5. Consultations Undertaken By APRA

- 5.1 Marketing Melodies on behalf of the Business Music Providers Association submitted that while it was provided with adequate notice of the proposed changes to the relevant scheme and was given an opportunity to respond it did not believe its comments were taken into account. It was concerned that “the current process of consultation was driven by the collection societies.” A copy of its submission is contained at Tab G.

6. The Consultation Process

- 6.1 I am required to provide an explanation of the Consultation Processes in which APRA engages.

- 6.2 At my request APRA has provided me with:

- a) a table setting out the consultation materials sent to licences and the number of licensees to whom they were sent (Tab H)
- b) a document entitled OneMusic Consultation Process (Tab I)
- c) a summary of communications made to licensees relating to the introduction of the OneMusic license scheme (Tab J)
- d) a document setting out responses provided to APRA as part of the consultation process (Tab K)
- e) a document setting out the changes made to various schemes as a result of consultations (Tab L)

- 6.3 Consultation Papers were provided in relation to:

- a) Adult Entertainment;
- b) Cinemas;
- c) Clubs;
- d) Community Halls;
- e) Cruise Ships;
- f) Dance and Performance Instructors and Dance Schools;
- g) Dining;
- h) Events;
- i) Fitness, Exercise and Wellbeing;
- j) Functions;
- k) Hotels, Pubs, Taverns, Bars and Casinos;
- l) Karaoke;
- m) Local Government (Councils);
- n) Places of Interest, Activity and Amusement;
- o) Recorded Music for Dance Use;
- p) Retail and Services Providers;
- q) Telephone on Hold Music;
- r) Vehicles; and
- s) Workplace Music.

By way example I attach the Hotels Consultation Papers Dance & Performance Instructors and Dance Schools and Live Adult Entertainment at Tab M.

6.4 No consultation papers were issued for Child Care Services or State and Federal Governments. I am informed that the State and Federal Government Guide “is out of date and requires amendment which APRA will undertake as a matter of priority.”

6.5 When evaluating the consultation process, I formed the view that APRA did make significant efforts to consult with licensees when preparing the OneMusic licenses. The limited feedback that I received from licensees or their representatives would appear to confirm that licensees did not feel concerned about a lack of consultation. However not all licensees were happy with the outcome, which is perhaps unsurprising when one considers the large number of licensees involved. (See Paragraph 6.7)

6.6 A comment made by the Business Music Providers was:

“Businesses that consume music also need stronger, independent representation in deciding how the Public Performance sector is licensed and what are reasonable fees to be paid commensurate with the value music brings to their business.

The current process of consultations between end user and collection society is useful but again because it is driven by the collection (sic) societies, who have their own legitimate interests, it isn’t representative of the entire Public Performance segment”.

The solution proposed was the appointment of an independent watchdog “responsible for governing the Public Performance sector in Australia”.

6.7 It is easy to understand the frustration that small licensees may feel when licence terms and rates are amended. However, even if extensive consultations take place it is quite impossible for every licensee’s particular circumstances to be taken into account by APRA. The licences covered in this Report cover 44,257 licensees and cover 93,350 locations (see Tab N). APRA does provide variations to licensees to cover different uses and circumstances but even if it were feasible, I doubt providing more favourable licences to some licensees because of their “particular circumstances” would be well received by other users of music under the same licence scheme unless such circumstances could be clearly distinguished. Indeed, it may raise claims that some users were being given a competitive advantage.

6.8 There is, of course an ‘independent body’ to oversee licence schemes, which is the Copyright Tribunal of Australia. However the cost of an application to the Tribunal is prohibitive unless the application is made by a very well-resourced licensee or an industry association. This is and has been a concern expressed by licensees over many years.

6.9 APRA does have an alternative dispute resolution process which is available to licensees if they “do not agree with how (APRA) applies licenses to your business, with our fees, or with any of our services”. However this process is confined to disputes about the administration of the licence and how it may apply to a particular licensee. (See resolutionpathways.com.au)

6.10 I make some comments about ways of making the consultation process more sophisticated at section 9 below.

7. The Methodology Used by APRA

- 7.1 The primary purpose of requiring this Report was to provide transparency as to the methodology employed by APRA in fixing rates for its various licences.
- 7.2 APRA has now provided me with a "Rate Setting Guide" for each licence the subject of this Report together with an over-arching document setting out the General Background to the rates it sets.
- 7.3 The General Background sets out the 5 factors it takes into account in setting rates. These are:
- a) Pre-Existing Rates
 - b) Copyright Tribunal decisions
 - c) The Purpose of the use of the music
 - d) The nature of the business using the music, and
 - e) The number of copyrights covered by the licence.

The General Background is contained in Tab O.

- 7.4 The General Background document is referred to in each Rate Setting Guide and a link is provided to it. This means that licensees can access the underlying methodology APRA generally applies.
- 7.5 The Rate Setting Guides cover 23 licence schemes made available by APRA. They cover the nature of the business and the use covered by the particular licence. Importantly each Rate Setting Guide sets out how the Rate was set. The Rate Setting Guides are available at Tab P.
- 7.6 I am informed that a Rate Setting Guides have not been established for cruise ships due to the niche nature of the market (and only one entity is currently licensed).
- 7.7 The Rate Setting Guides indicate, depending on the particular rate, that the factors involved in rate setting were
- a) previous rates
 - b) rates in other licenses which provided a basis for comparisons
 - c) Copyright Tribunal decisions
 - d) feedback received in the course of industry consultations
 - e) the outcome of industry negotiations, or
 - f) a combination of the above.
- 7.8 The genesis of the rates contained in some licences which have been in existence for many years and have remained largely unchanged other than for CPI increases, is sometimes unclear.

8. Adjustments for Direct Licencing

- 8.1 I have been asked to advise "whether and, if so, how APRA's blanket licences "are adjusted (including discounted) and/or contain provisions to provide for such adjustments, to account for any direct licences."

- 8.2 APRA has a notice on its website that advises licensees that “you don’t have to go through APRA AMCOS to legally play music.” The notice concludes by stating “if you deal directly with the copyright owner, you may qualify for a reduction in your blanket licence fees. Contact us to discuss this.” A copy of this Notice is attached at Tab Q
- 8.3 I asked APRA to advise how such adjustments were made. A copy of its explanation is contained at Tab R.

9. Observations

- 9.1 As previously mentioned, the large number of licensees covered by the blanket licences makes consultation with individual licensees practically impossible. Where an industry is well represented by an industry body, such as the hotel industry, changes to licence terms and rates are less likely to cause concern to licensees as they are aware that their interests are being represented to APRA.
- 9.2 However where licensees are not members of an industry association or where the industry association has not been active in representing its members interests in so far as they relate to the use of music, there is likely to be less acceptance of the terms of the licences offered. I believe that the concerns of individual licensees are far more likely to be considered by APRA if they can be shown to be of concern to a significant number of licensees. If APRA acts positively in relation to those representations it is also more likely that licensees will understand that their concerns have been considered.
- 9.3 APRA has established a Customer Advisory Panel selected from a variety of users to discuss issues that may arise under its licence scheme. I am informed that there are currently 12 licensees on the Panel which “coincidentally represent a heterogeneous sample of licensees spread evenly across Australia.” However rates are not covered under the terms of reference of this Panel. I suggest that where APRA is reviewing rates or significant terms this should be a matter which the Committee can consider and on which it could provide feedback to APRA as part of a consultation process. I also suggest that the Panel should be expanded as 12 licensees is a very small proportion of the total number of licensees. Also, it would be useful if the identity of the Panel members was published so that licensees are able to provide input through the Panel.
- 9.4 I also suggest that APRA publish on its website a list of these industry bodies with which it periodically engages as part of its consultation/negotiation process so that concerned licensees are assisted in finding the appropriate body to represent their interests. This would encourage greater input from licensees and allow their collective concerns and suggestions to be processed efficiently and effectively by both the industry body and APRA and give more weight to these concerns and suggestions.

10. Final Comment

In preparing this Report I have, of course, had to rely on materials furnished to me by APRA. I should acknowledge that APRA has been very cooperative in providing any materials I requested and, in particular, amending its Rate Setting Guides to meet my suggestions.



Charles Alexander

Wednesday, 15th of February 2023

Attachment B – Background to the independent report process

The objective of the Independent Report is to explain the methodologies adopted by APRA in determining the licence fees it charges for the relevant licence categories under the licence schemes offered through OneMusic Australia (i.e. how APRA decides, and the matters APRA has regard to in deciding, what licence fees to charge).

The functions of the Independent Reporter will include:

- (i) preparing the Independent Report, which explains the methodologies adopted by APRA in determining the licence fees it charges (including, without limitation, the consultation processes and procedures adopted by APRA in developing licence schemes and how any concerns expressed by licensees are considered).
- (ii) as part of item (i) above, obtaining feedback from licensees about the consultation process APRA engages in, and
- (iii) no later than twelve months after the date of their appointment (or such longer period as is agreed to by the ACCC) , providing the final Independent Report to the ACCC and APRA.

The Independent Report should explain:

- (i) the processes and methodologies adopted by APRA for calculating licence fees for that licence category including underlying data used, and economic analysis or examination
- (ii) whether and, if so, how APRA has regard to any decisions of the Copyright Tribunal of Australia in setting fees for the licence category. This should include whether and, if so, how APRA used a Copyright Tribunal decision about a different licence scheme, type of licence, or type of use, as a basis or benchmark for setting fees for the licence category
- (iii) whether and, if so, how APRA has regard to the economic framework and pricing principles, and the approaches that can be used in applying that framework and pricing principles, set out in the *ACCC Guidelines to assist the Copyright Tribunal in the determination of copyright remuneration* in calculating licence fees, including:
 - (a) the hypothetical bargaining approach
 - (b) survey evidence and other supporting information, and
 - (c) appropriate benchmarks, including
 - rates or tariffs paid for the use of the same bundle of musical works in different uses
 - rates or tariffs paid for the same type of licence in other jurisdictions, and/or
 - to the extent that there are comparable, more competitive markets, the rates or tariffs paid in those comparable, more competitive markets
- (iv) whether and, if so, how APRA's blanket licences under its licence schemes are adjusted (including discounted) and/or contain provisions to provide for such adjustment, to account for any direct licensing
- (v) any other matters APRA had regard to in setting the licence fees.

INTERNATIONAL LICENCE FEE COMPARISONS



Licensing Enquiries 1300 162 162 hello@onemusic.com.au onemusic.com.au September 2019

We have conducted a comparative study of licence fees under OneMusic Australia to those payable in:

- Canada
- United Kingdom
- France
- United States
- Ireland
- New Zealand

Using examples from the following industries:

- Retail
- Hospitality (*Restaurants, Hotels, Bars, Nightclubs*)
- Fitness
- Concerts

General Notes

The tables below set out the fee comparisons for equivalent licence fees offered by the relevant territory's copyright collection society/ies. The case studies are general scenarios for the particular industry. It is important to note that direct comparisons are difficult for a number of reasons such as different metrics being applied (e.g. per attendee or percentage of revenue), special conditions or rates for industry association members or based on number of employees. We have set out the differences in further detail in the specific country notes and end notes to the case studies.

Country Notes

Canada

Public performance right royalties are administered by a joint initiative, Entandem, on behalf of SOCAN (musical works) and RE:Sound (sound recordings).

All licence fees in Canada must be certified by the Copyright Board of Canada before implementation. This means that the rates currently charged in Canada are rates certified for past periods. For example, Tariff 6A (sound recording rights rate for recorded music for dance) was certified in 2011 for the period 2008 to 2012. Rates proposed for the period covering 2019 for this and other tariffs are not yet in force. As a result, rates listed for the current period for Canada may be subject to change in the future. Details of the Copyright Board of Canada tariff approval process can be found at <https://www.resound.ca/tariffs/copyright-board/>.

Music video use is not included in the fitness or hospitality rates in Canada as they are with the OneMusic packages used in the case study scenarios. Separate licensing is required from a different collection society, <https://connectmusic.ca/licensing/faq.aspx> (the rates are not published online).

United States

The United States does not recognise full public performance rights for sound recordings, this means for the case study scenarios there is no fee payable for the sound recording right.

There are four collection societies that collect royalties for the public performance rights for musical works, each collection society represents different repertoire, which means to ensure blanket coverage (as offered by OneMusic Australia) a business must obtain licences from all four societies. Two of the societies (SESAC and Global Music Rights (GMR)) do not publish their rates. Accordingly, for the case study scenarios we have only calculated the fees by using the combined fees of two of the four societies (ASCAP and BMI). Thus fees stated in the case study scenarios for the United States represent licences for a limited repertoire.

Music video use is not included in the licences offered by the collection societies. Music video rights are dealt with directly by the relevant copyright owners (usually the record companies).

United Kingdom

Public performance rights for both the musical works and sound recordings are now administered jointly by PRS and PPL respectively under the banner 'The Music Licence'. However, separate licence schemes and rates apply for each of the PRS and PPL rights.

These licences have a higher rate in the first licence year, where the collection society has to approach the business to obtain a licence, and a standard rate for renewed licenses. The standard rates have been used. All schemes used in the case studies are subject to annual CPI adjustment.

Music video use is not included in the fitness or hospitality rates as they are with the OneMusic packages used in the case studies. Separate licensing is required from a different collection society but administered by PRS and PPL under The Music Licence (rates start from £310 and vary depending on use).

In 2018 PPL proposed to revise its 'specially featured entertainment' licence fee, which covers recorded music at nightclubs and DJ nights in hotels and pubs. It has recently been referred to the United Kingdom Copyright Tribunal for independent review. Depending on the outcome of the review the rates listed in the case study for hotels, bars and nightclubs for 2019 may be subject to change in the future. Further information about the review process of the United Kingdom Copyright Tribunal can be found here <https://www.gov.uk/government/organisations/copyright-tribunal>.

Ireland

Public performance rights for both musical works and sound recordings are administered by IMRO (on behalf of itself and PPI) under the banner 'The Dual Music Licence'. However, separate licence schemes and rates apply for each of IMRO and PPI rights.

Like the United Kingdom, IMRO have a higher rate in the first licence year and a standard rate for renewed licenses. The standard rates have been used. All schemes used in the case studies are subject to CPI adjustment.

For hospitality industry schemes musical works rates vary depending on location (Dublin or other locale) and sound recording rates vary depending on whether the venue is a member of specific industry associations or particular provisions of the venue's liquor licence

Music video use is not included in the fitness or hospitality rates as they are with the OneMusic packages used in the case studies. Separate licensing is required (the rates are not published online).

France

In France public performance rights for sound recordings in some industries are administered and collected by the musical works collection society SACEM. For restaurants, bars and nightclubs the sound recording rights are still administered by SPRE, which means licences are required from two separate organisations for the one venue.

The French copyright collection societies also apply a higher rate in the first licence year and a standard rate for renewed licenses. The standard rates have been used.

For sound recording use in restaurants with 'ambiance musicale', bars and nightclubs (with annual revenue of more than €153,000) fees are calculated on a percentage (1.65%) of gross revenue. Gross revenue includes entry fees, food and alcohol sales, cloak rooms, cigarette, phone points, room hire, private functions, student parties, karaoke, advertising contributions, sponsorship and all receivables in relation to furnishing service or sales to clientele. For musical works in these venues fixed rates apply based on tiered average drink prices. Accordingly, it is impossible to provide an effective comparison in such cases.

Music video use is not included in the licences offered by SACEM or SPRE and a separate licence from a different collection society is required (the rates are not published online).

New Zealand

In most cases (excluding concerts) the public performance rights for musical works and sound recordings are offered in a combined licence by OneMusic NZ.

Australia

OneMusic Australia offers a combined licence and rates for the use of both musical works and sound recordings. There is a mechanism in place allowing a reduction in the fees where only one set of rights is used by a licensee.

The OneMusic Australia rates used for the fitness and hospitality sectors include the use of music videos, which is not the case for other territories listed above and often this requires a separate fee and in some instances an additional licence from a further collection society than that offering the public performance licence.

CASE STUDIES

Table 1 summarises the fees payable by country for the relevant industry. The following tables provide a breakdown of what uses of music are included in the fees, the metrics used to calculate the fees and additional notes for various territories.

All fees are listed excluding any taxes, such as GST or VAT. Fees were calculated in local currency and the totals converted to Australian dollars using the OFD yearly average for the last 3 year sourced from <https://www.ofx.com/en-au/forex-news/historical-exchange-rates/yearly-average-rates/>. Links to the relevant licence schemes and fees are set out in the endnotes at the end of the document.

SUMMARY









	Australia	New Zealand	United States	Canada	United Kingdom	Ireland	France
Retail	\$123.64	\$296.07	\$668.14	\$149.93	\$555.56	\$416.02	\$669.09
Fitness	\$5,728.55	\$3,017.64	\$1,017.57	\$1,253.77	\$7,763.91	\$5,344.06	\$837.69
Hotels (Bars)	\$3,865.50	\$2,822.60	\$4,848.65	\$1,870.36	\$11,285.05	\$6,774.65	1.65% of Revenue
Nightclubs	\$51,436.36	\$3,109.71	\$2,905.41	\$1,354.75	\$12,103.11	\$12,333.72	1.65% of Revenue
Restaurants	\$1,215.00	\$394.75	\$1,037.84	\$219.80	\$1,450.91	\$594.02	\$2,552.75
Concerts*	2%	1.85%	0.40%	3%	4.2%	4.5%	11%

* Assuming no sound recordings are used

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RETAIL

Non-chain retail premises with 50m² audible area using a digital music service with 3 speakers, 4 employees operating 360 days per year.

TERRITORY	TOTAL (AUD)	INCLUSIONS	VARIABLES
Australia*	\$123.64 ⁱ	 Background music	Premises size (tiered)
Canada*	\$149.93 ⁱⁱ	 Background music	Premises size (flat) and per day of operation
NZ*	\$296.07 ⁱⁱⁱ	 Background music  Music videos	Premises size (tiered)
Ireland*	\$416.02 ^{iv}	 Background music	Premises size (tiered)
UK**	\$555.56 ^v	 Background music	Premises size (tiered)
US (2 OF 4 PROS)	\$668.14 ^{vi}	 Background music (musical works only)	Premises size (tiered)
France	\$669.09 ^{vii}	 Background music	Number of employees

* Australia, Canada, New Zealand, Ireland and France have no restrictions on device numbers.


















** United Kingdom has no restriction on device numbers but for premises with over 5 employees an additional licence fee applies.

***ASCAP rate is limited to three speakers

13 INTERNATIONAL LICENCE FEE COMPARISONS

FITNESS

Non-chain fitness centre with 200m² exercise area, 500 members, with 20 classes per week with an average of 10 participants in each class/room of 50 m².

TERRITORY	TOTAL (AUD)	INCLUSIONS	VARIABLES
France	\$837.69 ^{viii}	 Background music  Music in fitness classes	Per member
US (2 OF 4 PROS)	\$1,017.57 ^{ix}	 Background music (musical works only)  Music in fitness classes (musical works only)	Combination of member and participant numbers
Canada*	\$1,253.77 ^x	 Background music  Music in fitness classes	Combination of premises size and member, participant and class numbers
NZ	\$3,017.64 ^{xi}	 Background music  Music in fitness classes  Music videos	Combination of member numbers and premises size
Ireland	\$5,344.06 ^{xii}	 Background music  Music in fitness classes	Combination of participant and class numbers plus premises size
Australia	\$5,728.55 ^{xiii}	 Background music  Music in fitness classes  Music videos	Combination of member and class numbers
UK**	\$7,763.91 ^{xiv}	 Background music  Music in fitness classes  Music videos	Combination of class numbers and premises size and location number (music videos)




















*Canada - SOCAN requires two separate licences for background music and music in conjunction with exercise and dance instruction; Re:Sound applies a separate rate structure applies to background music supplied by background music suppliers.

**United Kingdom - PPL has 2 possible background licence schemes, background music for health and leisure centres and background music for gymnasium workouts. A separate licence from a different collection society is required for music video use.

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HOTELS (BARS)

Non-chain hotel with 500m² common area, capacity of 200, operating 350 days per annum, with featured recorded music on 104 days plus \$23,000 live expenditure per annum and no entry fee.

TERRITORY	TOTAL (AUD)	INCLUSIONS	VARIABLES
Canada	\$1,870.36 ^{xv}	 Background Music  Live Entertainment (no sound recording use)	Combination of entertainment expenditure and premises size, capacity or attendance
NZ	\$2,822.60 ^{xvi}	 Background Music  Music Videos  Live Entertainment (no sound recording use)	Combination of day rate and premises size
Australia	\$3,865.50 ^{xvii}	 Background Music  Music Videos  Featured recorded music  Live Entertainment (no sound recording use)	Combination of expenditure, attendance and capacity
US (2 OF 4 PROS)	\$4,848.65 ^{xviii}	 Background Music (musical works only)  Enhanced recorded music (musical works only)  Live Entertainment (musical works only)	Fixed rate for different uses by capacity
Ireland**	\$6,774.65 ^{xix}	 Background Music  Special featured entertainment (recorded)  Live Entertainment	Combination of flat fee for premises size and per event based on capacity
UK***	\$11,285.05 ^{xx}	 Background Music  Music Videos  Special featured entertainment (recorded)  Live Entertainment	Combination of device, capacity, attendance numbers/event duration and premises size rates
France****	Unable to calculate, SACEM fee (musical works) is calculated based on the average drink price multiplied by capacity and the SPRE (sound recording) fee is 1.65% of the hotel's total *annual revenue ^{xxi}		

*Canada - There is no equivalent featured recorded rate for either society as there are in other territories. SOCAN: 3-4 separate licence schemes (and licence applications) apply to music use in hotels.

** Ireland – IMRO apply separate licence schemes for bars, late bars and lounges in the City and County of Dublin, and in the postal districts of Bray and Greystones and all other areas. PPI calculate background music fees for industry association members on percentage of turnover.









*** United Kingdom – PRS licence scheme does not include music use in restaurants, dining areas, halls, concert rooms or function rooms within the premises. PPL apply two separate licence fees for background and featured entertainment. The fee above includes one music video screen (small) playing music videos as featured entertainment.

**** France - SPRE: gross annual revenue comprises entry fees, food and alcohol sales, cloak rooms, cigarette, phone points, room hire, private functions, student parties, karaoke, advertising contributions, sponsorship and all receivables in relation to furnishing service or sales to clientele.

15 INTERNATIONAL LICENCE FEE COMPARISONS

NIGHTCLUBS/RECORDED MUSIC FOR DANCE

Nightclub with 300m² premises and a capacity of 200 operating for 6 hour/150 days per year with 17,500 attendees per year.











TERRITORY	TOTAL (AUD)	INCLUSIONS	VARIABLES
Canada	\$1,354.75 ^{xxii}	 Recorded Music for Dance	Combination of flat and capacity
US (2 OF 4 PROS)	\$2,905.41 ^{xxiii}	 Background Music  Enhanced recorded music (dancing)	Per occupant
NZ	\$3,109.71 ^{xxiv}	 Recorded Music for Dance	Days of operation
Ireland	\$12,333.72 ^{xxv}	 Special featured entertainment (recorded)	Combination of capacity, sessions and event duration
UK*	\$12,103.11 ^{xxvi}	 Background Music  Special featured entertainment (recorded)	Combination of flat fee and average attendance and event duration
Australia	\$51,436.36 ^{xxvii}	 Recorded Music for Dance	Combination of attendance and capacity per day of operation
France	Unable to calculate, SACEM (musical works) is calculated on a fixed fee based on a tiered range of annual revenue and the SPRE (sound recording) fee is 1.65% of nightclubs total *annual revenue ^{xxviii}		

*United Kingdom – PPL apply two separate licence schemes for background and featured entertainment. The fee above includes one music video screen (small) playing music videos as featured entertainment.

**France - Calculated on a percentage of gross annual revenue which comprises, entry fees, food and alcohol sales, cloak rooms, cigarette, phone points, room hire, private functions, student parties, karaoke, advertising contributions, sponsorship and all receivables in relation to furnishing service or sales to clientele.

RESTAURANTS

Case Study: Non-chain restaurant in a 30,000 municipality with a seating capacity of 42 and 100m² dining area operating 310 days per year playing recorded background music.

TERRITORY	TOTAL (AUD)	INCLUSIONS	VARIABLES
Canada	\$219.80 ^{xxix}	 Background Music	Premises size per m2 and per day of operation
NZ	\$394.75 ^{xxx}	 Background Music  Music Video	Premises size per m2
Ireland*	\$594.02 ^{xxxi}	 Background Music	Seating number
US (2 OF 4 PROS)	\$1,037.84 ^{xxxii}	 Background Music (musical works only)	Per occupant
Australia	\$1,215.00	 Background Music  Music Video	Seating capacity
UK**	\$1,450.91 ^{xxxiii}	 Background Music  Music Videos	Premises size tiered
France***	\$2,552.75 ^{xxxiv}	 Background Music	Combination of municipality population (tiered) and seating number

*Ireland – PPI apply different rates for industry association members. Standard rates are listed above.

** United Kingdom - The fee above includes one music video screen (small) playing music videos as background entertainment.

***France - SPRE rates listed apply to background music only. For restaurants classified as “ambiance musicale” fees are calculated at 1.65% of annual revenue.

17 INTERNATIONAL LICENCE FEE COMPARISONS

CONCERTS

Live music concert licence schemes around the world for musical works are generally based on a percentage of Gross Box Office per event. Below we have set out the rates for each territory:

TERRITORY	PERCENTAGE OF GBO*
US (2 OF 4 PROS)	0.40% ^{xxxv}
NZ	1.85% ^{xxxvi}
Australia	2% ^{xxxvii}
Canada	3% ^{xxxviii}
UK	4.2% ^{xxxix}
Ireland*	4.5% ^{xl}
France**	11% ^{xli}

*Ireland – excludes multi-stage events and performances of classical music.

** France – excludes theatre productions and festivals.

Licence scheme notes

Retail

- i. OMA https://onemusic.com.au/media/Licences/Retail_Agreement.pdf
- ii. SOCAN Tariff 15A (Background Music). Tariff 15A covers music that is not covered by Tariff 16 (Background Music Suppliers), http://www.socan.com/tariff/Infocard_15A_EN.pdf certified June 30 2012 for period 2008 – 2011
Re:Sound Tariff 3B (Background music by establishment, including telephone on hold). . Tariff 3A to be used if using background music supplier, <https://www.resound.ca/tariffs/>, <https://cb-cda.gc.ca/tariffs-tarifs/certified-homologues/2017/2017-02-09-GAZ.pdf> certified September 2017 for period 2010 – 2015
- iii. OMNZ <https://www.onemusicnz.com/music-licences/retail-plus-services/>
- iv. IMRO TARIFF RS, <https://www.imro.ie/wp-content/uploads/2018/12/RS-Tariff-0119-1219-Inc-Tariff-SC.pdf>
PPI Tariff 7 (Retail Premises and Retail Financial Institutions), <https://www.imro.ie/wp-content/uploads/2018/12/Tariff-7-2019.pdf>
- v. PRS Tariff RS (Shops and Stores) , <https://pplprs.co.uk/wp-content/uploads/Shops-and-Stores-Tariff-PRS.pdf> .
PPL Background Music Tariff (Shops & Stores), <https://pplprs.co.uk/wp-content/uploads/Background-Music-Tariff-Shops-Stores-PPLPP211.pdf>
- vi. ASCAP, <https://www.ascap.com/~media/files/pdf/licensing/classes/2019-licensing-rates-reports/retail-stores-rate.pdf> and BMI <https://www.bmi.com/licensing/entry/533020?q=Retail+Establishment>
- vii. SACEM Background Tariff (Shops), <https://clients.sacem.fr/autorisations/magasin-ou-commerce-de-detail>, SACEM tariff excludes food outlets that can accommodate more than 10 people. SPRE Background Tariff (Shops), https://clients.sacem.fr/docs/autorisations/RGAT_Commerce_Magasin.pdf

Fitness

- viii. SACEM Sport, Relaxation Centres and/or Health Care, <https://clients.sacem.fr/autorisations/salle-de-sports-ou-centre-de-soins>, if Group Classes are held at the premises, the Ambient Uses fee will not apply.
SACEM/SPRE https://clients.sacem.fr/docs/autorisations/RGAT_Centres_soins_detente.pdf.
- ix. ASCAP <https://www.ascap.com/~media/files/pdf/licensing/classes/2019-licensing-rates-reports/fitness2017-10.pdf> and https://www.bmi.com/licensing/entry/fitness_clubs
- x. SOCAN Tariff 19 (Physical Exercise and Dance Instruction) and Tariff 15A (Background Music). Tariff 15A covers music that is not covered by Tariff 16 (Background Music Suppliers), http://www.socan.com/tariff/Infocard_19_EN.pdf and http://www.socan.com/tariff/Infocard_15A_EN.pdf. These rates were certified in 2012 for 2008-2011 and certified in 2017 for 2013-2017, respectively.
Re:Sound Tariff 6B (Use of Recorded Music to Accompany Fitness Activities) <https://cb-cda.gc.ca/tariffs-tarifs/certified-homologues/2018/2018-01-12-GAZ.pdf>. A separate rate structure is available for background music provided by background music suppliers.
- xi. OMNZ <https://www.onemusicnz.com/music-licences/exercise/>
- xii. IMRO STANDARD TARIFF HLC, <https://www.imro.ie/wp-content/uploads/2018/12/HLC-Tariff-0119-1219.pdf>
PPI Tariff 12 (Background Music - Clubs (Snooker / Golf / Health / Sports etc.) Excluding Casinos), <https://www.imro.ie/wp-content/uploads/2018/12/Tariff-12-2019.pdf> and Tariff 8 (Fitness Classes), <https://www.imro.ie/wp-content/uploads/2018/12/Tariff-8-2019.pdf>
- xiii. OMA https://onemusic.com.au/media/Licences/Fitness_Agreement.pdf
- xiv. PRS Tariffs F&D, <https://pplprs.co.uk/wp-content/uploads/Tariff-FD-PRS-Fitness-Dance-2019.pdf>
PPL Background Music Tariff (Leisure Centres and Health/Fitness Clubs and Background Music - Gymnasium Workout), <https://pplprs.co.uk/wp-content/uploads/PPL-Tariff-PPLPP054-Leisure-Centres-and-HealthFitness-Clubs-2019.pdf> and Exercise to Music, <https://pplprs.co.uk/wp-content/uploads/PPLPP222-Exercise-to-music-May-2019.pdf>

Hotels (Bars)

- xv. SOCAN Tariff 15A (Background Music) (certified in 2012 for 2008-2011), Tariff 15A covers music that is not covered by Tariff 16 (Background Music Suppliers), http://www.socan.com/tariff/Infocard_15A_EN.pdf; Tariff 3A (Live Music), http://www.socan.com/tariff/Infocard_3A_EN.pdf; (certified in 2017 for 2013-2017, Tariff 3B (Recorded Music accompanying live), http://www.socan.com/tariff/Infocard_3B_EN.pdf (certified in 2017 for 2013-2017).
Re:Sound : Tariff 3B (Background music by establishment). Tariff 3A to be used if using background music supplier, <https://cb-cda.gc.ca/tariffs-tarifs/certified-homologues/2017/2017-02-09-GAZ.pdf>; Tariff 5A (Recorded Music accompanying live entertainment, Bars etc) <https://cb-cda.gc.ca/tariffs-tarifs/certified-homologues/2017/2017-02-09-GAZ-5A.pdf> certified in September 2017 for 2010 – 2015.
- xvi. OMNZ <https://www.onemusicnz.com/music-licences/hospitality/>
- xvii. OMA https://onemusic.com.au/media/Licences/Hotels_Agreement.pdf
- xviii. ASCAP <https://www.ascap.com/~media/files/pdf/licensing/classes/2019-licensing-rates-reports/restaurants-bars-and-nightclubs-rate.pdf> and BMI <https://www.bmi.com/licensing/entry/532981?q=Bar>
- xix. IMRO STANDARD TARIFF PLVA (Dublin Pubs), <https://www.imro.ie/wp-content/uploads/2018/12/PLVA-Tariff-0119-1219-DUAL.pdf> and other areas <https://www.imro.ie/wp-content/uploads/2018/12/PVFI-Tariff-0119-1219-DUAL.pdf>
PPI Tariff 13 (Hotel Bars and Public Houses (excluding VFI & IHF members) <https://www.imro.ie/wp-content/uploads/2018/12/Tariff-13-2019.pdf>; other applicable tariffs <https://www.imro.ie/wp-content/uploads/2018/12/Tariff-48-2019.pdf>; <https://www.imro.ie/wp-content/uploads/2018/12/Tariff-49-2019.pdf>; <https://www.imro.ie/wp-content/uploads/2018/12/Tariff-2A-2019.pdf>; <https://www.imro.ie/wp-content/uploads/2018/12/Tariff-47-2019.pdf>

- xx. PRS Tariff P (Public Houses), <https://pplprs.co.uk/wp-content/uploads/Tariff-P-Public-Houses.pdf>
PPL Background Music Tariff (Public Houses/Bars/Restaurants and Cafes/Hotels) <https://pplprs.co.uk/wp-content/uploads/Background-Music-Tariff-Public-Houses-Bars-Restaurants-and-Cafes-Hotel-PPLPP210.pdf>; Specially Featured Entertainment Tariff, <https://pplprs.co.uk/wp-content/uploads/PPLPP001-Specially-Featured-Entertainment-Tariff.pdf>
- xxi. SACEM, <https://clients.sacem.fr/autorisations/bar-a-ambiance-musicale>
SPRE, https://www.spre.fr/index.php?page_id=114

Nightclubs/Recorded Music for Dance

- xxii. SOCAN Tariff 18 (Recorded Music for Dancing) – Licence to play (publicly perform) recorded music for dancing in bars, clubs, cabarets, discotheques and other eating/drinking establishments, http://www.socan.com/tariff/Infocard_18_EN.pdf certified May 6 2017 for 2013 – 2017.
Re:Sound Tariff 6A (Recorded music for dance), <https://cb-cda.gc.ca/tariffs-tarifs/certified-homologues/2011/Re-Sound-6.A-2008-2012.pdf> certified July 16 2011 for 2008 – 2012.
- xxiii. ASCAP, <https://www.ascap.com/~media/files/pdf/licensing/classes/2019-licensing-rates-reports/restaurants-bars-and-nightclubs-rate.pdf> and BMI <https://www.bmi.com/licensing/entry/532981?q=Bar>
- xxiv. OMNZ, <https://www.onemusicnz.com/music-licences/hospitality/>
- xxv. IMRO STANDARD TARIFF HRNPD, <https://www.imro.ie/wp-content/uploads/2018/12/HRNPD-Tariff-0119-1219.pdf>
PPI Tariff 2 (Commercial Discotheque and Nightclub venues) <https://www.imro.ie/wp-content/uploads/2018/12/Tariff-2-2019.pdf>
- xxvi. PRS Tariff D, <https://pplprs.co.uk/wp-content/uploads/PRS-for-Music-Tariff-D-Discotheques-Commercial-Dance-Halls-2019.pdf>
PPL Background Music Tariff (Nightclubs, Discotheques and Dance Halls), <https://pplprs.co.uk/wp-content/uploads/Background-Music-Tariff-Nightclubs-Discotheques-and-Dance-Halls-PPLPP017.pdf> and Specially Featured Entertainment Tariff, <https://pplprs.co.uk/wp-content/uploads/PPLPP001-Specially-Featured-Entertainment-Tariff.pdf>
- xxvii. OMA https://onemusic.com.au/media/Licences/RMFD_Agreement.pdf
- xxviii. SACEM, <https://clients.sacem.fr/autorisations/discotheque-ou-bar-dansant> and SPRE http://www.spre.fr/document/guide_assujettissement_disco_bad_bam_assimiles.pdf

Restaurants

- xxix. SOCAN Tariff 15A (Background Music). Tariff 15A covers music that is not covered by Tariff 16 (Background Music Suppliers), http://www.socan.com/tariff/Infocard_15A_EN.pdf certified June 30 2012 for period 2008 – 2011.
Re:Sound Tariff 3B (Background music by establishment), <https://cb-cda.gc.ca/tariffs-tarifs/certified-homologues/2017/2017-02-09-GAZ.pdf> certified September 2017 for period 2010 – 2015.
- xxx. OMNZ <https://www.onemusicnz.com/music-licences/hospitality/>
- xxxi. IMRO STANDARD TARIFF HRNPD, <https://www.imro.ie/wp-content/uploads/2018/12/HRNPD-Tariff-0119-1219.pdf>
PPI Tariff 14 (Restaurants and Cafes), <https://www.imro.ie/wp-content/uploads/2018/12/Tariff-14-2019.pdf>
- xxxii. ASCAP, <https://www.ascap.com/~media/files/pdf/licensing/classes/2019-licensing-rates-reports/restaurants-bars-and-nightclubs-rate.pdf> and BMI <https://www.bmi.com/licensing/entry/532981?q=Bar>
- xxxiii. PRS Tariff HR <https://pplprs.co.uk/wp-content/uploads/PRS-for-Music-Tariff-HR-Hotels-restaurants-cafes-2019.pdf>
PPL Background Music Tariff (Public Houses/Bars/Restaurants and Cafes/Hotels), <https://pplprs.co.uk/wp-content/uploads/Background-Music-Tariff-Public-Houses-Bars-Restaurants-and-Cafes-Hotel-PPLPP210.pdf>
- xxxiv. SACEM Café and Restaurant Tariff - Music in cafes and restaurants (excluding bars, fast food establishments and tea rooms, <https://clients.sacem.fr/autorisations/cafe-ou-restaurant>
SPRE Café and Restaurant Tariff - Music in cafes and restaurants, <https://clients.sacem.fr/autorisations/cafe-ou-restaurant>

Concerts

- xxxv. ASCAP, <https://www.ascap.com/~media/files/pdf/licensing/classes/2019-licensing-rates-reports/concert-rate.pdf>
and <https://www.bmi.com/licensing/entry/533029?q=Promoter+%2F+Presenter>
- xxxvi. New Zealand Licenced separately by APRA AMCOS NZ and PPNZ, <http://apraamcos.co.nz/music-customers/licence-types/using-music-at-your-event/>
- xxxvii. OMA <https://onemusic.com.au/licences/events/>
- xxxviii. SOCAN Tariff 4A1 (Popular Music Concert, Per Event), http://www.socan.com/tariff/Infocard_4A1_EN.pdf certified May 6 2017 for 2015 – 2017.
- xxxix. PRS Tariff LP, <https://pplprs.co.uk/wp-content/uploads/Tariff-Popular-Music-Concerts-modified-2018.pdf>
- xl. IMRO Tariff LP, <https://www.imro.ie/music-users/which-licence-suits-my-business/live-music/>
- xli. SACEM Concert Tariff, <https://clients.sacem.fr/autorisations/concert-ou-spectacle>

4 July 2022

REQUEST FOR FEEDBACK RE MUSIC LICENSING SCHEMES

The Australian Competition and Consumer Commission (ACCC) has placed a condition on its Authorisation of APRA's arrangements for licencing performing rights that APRA appoint an Independent Reporter to report on the methodologies adopted by APRA in determining licence fees.

I have been appointed by APRA to prepare this Report and my appointment has been approved by the ACCC.

In preparing my Report I need to obtain feedback from licensees, or their representatives, about the consultation process engaged in by APRA in the course of developing or amending the methodology or rates in respect of its licencing schemes. In particular, I am seeking this information in respect of the scheme under which your organisation is licenced to perform music (Relevant Scheme).

In particular, I would be grateful to receive any comments or complaints you may have as to whether:

- (a) you received adequate notice and explanation of any proposed changes to a Relevant Scheme;
- (b) you were given an opportunity to provide comments on the appropriateness of Relevant Scheme;
- (c) you consider any comments you did provide were taken into account;
- (d) any changes were made to the proposed scheme before it was introduced after you provided any comments; and
- (e) if you considered obtaining a direct licence from the relevant copyright owner to perform or reproduce musical works, and if so, whether APRA offered a lower fee to take this into account.

It would also be helpful if you could provide comments on how APRA may improve its processes in establishing the methodology for a Relevant Scheme and the licence fees to be paid under that Scheme.

Could you please provide your feedback to me at this email address, or at c/- Banki Haddock Fiora, Level 10, 179 Elizabeth Street, Sydney NSW 2000. This is the address of APRA's lawyers, who will pass any correspondence on to me unopened.

If you wish your feedback to be kept confidential, please indicate this in your response. Obviously if material is to be kept confidential I will be limited in the way I can deal with it in my Report.

If you wish to discuss any aspect of your feedback, please let me know and I will contact you directly.

Yours sincerely

Charles Alexander, Independent Reporter

**AUSTRALIAN HOTELS ASSOCIATION**

27 Murray Crescent, Griffith ACT 2603
PO Box 4286, Manuka ACT 2603

T 02 6273 4007
E aha@aha.org.au
W aha.org.au

6 July 2022

Charles Alexander
Independent Reporter
c/- Banki Haddock Fiora,
Level 10, 179 Elizabeth Street, Sydney NSW 2000

Dear Mr Alexander,

Feedback re Music Licence Schemes

Thank you for your letter dated 4 July 2022, seeking feedback regarding music licence schemes. I advise as follows. The AHA is a Registered Organisation under the Fair Work (Registered Organisations) Act. We represent over 5,000 hotels, taverns, small bars, casinos and some restaurants and licenced clubs. For the vast majority our members are licensed under the "One Music Hotels, Pubs, Bars, Taverns and Casinos licence". There would be very few of our members, if any, that do not have a music licence.

I have been in my role for over 8 years and have worked closely with APRA AMCOS and PPCA in that time. It is fair to say that when I came into the role there was a high degree of conflict and dissatisfaction regarding music licencing., e.g. fees, complexity, transparency. However, I am pleased to advise that after 8 years of the AHA, APRA AMCOS and PPCA working closely together, we have managed to significantly improve the situation. Part of that improvement was made possible by the revamping of licences under the new "one stop shop" of One Music. I have had basically zero concerns expressed to me by members since the introduction of the One Music scheme. In regard to your specific questions, I consider:

1. One Music provided the AHA with a high degree of collaboration in devising the new One Music scheme and we received adequate notice and explanation of any proposed changes to a Relevant Scheme;
2. Yes, we were given every opportunity to provide comments on the appropriateness of Relevant Scheme;
3. The comments we made were taken into account
4. We were advised of all being made to the proposed scheme before it was introduced
5. The AHA did not consider obtaining a direct licence from the relevant copyright owner to perform or reproduce musical works

Thank you for the opportunity to provide feedback. Please call any time with questions.

Your faithfully,

STEPHEN FERGUSON
AHA NATIONAL CEO

29 July 2022

Charles Alexander
[REDACTED]

Request for feedback re music licensing schemes

Dear Charles Alexander,

Thank you for the opportunity to provide a submission in respect to the methodologies adopted by APRA in determining licence fees.

The Australian Venues Association represents venues across Australia. These businesses use music for a range of activities ranging from background to featured performance purposes. Copyright Collection societies provide blanket licences to our members via the APRA AMCOS PPCA joint initiative OneMusic.

In respect to the APRA AMCOS amalgamating with the PPCA into OneMusic, the AVA has maintained that the effect has been the empowerment of a copyright cartel to the markets' detriment.

In response to your questions:

1. Adequate notice and an explanation of any proposed changes to a Relevant Scheme were received however, the explanation of the proposed changes to the Relevant Schemes was lacking.
 - 1.1. Throughout formal and informal conversations and consultations with the APRA (OneMusic) a methodology underpinning the algorithm for calculating the licence fees applicable to our members has not been provided.
 - 1.2. Information relating to inputs used in determining the licence fee has never been provided or made available.
 - 1.3. OneMusic has directed us and our members to judgements or guides, but never provided the methodology to the algorithms used to arrive at the cost base of the licence schemes.
 - 1.4. No explanation has ever been provided for the fact that OneMusic licences compared with identical businesses in other countries are the most expensive in the world.
 - 1.5. OneMusic employs arbitrary definitions for music use with no objective methodology within a business context. The arbitrary definitions are then used to extrapolate erroneous assumptions as justification to force

similar but different businesses into one particular licence scheme over another.

1.6. Methodologies are not being clearly and objectively explained:

1.6.1. OneMusic's 'Hotels, Pubs, Taverns, Bars & Casinos' information guide, at page 10 states:

Featured Recorded Music (FRM) is recorded music played prominently e.g. DJ playing music, Karaoke, "Retro Night" or a "Jazz Night". The difference between this music use and Recorded Music for Dance Use (RMFD) is that Recorded Music for Dance Use is specifically for the purpose of dancing such as nightclub or physically separate dance area; and

1.6.2. definitions for dance floors or nightclubs or venues etc. are not provided.

1.7. Unsustainable inequitable and ill considered licence schemes have been imposed on venues where their revenues cannot support the cost. No methodology has been provided to accommodate individual circumstances or provide justifications where a business operates in difficult conditions .

2. An opportunity was made to provide comments on the appropriateness of Relevant Scheme.

3. The AVA made a number of comments, some of these seem to have been taken into account. Many have not, and the fact that some were may be coincidence.

4. Changes were made to some of the proposed licence schemes before being introduced and after the AVA provided comments.

5. Obtaining a direct licence from relevant copyright owners to perform or reproduce musical works has been considered at times by members of the AVA, however:

5.1. A direct licence from the relevant copyright owner is not feasible for most, if not all, venues the AVA represent; and

5.2. Members of the AVA have been a part of conversations where alternative licence schemes have been proposed that ensure the licence fee paid goes directly to the copyright owners whose works are used. OneMusic rejected those proposed schemes for being impractical.

6. APRA (via OneMusic) can improve its processes in establishing the methodology for a Relevant Scheme and the licence fees to be paid under that Scheme by:
 - 6.1. Aligning the licence schemes that Australian businesses pay with the rest of the world;
 - 6.2. Creating a new licence scheme where the user pays for what is used with a cost base that aligns the final cost with the rest of the world (or at least other OECD countries); and
 - 6.3. Reviewing the licence scheme regularly against the cost of music that other licensees are required to pay globally.
7. We would also be pleased to discuss any aspect of this feedback so welcome a direct conversation with you.

We look forward to the outcome of your review.

Yours sincerely,



The Australian Venues Association

OneMusic Response to letter dated 29 July 2022 from Australian Venues Association (AVA) to Charles Alexander

OneMusic has both met with AVA and had correspondence with them (see attached) since November 2018. The scheme/rate where they have primarily raised concerns is the Recorded Music For Dance Use Rate that applies to nightclubs and similar venues. In the absence of specifics from AVA in this submission, our responses below are, unless otherwise stated, directed to that rate. Of course, if we have misunderstood any of the issues raised by AVA, we're happy to provide further responses or clarification.

We note also that last year AVA provided a direct submission to Justice Lindgren in his capacity as Code Reviewer. The complaint was dealt with in last year's compliance report - [Code Reviewer's Compliance Report 2021 Final as signed \(squarespace.com\)](#), refer to pages 117-123 (which perhaps no uncoincidentally) contemplates the ACCC's Fee Methodology process you are currently working on providing some answers to their concerns.

The Australian Venues Association represents venues across Australia. These businesses use music for a range of activities ranging from background to featured performance purposes. Copyright Collection societies provide blanket licences to our members via the APRA AMCOS PPCA joint initiative OneMusic.	We have asked AVA for a list of their members, but this has never been provided. We therefore cannot comment on their representation.
In respect to the APRA AMCOS amalgamating with the PPCA into OneMusic, the AVA has maintained that the effect has been the empowerment of a copyright cartel to the markets' detriment.	We deny this. Neither APRA AMCOS, PPCA or OneMusic act as a cartel and we note that (a) APRA has received successive authorisations from the ACCC since 2000; and (b) AVA has provided no evidence to back up its rhetoric.
1. Adequate notice and an explanation of any proposed changes to a Relevant Scheme were received however, the explanation of the proposed changes to the Relevant Schemes was lacking.	We deny this. It is our view that through our consultation papers (I believe you already have copied of these documents, if not we can supply) and direct correspondence with AVA a clear explanation of the purpose behind OneMusic and reasoning behind the rates has been provided.
1.1. Throughout formal and informal conversations and consultations with the APRA (OneMusic) a methodology underpinning the algorithm for calculating the licence fees applicable to our members has not been provided.	<p>I am uncertain as to what AVA mean by 'algorithm' in this context, but the calculation methodology for the rate is abundantly clear: number of attendees x attendee rate. The Guide, among other places, sets out the calculation, but if AVA believes this can be made clearer, we will of course consider their proposal</p> <div data-bbox="994 1222 1926 1305"> <p>Recorded Music for Dance Use</p> <p>\$1.8404 per person admitted to each RMFD Area for each day of operation (24 hour period)</p> </div>

1.2. Information relating to inputs used in determining the licence fee has never been provided or made available.	Our consultation papers have been clear that the genesis of the rates comes from the Copyright Tribunal's 'nightclub decision' ([2007] ACopyT 1).
1.3. OneMusic has directed us and our members to judgements or guides, but never provided the methodology to the algorithms used to arrive at the cost base of the licence schemes.	It is correct that we have not restated the reasonings of the Tribunal, rather have relied on interested parties to read the decision.
1.4. No explanation has ever been provided for the fact that OneMusic licences compared with identical businesses in other countries are the most expensive in the world.	<p>This is incorrect. We have noted in consultation papers that in respect of Australia the rate was determined by an independent Tribunal but that so far as we are aware, this has not occurred in any overseas territory.</p> <p>The broad statement that "OneMusic licences ... are the most expensive in the world" is also incorrect. We have attached a document that was published on the OneMusic website when we launched in 2019 (but has been subsequently taken down) that sets out how OneMusic's rates in the retail, hospitality, fitness and concert areas compare to those that are in place in Canada, France, Ireland, New Zealand, the UK and the USA. It is correct that the 'nightclub rate' in Australia is higher than in the other territories but for the other rates are not and tend to the lower-middle end of the scale.</p>
1.5. OneMusic employs arbitrary definitions for music use with no objective methodology within a business context. The arbitrary definitions are then used to extrapolate erroneous assumptions as justification to force similar but different businesses into one particular licence scheme over another.	We deny that we use "arbitrary" definitions or that we "force similar but different businesses into one particular licence scheme". However, it's really not possible to respond to this accusation in any detail without AVA providing specific examples of their concerns. This is not the first time that AVA has made accusations against OneMusic without citing specific examples to substantiate its concerns.

<p>1.6. Methodologies are not being clearly and objectively explained:</p> <p>1.6.1. OneMusic's 'Hotels, Pubs, Taverns, Bars & Casinos' information guide, at page 10 states: Featured Recorded Music (FRM) is recorded music played prominently e.g. DJ playing music, Karaoke, "Retro Night" or a "Jazz Night". The difference between this music use and Recorded Music for Dance Use (RMFD) is that Recorded Music for Dance Use is specifically for the purpose of dancing such as nightclub or physically separate dance area; and</p> <p>1.6.2. definitions for dance floors or nightclubs or venues etc. are not provided.</p>	<p>The "information guide" is just that, a guide – and does not seek to reproduce in its entirety the full terms of the licence agreement. We note that in the agreement itself, while "dance floor" is not defined, there is a definition of "RMFD Area" that is used to determine the relevant space used for the purpose of calculating the licence fee. Although the name has changed, the definition has essentially remained the same since 2008.</p> <p>We not consider that definitions for 'nightclubs' and 'venues' are required including because RMFD Area already provides sufficient clarity:</p> <p><i>RMFD Area means a Physically Separate area, either within a multifunction establishment or a standalone dance venue, that ... has a dance floor or other area for dancing or charges an Entry Fee (even if the fee is not charged to all patrons).</i></p>
<p>1.7. Unsustainable inequitable and ill considered licence schemes have been imposed on venues where their revenues cannot support the cost. No methodology has been provided to accommodate individual circumstances or provide justifications where a business operates in difficult conditions .</p>	<p>The rate was determined by the Copyright Tribunal of Australia, so clearly it was not "ill considered".</p> <p>Following the Tribunal's decision in 2007, PPCA and APRA moved to implement the scheme from 2008 onwards. While we understand that some venues where the rate applies believe it is too high, we are not aware of widespread closures of nightclubs that have occurred because of the application of the rate. Nightclubs need to take into account all their input costs – security, rent, power and music licence fees - in their business decisions.</p> <p>The rate does accommodate "individual circumstances" because it is directly linked to the number off attendees and is therefore self-adjusting as to the size of the venue.</p>
<p>2. An opportunity was made to provide comments on the appropriateness of Relevant Scheme.</p>	<p>Thank you.</p>
<p>3. The AVA made a number of comments, some of these seem to have been taken into account. Many have not, and the fact that some were may be coincidence.</p>	<p>It is a consultation process and while all the points raised by AVA were considered by OneMusic, some we accepted and others we did not.</p>
<p>4. Changes were made to some of the proposed licence schemes before being introduced and after the AVA provided comments.</p>	<p>Agreed and good to see that it is acknowledged that the rate as now exists is both different to the previous structure and our initial proposal in the first consultation paper.</p>

5. Obtaining a direct licence from relevant copyright owners to perform or reproduce musical works has been considered at times by members of the AVA, however:	
5.1. A direct licence from the relevant copyright owner is not feasible for most, if not all, venues the AVA represent; and	The APRA AMCOS opt out and licence back provisions have been approved by the ACCC as part of APRA's ongoing authorisations. We note also that the PPCA receives non-exclusive rights from its members, primarily record labels.
5.2. Members of the AVA have been a part of conversations where alternative licence schemes have been proposed that ensure the licence fee paid goes directly to the copyright owners whose works are used. OneMusic rejected those proposed schemes for being impractical.	<p>We are not sure from the submission whether these conversations have been had with OneMusic or the reference is to conversations with other entities. In any event I at least cannot recall being party to such a conversation.</p> <p>OneMusic has in place a number of DJ Monitor music recognition technology (MRT) devices – up to 30 before the pandemic – that are located in nightclubs. We also receive play data directly from the 'decks' of many DJs via an agreement with Pioneer. This provides input into both the PPCA's and APRA's distribution of 'nightclub' licence fees.</p> <p>We note that the costs of placing MRT devices in every nightclub and hotel would be so prohibitive as to likely cost more than the total licence fees from the sector. Moreover, we note that many nightclubs object to having MRT devices located at their venue.</p>
6. APRA (via OneMusic) can improve its processes in establishing the methodology for a Relevant Scheme and the licence fees to be paid under that Scheme by:	
6.1. Aligning the licence schemes that Australian businesses pay with the rest of the world;	<p>Rates for music use vary from country to country. We acknowledge that rates for similar use overseas are lower than in Australia but for other types of use, Australian rates are lower. The most appropriate reference point is the Tribunal's decision in Australia, not rates that apply overseas.</p> <p>We note that according to our calculations, the single OneMusic rate generally produces savings of 10-20% on a like-for-like basis when compared to the previous separately charged rates.</p>
6.2. Creating a new licence scheme where the user pays for what is used with a cost base that aligns the final cost with the rest of the world (or at least other OECD countries); and	Addressed above.

6.3. Reviewing the licence scheme regularly against the cost of music that other licensees are required to pay globally.	The new, and lower, rates were introduced in 2021. We have no plans to review them again in the short term.
7. We would also be pleased to discuss any aspect of this feedback so welcome a direct conversation with you.	n/a

From: [Michael Duckworth](#)
To: [REDACTED]
Cc: [Bob O'Keeffe](#)
Subject: Request for Feedback re Music Licensing Schemes
Date: Thursday, 28 July 2022 4:40:35 PM
Attachments: [facebook-icon-black_ff6b12c6-8370-4dd6-9119-1079775c969a.png](#)
[twitter-icon-black_4def80ae-2088-4c04-9b20-fb9c82151285.png](#)
[linkedin-icon-black_5ca447b1-c649-4ec3-ade3-5dd5a0a7f9d0.png](#)
[instagram-icon-black_e449ca01-685b-4bbc-a5f1-b8eead409ff5.png](#)

Hello Charles,

Thank you for your invitation to provide feedback on the APRA music (One Music) licencing scheme and consultation process.

A number of Convention Centres and industrial groups provided feedback in regard to previous consultation periods.

This feedback resulted in the decision by One Music Australia to introduce a flat rate structure.

This structure provided a reduction in time and record keeping for Convention Centres and was seen as a positive change.

This flat rate structure however had included with it an index rate which was applied for 4 years as follows:

- \$7 per 100 persons, increased to \$9 per 100 persons – 28.6% increase
- \$11 per 100 persons, increased to \$13 per 100 persons on the 4th year – 18% increase
- By the 4th year the \$18,200 rate would become \$33,800 which is an 85% increase over 4 years

We contacted One Music Australia again to suggest that the increases be aligned with inflation rates and noting the Event and Hospitality sectors were the ones most impacted by COVID over the last 2 years.

One Music Australia took the view that the initial offered rate was discounted and by the 4th year the rates were back to what they believed venues should be paying. This however is a significant increase compared to what venues were paying in previous years.

Yours Sincerely,
Michael Duckworth

Michael Duckworth | Technology & Innovation Director
[REDACTED] | www.bcec.com.au



A South Bank Corporation Venue, proudly managed by [ASM Global](#).

From: [Dean Cherny](#)
To: [Charles Alexander](#)
Subject: Re: Request for Feedback re Music Licensing Schemes
Date: Thursday, 11 August 2022 5:54:28 PM
Attachments: [clip_image001.png](#)

Hi Charles

Thanks for the opportunity to respond to your Request for Feedback re Music Licensing Schemes.

As the Chair of the Business Music Providers (BPM), I have been authorised to express below feedback on behalf of the BMP Association Board which represents eight Business Music suppliers including, Marketing Melodies, Soundproof, BZM, Mood Media, Qsic, Stingray & Mustard Music.

In answer to your questions.

Q1. you received adequate notice and explanation of any proposed changes to a Relevant Scheme;

A1. Yes

Q2. you were given an opportunity to provide comments on the appropriateness of Relevant Scheme;

A2. Yes

Q3. You consider any comments you did provide were taken into account;

A3. No, I don't believe any of mine, or the Business Music Providers, feedback was taken into account

Q4. any changes were made to the proposed scheme before it was introduced after you provided any comments;

A4. No, no changes were made based on our feedback

Q5. if you considered obtaining a direct licence from the relevant copyright owner to perform or reproduce musical works, and if so, whether APRA offered a lower fee to take this into account.

A5. While this may sound like a feasible option, copyright ownership is so fragmented that this is not realistically possible. The record labels also don't not furnish us with the copyright owner metadata adding another layer of complexity

Q6. It would also be helpful if you could provide comments on how APRA may improve its processes in establishing the methodology for a Relevant Scheme and the licence fees to be paid under that Scheme.

A6. Our primary concern is the use of streaming services that are expressly meant for private or domestic settings only, which we will refer to as 'Personal Services' in this response. Personal Services are not designed for businesses, and indeed largely make this evident in their terms and conditions. However, there is no consequence on businesses that use these Personal Services in their businesses. We propose the following improvements:

1. Create an independent body to oversee the Public Performance Sector

Currently the Public Performance sector is largely controlled and represented by APRA/AMCOS (with an exclusive authorisation) and PPCA/ARIA. Whilst these entities are an essential part of the conversation and play a critical role in administering and distributing revenues from the Public Performance sector, they do not and cannot represent the interests of the entire segment. They do not have a mandate from their Members, being rights holders, or their Board to insist on the use of legitimate business music providers in a business setting, and as a result of this, can only advise against this practice without any plenary action. This is clearly demonstrated with their completely legitimate yet not industry representative approach to dealing with Personal Service use in public places. They have correctly and fairly reacted for the interests of their Members and Board of Directors but in doing so have highlighted the limitations of their mandate and their interests. i.e. removing Personal Service use in public places is not their job, their job is simply to ensure their Members are paid when this use occurs.

As they are the only voice representing the sector, it is clear that other legitimate players in the sector are powerless to tackle a very real threat to their businesses and the music industry at large, being the legitimate Business Music Companies and the broader Australian Music Industry. The interests of service providers need direct representation to channel our concerns and protect our industry.

Businesses that consume music also need stronger, independent representation in deciding how the Public Performance sector is licensed and what are reasonable fees to be paid commensurate with the value music brings to their business. The current process of consultation between end user and collection society is useful but again because it is driven by the collection societies, which have their own legitimate interests, it isn't representative of the entire Public Performance segment.

And finally, Australian artists and/or their management, should be welcome to present their agenda, challenges and point of view for consideration as their perspective may unlock ways to help emerging Australian talent to become successful through Public Performances.

Of course, periodic Inquiries like this create such an opportunity, but a more permanent solution that allows each voice to contribute to how the Public Performance sector is governed would be prudent.

What we are suggesting is that the current structure which places the entire onus for the Public Performance sector on largely just two collection societies, is flawed. A more collegiate approach which ensures representatives from all contributors to the sector (creators, service providers, rights holders and business users) would ensure that the overall interests of the Australian Music Industry is represented rather than only fractions of the equation.

Action: Establish an independent body, responsible for governing the Public Performance sector in Australia. Effectively acting as a watch dog that oversees the interests of all parties and helps to maintain a balanced position that APRA/AMCOS and PPCA/ARIA can then administer.

A part of their charter would be to define appropriate mechanisms for managing

the proliferation of Personal Services in public places and act as a voice for currently unrepresented sectors in the industry.

2. Incentivise the Use of Play Data

The Business Music Companies are powerful influencers into what music consumers are exposed to. In particular, the local Business Music Companies play a key role in promoting emerging and established Australian artists to consumers.

Furthermore, we are also the only 100% accurate source of data that could inform accurate distributions from the collection societies. Whilst we appreciate that in many cases the monies collected per venue are too insignificant to warrant repatriation down to the micro cent, we can work with the collection societies to provide immediate improvements in the distribution process and a path towards the longer term, data-centric reporting that achieves the optimal balance between cost of reporting and accuracy of distribution.

These data services are unique to the Business Music Companies as we are the only ones that accurately collect data at a venue level which we can then provide to the collection societies to accurately match with the Public Performance revenue in a venue. Personal Services cannot provide this data because there is no link between them and the collection society (thus the limited terms of use to private or domestic settings) and hence don't hold a commercial licence with APRA/AMCOS and ARIA (or equivalent) that defines the data collection practises required for business licences (which differ to consumer services).

What this implies is that the Business Music Companies are the sole source of this highly valuable distribution data which will show a high representation of Australian artists and thus if used would allow for accurate distributions but also serve as a legitimate mechanism to promote the use of Australian music in Australian venues.

What venues and the Business Music Companies need is some support to incentivise the collection and use of this data as a service that helps the Australian Music Industry and supports the use of a legitimate Business Music Company.

Action: Create a government backed campaign that incentivises Australian businesses to provide accurate reporting data to the collection societies, which in practise they will achieve by using a Business Music Company.

Impact of not making these changes on the industry

If Personal Services become the dominate source of music in Public Performance then the tailoring of music, (especially local Australian music) to businesses will be lost. This (along with other critical service differences) reduces the impact of music in public places as business owners do not have the time nor expertise to program content to tailored to their customer segment or demographics. If this occurs, music will be properly relegated to the background, effectively as white noise to fill a void, and they will lose the opportunity to differentiate their brand. This will erode the collection societies ability to argue the value of music, which will majorly impact the very well established and high cost tariffs that exist in Australia for the use of music, because it frankly won't be that important to most businesses.

For the Business Music Companies, especially those that are Australian owned, it will make it very difficult to survive based purely on the economics. iA Personal Service relies on the volume of millions of customers to become a going concern. In contrast, due to the limited scope of their businesses, an Australian Business Music Company can only adequately service 10-20,000 clients. So, if the Business Music Companies are pushed to a price point of \$11.99 per month (current Spotify & Apple Music subscription fee), it won't be possible to compete or survive.

As a compelling example, Marketing Melodies is a major Business Music Company with three decades in business. The impact of Personal Services being used in the Public sector is already evidenced in our results for the last 5 years:

- We have had significant annual revenue growth, driven by a great product and sales team, yet our profits are going backwards because our costs are increasing whilst our ARPU is diminishing
- In fact our price point has been on an almost linear decline just as Personal Services have started to show an opposite positive YoY revenue trend
- With this price erosion we are struggling to maintain our quality of service as there is simply not enough money left to re-invest in technology and jobs to deliver services that really showcase music

Recommendations

We'd like to acknowledge that many of the points made above are in line, and have been taken from Nightlife's "181004_Submission to Parliamentary Inquiry - Music Industry_rel 1.00."

Regards



Dean Cherny

Founder & CEO



<!--[if !vml]-->



<!--[endif]-->

The BMP Association Board

Dean Cherny, Chairman

Jonathan Champion, Non-Executive Director

Brendan Williams, Non-Executive Director

Karla Skarda, Non-Executive Director

On 4 Jul 2022, at 3:03 pm, Charles Alexander

[REDACTED] wrote:

Dear APRA licensee

Please see the attached correspondence.

Regards

Charles Alexander, Independent Reporter
<Letter to Licensees 04.07.2022.pdf>

TAB H

[Placeholder Tab]

This tab refers to a PDF the full content of which is confidential.

OneMusic Consultation Process

OneMusic Australia has spent the last two years consulting with stakeholders in various industry sectors in order to develop more than 20 new licence schemes that simplify the way businesses license music. We will also be rebranding a number of existing joint APRA AMCOS and PPCA schemes, for example those for eisteddfodau and child care. For most industry sectors, the consultation period is now complete, and the new OneMusic licence schemes are almost ready. For those consultations that have finished the papers are available on request if you would like a copy.

We sought to balance a desire for simple rate structures against user demand for granularity, using industry responses as a guide. We considered different rate structures and have sought to use those that are industry-appropriate, simple for licensees to calculate and report, transparent to allow our team to check declarations, and importantly reflect relative levels of music use.

For each industry scheme we looked at the existing APRA AMCOS and PPCA rate structures and considered new structures. For example, our fitness class rate is essentially the aggregate amount of the old APRA AMCOS and PPCA rates, but for Hotels we proposed a completely new structure. In some instances the old separate APRA AMCOS and PPCA rates will continue for a period (but invoiced under the OneMusic brand) while consultations continue.

We looked at five criteria in proposing a rate structure for the use of music.

1. We do not believe that rates should be the same for all businesses. For example, it is not right that a beauty salon should be licensed under the same rate structure as a nightclub.
2. Rates should where possible be scaled so that 'smaller' businesses pay less than 'larger' businesses. For example, a small retailer should not pay the same licence fee as a major department store.
3. For most schemes we wanted to achieve a "revenue neutral" outcome, meaning that across those licensees already correctly licensed for APRA AMCOS and PPCA rights, the OneMusic licence fees would be no greater. There were some exceptions, for example the Retail & Service Provider scheme, where some rates had not been reviewed in 20 years.
4. The guideposts we used in setting the OneMusic rates were the existing already widely-accepted rates in Australia.
5. Where appropriate, we have proposed a phase-in to the new rate in order to give time for the industry to adjust.

A number of the schemes look slightly different to the final position paper. While drafting and finalising the OneMusic licences, we've made some small adjustments and improvements to make the schemes fairer and simpler for licensees, or where we have technically not been able to implement the proposed rates. We have sought to do this in a way that is generally more financially advantageous to you.

Music in Car Parks

In the final position papers for both the Retailers and Service Providers and Places of Interest, Activity and Amusement licence schemes, we stated that the rate for background music played in car parks would be 50% of the rates applied to background music used elsewhere in each location. Upon review, this method proved complicated to report and calculate, so to simplify a rate that applies to a small number of businesses, we decided that a flat annual rate was appropriate. Although this flat rate could result in an increase in certain circumstances (i.e. below X_{m2}), the likely users of music in car parks would be much larger operators.

Previously: Music in car parks charged at 50% of the background music rate applied to the rest of the location.

Now: Music in car parks charged at a **flat annual rate** of **\$500**.

Copying Package for Dance Schools

During consultation for the OneMusic Dance and Performance Instructors and Schools licence, we proposed a 'Copying Package' that bundled coverage for:

- Copying legally obtained sound recordings for playing during classes, lessons, rehearsals, and home practice;
- Making video recordings of dance rehearsals or performances; and
- Downloading or accessing a stream from a personal digital music service.

The annual rate for the Copying Package was set at \$6.05 per student. After consideration of the package, we acknowledge that many dance schools may require licensing for one or two of the above 'bundled' methods of copying music, but not all three. To ease costs for those dance schools, we have separated the bundle – and rate – into two, one for making video recordings, and one for digital copy and delivery of audio recordings. Dance Schools will either pay the same or a lower amount compared to the final paper.

Previously: Bundled rate for audio and video copying, including digital copy/delivery, of \$6.05 per student

Now: Two separate annual rates:

1. **Digital Copy/Delivery** –copying from a licensed physical or digital audio recording, and/or downloading or streaming from a personal digital music service: **\$2.02 per student**; and/or
2. **Video Recording Package** – make video recordings or copies of a dance school event, including permitting others to make a video recording: **\$4.03 per student**

Community Music Groups

After an APRA AMCOS consultation with community music groups in 2017, it was made clear that the inclusion of additional rights into licences for the sector is important to bands, choirs, choral groups, and performance groups.

As such, we decided to offer coverage for the same rights that are included in the current APRA AMCOS licence for community associations in a OneMusic licence for individual community groups. For community music groups that also use sound recordings, an additional fee for the use of sound recordings is charged **but only when required**, which is the same as the current PPCA Tariff DD for live performance groups and dance companies. As there is no change in the actual rates included in the licence, a consultation process was not required.

The OneMusic licence for Community Music Groups will cover the following:

1. Unrestricted number of live music performances at Community Events.
2. Reproduction of AMCOS Works in any audio-only format (including in digital form) for the purposes of practice and rehearsals of performances at Community Events.
3. Reproduction of AMCOS Works for the purposes of making audio sound recordings of performances by the Community Music Group at Community Music Events for provision to the public of those recordings, and
4. Reproduction of AMCOS Works in the form of physical, non-digital copies of Original Print Music (Sheet Music) for the purposes of performances by the Community Music Group, including at a Community Event, in practice and rehearsals, and for the purposes of archiving.

The fee for rights above will be **\$290** annually (the same as current), with an additional **\$139.51** (also the same as current) for community music groups that use sound recordings.

Partial Rights Discount (PRD)

In addition to the above improvements, we've also made sure that wherever possible, businesses that legitimately only need licence coverage for either APRA AMCOS works or PPCA sound recordings are able to apply a 'partial rights discount' to their rates where applicable. You'll see references to partial rights arrangements in your licence agreement declarations and the OneMusic eCommerce portal.

TAB J

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This tab refers to an excel spreadsheet the full content of which is confidential.

TAB K

[Placeholder Tab]

This tab refers to an excel spreadsheet the full content of which is confidential.

CHANGES MADE TO VARIOUS ONEMUSIC LICENCE SCHEMES AS A RESULT OF CONSULTATIONS

Licence	Changes made as a result of consultation
Hotels	<ul style="list-style-type: none"> - Retained 'status quo' rates for Live, featured, and RMFD while we continue consultation on those rates - Post-consultation: agreed to an attendance metric for RMFD and Featured Music - Post-consultation: included Karaoke in Featured Music - Included two lines of music on hold and music in the workplace under background package - Only apply dining rate for dining area where music in dining area is different to rest of venue - Provided an optional 'All Inclusive' rate - Offered discounted rates for main and dining areas open fewer than 150 days per year - Offered Partial Rights Deduction for background music
Dining	<ul style="list-style-type: none"> - Removed variable based on whether a venue is licensed for alcohol - Introduced flat annual rate tiered according to seating capacity - Added a tier for smaller business with 7-15 seat capacity and a Bronze tier - Added Partial Rights Deduction - Introduced 'seasonal' rates for restaurants open on fewer than 150 days per year - Included two lines of music on hold and music in the workplace under background package - Introduced phase-in of rates over five years
Fitness	<ul style="list-style-type: none"> - Maintained the optional dual rate for larger and smaller fitness classes, reduced per-class rates for all classes - Amended the definition of 'fitness class' to ensure a clear distinction between fitness classes and group personal training sessions - Reduced minimum annual fee - Reduced digital copy/delivery rate - Reduced 'all in' per-member rate - Increased partial rights discount
Clubs	<ul style="list-style-type: none"> - Abandoned original proposal and agreed to a per-member rate - Included a phased-in 'legacy licence fee cap' to ease impact for under-licensed clubs - Agreed to accept reporting of aggregated member numbers for group licensees - Offered Partial Rights Deduction
Councils	<ul style="list-style-type: none"> - Reduced the per-person rate for 20% of the population - Applied a lower rate for rural councils - Agreed to apply the rate to the lowest population of the previous three years - Extended phase-in period from three to four years
Dance Schools	<ul style="list-style-type: none"> - Removed 'per-location' fees from Events and Copying rates, and amended for Classes rate - Split the copying rate to make more affordable for schools only doing one type of copying - Split the events rate to provide a lower fee for schools only conducting one event per year - Clarified approach to Syllabus Music

CHANGES MADE TO VARIOUS ONEMUSIC LICENCE SCHEMES AS A RESULT OF CONSULTATIONS

Retail & Service Providers	<ul style="list-style-type: none"> - Capped fees for very large premises - Added an additional rate tier for very small premises - Removed open-ended per-1Km2 rate for large businesses, effectively capping rates - Simplified Bronze tier rates - Offered Partial Rights Deduction - Post-consultation: added 'Silver Lite' tier to cater for a common category, retailers playing from a single non-digital device - Post-consultation: removed higher-level tiers for Bronze and Silver Lite, effectively reducing maximum fees
POIAA	<ul style="list-style-type: none"> - Added extra tier for very small locations - Simplified Bronze tier rates - Removed open-ended per-1Km2 rate for large businesses, effectively capping rates
Councils/LGAs	<ul style="list-style-type: none"> - Added Council/concession fitness classes to coverage - Included the right for third parties hiring council-owned/operated spaces using music in coverage - Added a four-year phase-in period to minimise impact on previously under-licensed LGAs - Made first year rate available from 1 July 2018 on a voluntary basis - Amended relevant population figure for fee calculation to the lowest figure over the previous three years to account for fluctuations in LGAs - Added a 20% discount applicable to 20% of the council's population figure
Karaoke	<ul style="list-style-type: none"> - Included separate rates for Joint Rights and Single Rights - Removed bundling of Telephone On Hold rates with Karaoke rates to make TOH optional - Bundled background music with Karaoke music - Added additional capacity tier - Increased phase-in period to four years
Live Adult Entertainment (Post-consultation)	<ul style="list-style-type: none"> - Performance music: changed from flat daily rate to per-attendee rate, phased in over two years, removed bundled Background Music - Background Music: changed to same model as Hotels
Telephone Hold Music	<ul style="list-style-type: none"> - Added clarification for customers using VoIP or Cloud-based systems, and how they should report caller capacity lines
RMFD	<ul style="list-style-type: none"> - Agreed to an attendance-based rate, capped at capacity - Reduced the per-attendee rate
Community Halls	<ul style="list-style-type: none"> - Added flexibility to enable reporting of 'relevant capacity', or 'as hired'
Function/Convention Centres	<ul style="list-style-type: none"> - Introduced optional flat annual rate - Allowed for reporting of 'relevant capacity' or 'as hired' and allowing for different room configurations
Cruise Ships	<ul style="list-style-type: none"> - Introduced Advance Payment discount - Introduced Large Vessel discount

DATE: 13 October 2017

HOTELS, PUBS, TAVERNS AND BARS MUSIC LICENSING CONSULTATION

OneMusic Australia is a joint venture initiative of APRA AMCOS and PPCA.

APRA AMCOS is the trading name of the Australasian Performing Right Association and the Australasian Mechanical Copyright Owners Society. APRA AMCOS grants licences for the live performance, broadcast, communication, public playing or reproduction of its members' and affiliates' musical works. APRA AMCOS then distributes the licence fees collected to its 95,000 songwriter, composer and music publisher members, and affiliated societies worldwide.

PPCA is the Phonographic Performance Company of Australia Ltd. PPCA grants licences for the broadcast, communication or public playing of recorded music (such as CDs, records and digital downloads or streams) and music videos. PPCA then distributes the net licence fees collected to its licensors (generally record labels) and registered Australian recording artists.

In the second half of 2018, APRA AMCOS and PPCA intend to launch the OneMusic Australia partnership to provide a one-stop shop for the music licence needs of hotels, pubs, taverns and bars and remove the requirement for these kinds of venues to obtain multiple licences separately from APRA AMCOS and PPCA. Currently, venues such as hotels, pubs, taverns, bars and other similar venues (hereafter 'Hotels') can require up to 10 different licences from each of the two organisations to cover their use of copyright music.

OneMusic Australia aims to harmonise existing tariffs, simplify music licensing, reduce administrative burden for our customers and counter market confusion around the difference between APRA AMCOS and PPCA. An eCommerce facility for the purchase and maintenance of music licences will ensure that businesses have access to the correct licences, allowing easy account management with OneMusic Australia. Given that 93% of bars, pubs and clubs in a UK survey agreed that playing music creates a better atmosphere for customers and one in three hospitality business owners said that they would rather lose a day's trade than permanently cease playing music for customers and staff¹, we believe that this new licensing structure will be of great value to these kinds of venues.

In association with Recorded Music New Zealand, APRA AMCOS has been operating OneMusic New Zealand for more than three years, and it has been a huge success. It has simplified the process of music licensing for similar businesses in New Zealand, increased awareness of copyright and compliance but also ensured that music remains an important, valuable and legal input to businesses everywhere.

APRA AMCOS and PPCA, trading as OneMusic Australia, are parties to the Code of Conduct for Collecting Societies and have a policy to consult, where appropriate, with relevant industry bodies or licensees when developing and implementing new or revised licence schemes for the use of music. We believe that receiving input from music users allows us to better understand how music is used across different industries. Consultation also ensures that our clients have a better understanding of how royalty payments flow and the purpose of such licences, which in turn leads to improved ongoing relationships.

This document serves as notification that OneMusic Australia intends to review the way in which Hotels are licensed to use music with a view to implementing a new, wide-ranging and simplified music licensing scheme. For venues which use music in ways other than those discussed in this paper, our proposed schemes for Dining and for Recorded Music For The Purpose Of Dancing might be relevant to your music use, and consultation documents for these schemes can be found on our website [here](#).

Please note also that this paper is not for the purpose of consultation on the individual distribution processes to members, licensors and affiliates undertaken by APRA AMCOS and PPCA, which are a matter for those organisations' respective Boards.

Further information about OneMusic Australia can be found [here](#).

¹ Research was conducted by VisionCritical in April 2012 among 1,000 UK businesses and Entertainment Media Research (EMR) in 2009 among 2,000 UK consumers. EMR also conducted the research in 2010 among 400 small retailers, hairdressers, offices and factories.
Source: <http://www.musicworksforyou.com/research/business-sectors/33-restaurants-and-cafes>

CONSULTATION TIMELINE

OneMusic Australia expects that the consultation on the proposed licence scheme will progress as follows:

- a) Circulation of this first consultation paper for response;
- b) Consolidation of responses;
- c) Depending on the initial feedback, the circulation of a second consultation paper if required, taking into account submissions made at part b) above;
- d) Final submissions accepted and integrated where appropriate; and
- e) Written documentation provided to businesses serving as at least three months' notification of the commencement of the new scheme.

THE PROPOSED SCHEME

Hotels currently require multiple licences from both APRA AMCOS and PPCA for their varied use of musical works and sound recordings. The proposed OneMusic Australia scheme, which is detailed below, is structured to consolidate these licences into one simple to administer scheme, which with the Dining and the Recorded Music For The Purpose Of Dancing papers covers the majority of music use across the industry.

The goals of the proposed scheme and the OneMusic Australia joint venture in general are:

- a) To simplify licensees' initial and ongoing reporting and administration requirements (in particular through the development of an eCommerce platform);
- b) To develop future-proofed schemes in preparation for the evolution of audio and audio-visual delivery platforms; and
- c) To develop simple and industry-relevant structures that are fair and equitable across venue types and locations.

It is arguable that Hotels use music more diversely than other types of business. This consultation paper discusses OneMusic Australia's proposed licence fee arrangements for the playing of music in a Hotel as background and featured music, and through the incidental communication of music from the Hotel's website. OneMusic Australia has concurrently released two other consultation papers; (i) the playing of music within dining venues, and (ii) the playing of recorded music for dancing. OneMusic Australia encourages the industry to read and make submissions on these two papers also, if relevant [here](#).

Although there are separate consultation papers, businesses will, through the OneMusic Australia eCommerce portal, be able to cover their venue/s under a single licence application process for all their different music uses.

CONSIDERATIONS

At the outset, OneMusic Australia notes two key points. Firstly, consultations between APRA AMCOS and the Australian Hotels Association (AHA) occurred throughout 2014 to 2016 in an effort to develop a new 'hotels scheme' for APRA AMCOS' rights. OneMusic Australia understands that these consultations were considered largely successful but were ultimately discontinued pending the launch of OneMusic Australia which would additionally include PPCA's rights. Secondly, OneMusic Australia is keenly aware of the symbiotic relationship between Hotels and the music industry. Slim Dusty may have written about a pub with no beer, but it is almost as important to ask what a pub would be with no music.

When developing the proposed scheme, OneMusic Australia took into account the diverse ways in which music is used across Hotels. This includes general background music playing in the Hotel; featured music performances such as live performers, performers using recorded music and patron karaoke; and incidental music played on Hotel websites. OneMusic Australia is of the view that as the evolution of multi-purpose venues in Australia continues, the way in which music is used by these kinds of businesses will also evolve.

For this reason, OneMusic Australia explored multiple potential licensing metrics for the use of background music, including a rate tiered according to physical premises size similar to that which was implemented by OneMusic New Zealand in 2013. A benefit of this metric is that reporting is simple, licensees can easily budget for their annual fees as their physical premises size is unlikely to change and the scheme would be device-neutral, negating the need to count and report individual music sources. However, when testing this metric for potential use in Australia, OneMusic Australia found that it resulted in significant licence fee fluctuations for many existing APRA AMCOS and PPCA licensees. Due to these fluctuations OneMusic Australia does not believe that such a metric would be appropriate for the Australian market at this time.

OneMusic Australia also tested a metric developed by APRA AMCOS in conjunction with the AHA in 2016 (the 'withdrawn APRA AMCOS scheme')². That metric was based on tiered packages. Each package included a suite of rights; a basic package that covered radio and TV racing screens only and more comprehensive packages covering the use of background music systems, TV screens, jukeboxes, music on hold, website music and other uses. The consultation between APRA AMCOS and the AHA was thorough, and a significant amount of impact testing was undertaken. It was found that this kind of structure mitigated potential licence fee fluctuations to an extent, and encouraged equity across the diverse business models that would be covered by the withdrawn APRA AMCOS scheme, ensuring that businesses were only paying for their particular use of musical content.

Despite broad agreement from the industry on the overall approach of the metric that was proposed in 2016, certain aspects were not accepted by all the relevant industry bodies. In particular, there was a concern among some industry bodies that small, rural Hotels which only use radio or television would be unfairly subsidising those larger Hotels with broader music use. While OneMusic Australia has sought to address such feedback in this proposal, it notes the absolute inevitability that the migration of licensees from multiple licence schemes to a new single scheme based on a new metric will mean that the aggregate licence fee for some Hotels will increase, while for others it will decrease. Furthermore, OneMusic Australia found that the different rights licensed by PPCA and APRA AMCOS – including different rights and licensing mandates in respect of radio, television, music video and websites, as well as the PPCA's dining licence structure – did not fit into the specific packages proposed in the withdrawn APRA AMCOS scheme.

For the above reasons OneMusic Australia proposes to use the broad structure of the withdrawn APRA AMCOS scheme as a foundation for the Hotels scheme now proposed, with some amendments to account for both the industry feedback received in 2016 and the inclusion of PPCA's rights.

In respect of featured music – including live, musical comedy, cabaret, recorded and karaoke – OneMusic Australia considers that the structure agreed in the withdrawn APRA AMCOS scheme remains largely relevant and should be incorporated into the proposed OneMusic Australia scheme - adjusted as required for sound recording rights. Of particular note are the mutually beneficial merits of a single metric covering all three types of featured music performances – that is, live music performances, recorded music performances and karaoke. This will result in the licensing and reporting of the overwhelming majority of performances on a 'per-day' rate. OneMusic Australia is therefore proposing the implementation of that structure in this paper, but adapted to include the PPCA rights.

RIGHTS

As a preface to the proposed structure of the scheme, it is important that readers understand OneMusic Australia's classification of music use as 'background' or 'featured'. OneMusic Australia is of the view that in the context of licensing the public performance of music, the nature and way in which music is used in a featured or foreground context is fundamentally different to its use as background music. This is consistent with the view taken by APRA AMCOS during the aforementioned consultations with the AHA. For this reason OneMusic Australia maintains that different valuations and licensing structures should apply to background and featured music (also referred to as foreground music).

OneMusic Australia does not consider music to be background in nature if either recorded and/or live music used at the Hotel is given prominence as a feature of that Hotel (or indeed any part of that Hotel). The factors which can contribute to music use being given such prominence include but are not limited to:

- Events where the music is compiled, presented and/or performed by a live artist performer, DJ or similar performer who is engaged for the principal purpose of compiling, presenting or performing music to patrons;
- Performances, including patron karaoke performances, which have been advertised to the public as having music as a feature such as 'Live Music Every Friday', 'Karaoke Thursday', or where music is advertised as part of a specific event or series of events;
- Nights of operation where the music has been compiled with a particular or recognisable theme such as 'Retro Night'; or
- Performances which are associated with a particular music-related theme, such as 'Friday Night Beats' or 'Sunday Jazz'.

Music in this context includes all works and recordings represented by APRA AMCOS and PPCA respectively. The breadth of repertoire is vast including the worldwide repertoire of many hundreds of thousands of musicians, and millions of recordings.

As currently operates under licences issued by APRA AMCOS, any music that is used in a dramatic context will require separate licensing. More information on dramatic context licensing will be released on the OneMusic Australia website shortly.

The rights within this proposed agreement are split into two parts. Each of these parts is separately detailed in the paper below.

² These consultations also considered other metrics including bar takings, alcohol sales, capacity and liquor licensing fees. All were rejected for various reasons and given the short time period that has elapsed, OneMusic Australia did not reconsider these options. 3

PART 1: GENERAL MUSIC USED IN THE VENUE

- a) Playing background music in the Hotel in publicly accessible areas³, and employee-only areas such as kitchens and stockrooms;
- b) Copying tracks, by the licensee, for the purpose of playing them as background music in the Hotel (subject to certain restrictions);
- c) Screening free-to-air and subscription television, and music videos in the Hotel; and
- d) Streaming music on the Hotel's website (provided that it is incidental and that the primary purpose of the website is not the streaming or sharing of musical content).

PART 2: FEATURED PERFORMANCES AT THE VENUE

Organising or authorising performances and events that include:

- live performances (such as live bands, singers, open mic nights);
- the provision of featured recorded music;
- the provision of patron-based karaoke performances; and
- other performances (such as musical comedy shows or cabaret shows).

The scope of the proposed rights is significant and together with the *Dining and Recorded Music for Dancing* [consultation papers](#) (which have been released concurrently with this paper) cover what OneMusic Australia believes to be the majority of music uses across the industry.⁴ Please note, this scheme excludes the synchronisation of music with video footage. These rights are generally held by record companies and music publishers and require separate clearance and licensing.

STRUCTURE

The proposed scheme for Hotels has been developed as a user-pays structure which is split into two parts.

All rates referred to in this document are inclusive of GST. All fees (excluding any percentage-based rates) under this scheme will increase annually in line with the weighted average of eight capital cities Consumer Price Index. Where applicable, minimum and maximum fees have been noted in each part.

PART 1: GENERAL MUSIC USED IN THE VENUE

A. Background music and television screens

This part of the proposed scheme covers Hotels for their use of background music, music videos and television screens which are either audible and/or used to screen music videos. The format of the proposed licensing structure for these rights is similar to the structure proposed by APRA AMCOS to the sector in 2016. Currently, Hotels can require up to four different licences for their use of music in this context from APRA AMCOS and PPCA. In contrast, the proposed structure simply requires a Hotel to pick from one of five tiers according to their needs and therefore provides administrative efficiencies compared to the existing licensing landscape.

A licence is required from OneMusic Australia for businesses that use television screens to show free-to-air, pay or subscription television and downloaded programs (including catch-up television or similar) and/or to screen music videos in formats such as DVDs, recorded programs and direct from the internet (including YouTube and Vevo). Currently the use of screens is licensed differently by APRA AMCOS and PPCA at different rates depending on the size of the screen. PPCA also licenses the public screening of music videos separately. OneMusic Australia notes that fees which are dependent on screen size are a historical carryover from previous licensing policies and the commencement of new licence arrangements provides an opportunity to remove this distinction.

During discussions with AHA in respect of the withdrawn APRA AMCOS scheme, it was recognised that although the number of screens was relevant to the licence fee payable by a Hotel, there was a desire for this metric to be removed. In the end it was not possible to do this and a 'middle-ground' was reached whereby the number of televisions used was grouped into bands. OneMusic Australia proposes this same basic structure but modified to handle the differing rights administered by APRA AMCOS and PPCA.

³ Tariffs for restaurant areas in hotels, pubs, bars and taverns are covered in a separate consultation document available [here](#).

⁴ Please note that OneMusic Australia licences for featured music performances (involving live artists and DJs) will include a limitation relating to musical works and sound recordings performed at political events.

Accordingly, OneMusic Australia has adapted the withdrawn APRA AMCOS scheme to include the use of sound recordings and the public screening of music videos controlled by PPCA. The rates in this proposal however, are slightly different, with those in the Bronze Package in particular seeing a decrease from the originally proposed APRA AMCOS rate of \$250 to the OneMusic Australia rate of \$200 per premises. OneMusic Australia also notes that the increased tariff for the Silver, Gold, Platinum and Diamond Packages, which now include PPCA's rights, are less than the current pricing for the same type of uses. By way of example, in the proposed Gold Package, the OneMusic Australia rate is \$450 more than the original APRA AMCOS Gold Package but this includes use of sound recordings in background music systems, audio jukeboxes and music videos, where the current PPCA price starts at \$913.52.

Fig. 1

Package	Racing TV Screens	Radio	TV Screens (receiving broadcasts only)	Background and Digital Music Systems** (including Audio Jukeboxes)	TV Screens Showing Music Videos (including Video Jukeboxes)	Total Licence Fee
Bronze	Any Number	Any Number	Single Screen Only	N/A	N/A	\$200
Silver	Any Number	Any Number	Single Screen Only	1 Only	N/A	\$525
Gold	Any Number	Any Number	2 – 6 Screens	Any Number	Any Number	\$1,200
Platinum	Any Number	Any Number	7 – 9 Screens	Any Number	Any Number	\$2,100
Diamond	Any Number	Any Number	10+ Screens	Any Number	Any Number	\$3,350
** Includes devices such as tablets, smartphones, computers and CD players.						

Note that in Fig. 1 the boxes indicated as 'N/A' are not included in that package category. The Silver Package, for example, covers Hotels to use music on racing and TV screens, by way of traditional broadcast radio (i.e. not internet) and through one background or digital music system (including a tablet, smartphone or audio jukebox) only. It does not permit the use of multiple background music systems (including where different music is played in different areas of the hotel) or showing music videos. OneMusic Australia also notes that the flat fees within this structure will, in most cases, result in fees which are lower than they would be should licensees take out all those rights individually from APRA AMCOS and PPCA under the current schemes available. For example, a client using the devices available within the Silver Package under the OneMusic Australia scheme would, under the current schemes, be paying at least \$644.85⁵. Under the proposed scheme that same client would pay \$525 when OneMusic Australia launches in late 2018.

This structure minimises the need to count the type and total number of devices used across the premises – which is a requirement to calculate the current APRA AMCOS licence fees payable. Furthermore, the fee applies across the whole premises, not per room – the metric used in the current PPCA licence – meaning that venues will not have to report to OneMusic Australia their different areas and the size of each area, or update their licence when equipment is relocated within the venue.

OneMusic Australia notes that there are other differences between the packages in the proposed scheme and the withdrawn APRA scheme. Specifically the Gold, Platinum and Diamond packages included music use in restaurant/dining-areas, on hold, in the workplace and on the website. OneMusic Australia has formed the view that the average cost of the PPCA restaurant licence precludes such use from a bundled package structure and that because relatively few Hotels use music in the other three instances, it is more appropriate that these are charged on a straight user-pays basis.

OneMusic Australia believes that this proposed structure provides an administratively easy licensing solution for Hotels, will result in more limited licence fee fluctuations than other models and deliver a licence fee neutral position across the industry.

⁵ The rate would be higher depending on the size of the TV screen (APRA AMCOS) and the number of rooms (PPCA). Rate applicable at August 2017.

B. Copying music

The advent of smartphones and digital music services has increased the music options available to businesses. While new digital music services provide a degree of choice and control not available when using radio stations or CDs, they do not offer the demographically targeted and individually curated playlists designed for their clients by background music service providers. As it currently stands in Australia, almost all businesses that provide publicly available digital music streaming and download services limit their service to personal and domestic use. Furthermore, the making of copies of recordings (for example of a CD or a digital download) is permitted under the Copyright Act for domestic listening purposes, but this does not extend to public performances (i.e. the type of performance that occurs in a Hotel). Therefore any public performances and reproductions (including by the operation of the service itself, such as caching or storing for offline use) require licensing. Such a music licensing solution has been available from APRA AMCOS and PPCA separately for several years and will continue to be offered by OneMusic Australia. That said, OneMusic Australia reminds businesses that if they are using a digital music service, they should refer to the Terms and Conditions of the service's end user agreement to determine if there are other permissions they may require (including from the service provider itself) that are not under the control of OneMusic Australia.

Although APRA AMCOS and PPCA have licences for businesses that permit a business to use, cache or make copies of music for the purpose of playing as background music covered under Part 1(A) above, there are notable differences in the two existing structures. The current PPCA scheme is limited to a maximum of 250 tracks per year on a cumulative basis, whereas the APRA AMCOS scheme is tiered depending on the maximum number of tracks copied on the relevant device at one time.

OneMusic Australia recognises that a balance must be achieved between ease of compliance on the one hand and a flexible structure to accommodate the needs of Hotels on the other. To that end OneMusic Australia seeks specific feedback on the two proposed licensing options set out below in *Fig. 2* and *Fig. 3*. Under *Fig. 2*, which follows the current PPCA structure, Hotels would pay a specific amount for the number of copies they make each year, capped at 1,000. Hotels would, however, be able to build up a larger library over time. Under *Fig. 3*, modelled on the current APRA AMCOS licence, Hotels would pay a fee that allows them to keep up to 2,000 copies at any one time and within that limit are able remove and add tracks to keep their music fresh as long as they keep within the 2,000 cap. Ultimately, either the structure in *Fig. 2* or *Fig. 3* could be offered as part of this scheme, depending on feedback received from the industry. Both options would not be made available concurrently however.

Fig.2

TRACKS COPIED PER YEAR PER LOCATION	RATE PER YEAR (INC GST)
1 – 500	\$400
501 – 1,000	\$800

Fig.3

MAXIMUM NUMBER OF TRACKS PER DEVICE AT ANY ONE TIME	RATE PER YEAR (INC GST)
2,000	\$600

This component of the scheme covers only reproductions made by the licensee for the particular venue that holds the public performance licence (where the music is not provided by a licensed background music supplier), and does not cover reproductions for any other location that the business may operate. A business with multiple locations would need to pay the above licence fee on a location by location basis. The reproduction of music videos for any purpose, and the copying of sound recordings on to jukeboxes, is excluded. The proposed scheme also does not cover the reproduction of music for the purpose of synchronisation with video footage.

For those venues wishing to make copies outside of these limits, further licensing, including potential source licensing, will be required as these are uses that are not within the rights controlled by OneMusic Australia.

C. Website music use

OneMusic Australia recognises that many Hotels operate websites to provide an online presence for their business. Accordingly, for those Hotels that stream music in the form of audio-only content on their website, it is proposed that this licence scheme will include this right at a flat fee of \$550 per year, including GST. In order to provide Hotels with the requisite rights, this proposed rate is double the existing APRA AMCOS standalone 'online mini' licence fee that APRA AMCOS has made available for several years.

The rights that OneMusic Australia is able to license for online uses are limited, in part because of restrictions on the use of music in advertisements. Under this part of the scheme businesses must:

- limit music use to audio-only content;
- only use music where it is incidental and where the primary purpose of the website is not the streaming or sharing of musical content;
- use no less than 5 and no more than 15 tracks playing in a random linear, non-interactive loop;
- not derive any revenue from the playing of music; and
- only stream music from their website (e.g. does not include use on a business' Facebook or YouTube pages).

In circumstances where these criteria are not met, separate licensing will be required, including the possibility of source licensing from content owners.

OneMusic Australia believes that the scope of this licence will cover the overwhelming majority of needs of Hotels. Those venues that require a wider scope (including for example online audio-visual or synchronisation rights) should seek advice from APRA AMCOS and PPCA on licensing options.

REPORTING FOR PART 1: GENERAL MUSIC USED IN THE VENUE

Venues will have the ability to declare their usage and update their general background music coverage easily through our eCommerce system once per year on the annual anniversary of their licence start date.

As noted above, Hotels will no longer be required to separately provide details of

- the type of devices used to play background music;
- the number of devices used to play background music;
- the number of separate areas using background music across the venue (other than for specific dining areas); and
- the physical size of each of those areas.

OneMusic Australia is of the view that the minimal reporting requirements applicable to this scheme will reduce transaction and administrative costs for Hotels, making licensing easier and therefore encouraging a higher level of compliance across the industry.

IMPACT FOR PART 1: GENERAL MUSIC USED IN THE VENUE

OneMusic Australia has undertaken in-depth research, analysis and testing across the data collected from existing APRA AMCOS and PPCA licensees in order to develop the proposed licensing model and fees. In respect of background music, by moving from the current licensing metrics – which are based on premises size under PPCA's scheme and devices under APRA AMCOS' scheme – fluctuations in licence fees occur.

OneMusic Australia has found that for those licensees currently holding APRA AMCOS and PPCA licences, the impact of moving to the proposed structure is a decrease in licence fees of approximately 10% across the industry. However, our analysis shows that there are a number of Hotels that are currently licensed only by APRA AMCOS or PPCA but actually require licences for the rights offered by both organisations. AMCOS and PPCA recommend that Hotels revisit their licensing status now, rather than wait for OneMusic Australia to commence, in order to ensure they are fully covered and not unintentionally infringing.

PART 2: FEATURED MUSIC USED IN THE VENUE

The difference between background music and featured music has been discussed above as part of the section headed 'Rights'.

OneMusic Australia believes that the current licensing structure for Hotels that use featured music can be simplified. Currently, licensees are required to account to APRA AMCOS and PPCA for their different uses of featured music (being live, recorded and karaoke) through at least six separate licence applications, with Hotels required to provide different information depending on the type of featured music used.

It is OneMusic Australia's understanding that Hotels want to access these different types of featured music without worrying about the impact on their licence fees or needing to obtain additional licences for different usages. The launch of the One Music Australia venture affords licensors and licensees alike the opportunity to align OneMusic Australia's licensing structure with the needs of the industry. OneMusic Australia notes that this would entail concessions from all parties but believes the end result would be a net benefit to all stakeholders. To this end we propose that the use of featured music in a venue will be calculated in one of two simple ways:

Featured Music – Per Day Rate where the highest priced ticket (if there is a ticket) is no more than \$40

The per day rate is proposed to be scaled according to the capacity of the area in which the featured music is used. This may be the whole venue, or a designated area used for the purpose of providing featured music to patrons. Capacity in this context is the number of patrons licensed by the local government, liquor licensing body or fire department as applicable to that venue or area of the venue. Moreover, OneMusic Australia is proposing that the per day rate is the same whether the venue is offering live, recorded or karaoke featured music entertainment. In this way a Hotel can swap between different forms of featured music without impacting their licence fee. The proposed fee structure is as follows:

Fig.4

CAPACITY OF AREA	RATE PER DAY/NIGHT (INC GST)
< 100	\$12
101 – 200	\$24
201 – 400	\$48
401 – 600	\$72
601 – 800	\$96
801 – 1,000	\$120
>1,000	\$180

It is proposed that the licence fees calculated by reference to the table above are subject to a minimum annual fee of \$120 including GST.

Licensees would have the capability through the OneMusic Australia eCommerce system to report different nights at different capacities, if only part of the venue is operating for the use of featured music. OneMusic Australia believes that this is appropriate as many Hotels open different parts of their premises on different nights to account for fluctuations in trade across nights of the week.

For example, a Hotel may have DJ-presented performances 52 nights per year in their main room with a capacity of 200 people, and 52 nights per year of live performances (no cover charge) in a mid-sized room with a capacity of 100. It is proposed that this venue would be able to report each of these 'blocks' of nights with different capacities separately to ensure that their licence fee is proportional to the way they are using featured music.

Hotels which are considered to be dedicated karaoke venues – that is, that the primary purpose of their business is to provide karaoke facilities to their patrons – are not covered by this proposed scheme. The proposed metric for dedicated karaoke venues has been detailed in a consultation paper available [here](#). OneMusic Australia is of the view that the nature and volume of the use of karaoke at a dedicated karaoke venue requires an alternative licence structure.

In the withdrawn APRA AMCOS scheme an additional alternative metric for featured music, based on attendance numbers, was also put forward to the industry. OneMusic Australia considered this option in preparing this proposed scheme. On balance however, a per-attendee rate has not been included, noting that:

- a) there are more complicated compliance issues surrounding the reporting of attendance numbers; and
- b) for other tariffs, specifically for 'featured recorded music' and 'recorded music for dance', when compared to the existing APRA AMCOS rates, OneMusic Australia has proposed a move away from an attendance-based tariff.

That said, OneMusic Australia welcomes further comment from the industry on the inclusion of this alternative metric including how such numbers could be easily verified without resort to audits.

Featured Music – Box Office Rate where the highest priced ticket is more than \$40

If a venue hosts an event such as a live artist, DJ, musical comedy or cabaret event and the highest priced ticket or admission fee to the venue or event exceeds \$40⁶, OneMusic Australia proposes to apply a different licensing metric to ensure consistency across the way featured music performances are licensed in venues, irrespective of whether these events are hosted by a venue or a music promoter.

This proposed fee calculation is based on a percentage of the gross sums paid for admission across the course of the year, as follows:

Fig.5

TYPE OF FEATURED MUSIC PERFORMANCE	% OF BOX OFFICE (INC GST)
FEATURED PERFORMANCES NOT USING RECORDED MUSIC	2.2%
FEATURED PERFORMANCES USING RECORDED MUSIC	4.4%

It is proposed that a minimum annual licence fee of \$120 (including GST) will apply to this structure.

At this stage, OneMusic Australia intends to maintain the APRA AMCOS licensing policy and therefore proposes that Hotels will not need to report performances promoted by a OneMusic Australia recognised National Event Promoter (a list of current National Event Promoters licensed with APRA is available from the APRA AMCOS website [here](#)). OneMusic Australia notes that a separate consultation paper covering concerts and events is to be released later this year.

REPORTING FOR PART 2: FEATURED MUSIC USED IN THE VENUE

It is proposed that Hotels would report their usage under this component to OneMusic Australia annually. Venues would need to provide to OneMusic Australia:

- The number of days/nights when featured music was used during the previous reporting period;
- The number of those performances that were live performances only, performances incorporating recorded music and karaoke nights;
- The capacity of the venue or designated area within the venue where featured music was used (which can be adjusted if parts of the venue are closed on particular days or nights);
- Which events had a ticket price of \$40 or over and the gross sums taken for admission as an aggregate across those events or days/nights; and
- The name of the venue or area within the venue where the featured music was used.

Clients would need to report this at the end of each year to allow OneMusic Australia to issue provisional licences for the upcoming year, and to adjust the figures from the preceding year and raise invoices accordingly. As per PPCA's and APRA AMCOS' current arrangements, it is proposed that invoices would be issued on a provisional basis subject to adjustment on actual usage.

⁶ The highest priced ticket, cover or admission cost is the ticket which is most expensive – such as a VIP or late entry ticket. The proposed \$40 ticket, admission or cover fee threshold includes GST and booking or handling fees.

IMPACT FOR PART 2: FEATURED MUSIC USED IN THE VENUE

OneMusic Australia's modelling suggests that the overall impact will be licence fee neutral but notes that the new tariff structure may influence the type of featured music used by Hotels, the result of which could cause an overall increase or decrease in licence fees. Furthermore, as noted above, OneMusic Australia is aware that those venues which have not obtained the correct licensing to cover their use of featured music previously will likely experience licence fee variations in moving from their current licensing arrangements to the new structure.

OneMusic Australia believes that merging the three kinds of featured music use which are common to the sector will result in easier administration for clients, simpler reporting under one scheme and a higher level of compliance across the industry.



SUBMITTING YOUR FEEDBACK

OneMusic Australia is committed to developing music licensing schemes that are fair, equitable and relevant to Australian industries. Your feedback on the above proposal is integral to this process.

We believe that this proposed scheme for music use in Hotels is incredibly extensive and the scope of rights offered covers the majority of music use across the industry. We have undertaken in-depth user experience testing and have considered the way that our clients want to communicate with us and to obtain their licensing in an administratively easy manner. We believe that this user pays, opt-in style scheme will ensure that:

- smaller Hotels with less music use will not be subsidising larger venues with greater music use;
- reporting is simple and undertaken for each part of the licence scheme at the same time each year; and
- licence fee calculation is easy and the metrics lend themselves to easy budgeting for clients.

Please note that OneMusic Australia has not sought to review the overall value of music used in hotels under its new combined licence scheme. OneMusic Australia's approach, consistent with our announcement of the venture, has been to create, so far as possible, a new licence scheme that provides increased simplicity for businesses, including the reduction in the number of music licences required. Accordingly, while comments on the general structure of this proposal and possible alternative approaches are welcome, OneMusic Australia's position is that submissions advocating a fundamental reappraisal of the overall value of music used in hotels are more appropriately the subject of separate discussions, which may include the use of Alternative Dispute Resolution or the involvement of the Copyright Tribunal of Australia, if required. Should the parties deem it necessary to enter into a separate and more fundamental revaluation negotiation of this nature, it may mean that in the meantime OneMusic Australia would be obliged to launch with the existing separate licence structures currently offered by APRA AMCOS and PPCA.

While we believe that the proposed scheme will be of great value to Hotels, we welcome your feedback in general and in relation to the specific questions OneMusic Australia has raised.

Your comments allow us to ensure that the licence schemes we develop are not only theoretically sound, but can be also practically applied in a simple and equitable way across the industry.

Please provide your feedback in the form of a submission to consultation@onemusic.com.au by close of business 12 November 2017. All submissions must be in a Microsoft Word or PDF format.

FURTHER QUESTIONS

If you have any questions or would like to discuss the proposal further, please email questions@onemusic.com.au and we will be in touch.

DATE: 1 November 2018

HOTELS, PUBS, TAVERNS, BARS, ACCOMMODATION HOTELS AND CASINOS SECOND CONSULTATION PAPER

This is the second consultation paper we've released on the proposed OneMusic Australia rate for Hotels, Pubs, Taverns and Bars, which now also includes Accommodation Hotels and Casinos. As the paper covers a number of different types of music use and rates, it is divided into four sections:

Section 1: Definitions

Section 2: Proposed new OneMusic licence fees

Section 3: Summary of amendments to the proposed licence

Section 4: Feedback and background to the proposed licence and rates

SECTION 1: DEFINITIONS

The following definitions, listed here in alphabetical order, are relevant to the proposed OneMusic licence scheme for Hotels, Pubs, Taverns and Bars set out in this document, and will assist in choosing the rates you need to cover the ways you use music. The definitions will form part of the final terms and conditions offered by OneMusic, subject to possible minor amendments required to draft into the agreement but not changing the intent of the meaning.

Capacity

"Capacity" means the number of patrons licensed by the Local Government, Liquor Licensing body or Fire Department (as applicable to that venue). Examples of official sources licensees can use when determining the capacity of their venue include:

- ACT: the occupancy loading for each relevant area from the venue's Licensed Premises Plan;
- NSW: the patron capacity from the venue's liquor licence, or capacity from the venue's Development Consent;
- NT: the maximum number of persons permitted to occupy the licensed premises as assessed by the Northern Territory Fire and Rescue Service;
- QLD: the occupancy limit from the venue's occupancy notice provided by the Office of the Commissioner of the QFES;
- SA: the total capacity from the venue's liquor licence, or capacity set by local council or a registered private certifier;
- TAS: from the venue's council Occupancy Permit;
- VIC: the maximum patron capacity from the venue's liquor licence or Council occupancy permit;
- WA: the maximum accommodation from the venue's Department of Health Certificate of Approval.

Where official sources are not available, or in cases where a venue operates at a lower capacity than the capacity stated on official sources, (for example where a nightclub area is partitioned to make it smaller during slow periods, or if areas of the nightclub are regularly closed to patrons on particular nights), OneMusic may agree to a variation to the reported capacity provided supporting documentation is supplied. Where a layout plan of the premises is supplied delineating the operating nightclub area, OneMusic Australia will calculate capacity at 1 person per 0.75 square metres of space accessible by patrons

Corporate and Workplace Music Use

“*Corporate Music Use*” means to:

- a) perform music by any means for the benefit of employees or their family or corporate guests at the premises, and at functions and places to which the general public is not admitted, except at any non-ticketed conference, event or other function where artist expenditure is \$50,000 or more;
- b) perform music in reception or front-of-office areas that are open to the public;
- c) allow employees to play music at their desks during their work day (including via radios, streaming services, CD players); and
- d) permit the copying of music from legally obtained sources for the purposes noted above.

Dance Use

“*Dance Use*” means the playing of recorded music for the purpose of dancing.

Dining

“*Dining Business or Establishment*” means a specific area within a multi-function establishment (e.g. a pub, club or entertainment complex):

- a) that is open to the public; and
- b) where the primary function is either:
 - (i) the sale of food, with or without beverages; or
 - (ii) the sale of hot beverages (e.g. tea, coffee) alone or in conjunction with the sale of food and which is not licensed for the consumption of alcohol; and
- c) that has a designated seating area of at least seven seats available for patrons of that business or establishment to consume the food/hot beverages on the premises; and
- d) the music played in the dining area is different to that audible in the rest of the premises, but excluding any area where the provision of food and/or beverages does not include full or part table service.

We have listed at page 4 of this paper (and will include in the plain English guide when published) practical examples of how OneMusic will apply this definition.

Entry Fee

“*Entry Fee*” means a fee charged for admission (even if not charged to all patrons) including but not limited to a ticket price, membership fee or cover charge.

Featured Music

“*Featured Music*” means music (recorded or otherwise) used at the venue that is given prominence as a feature of that venue or any part of that venue. Music that is used in a featured context includes but is not limited to:

- Performances, including Live Music Performances and patron karaoke performances, which have been advertised to the public as having music as a feature such as ‘Live Music Every Friday’, ‘Karaoke Thursday’, or where music is advertised as part of a specific event or series of events; or
- Nights of operation where the music has been compiled with a particular or recognisable theme such as ‘Retro Night’, ‘Friday Night Beats’ or ‘Sunday Jazz’.
- a Live Music Performance.

“*Live Music Performance*” means music that is performed by a Live Artist Performer and includes, but is not limited to, the use of music during days / nights of operation or events where the music is compiled, presented or performed by a Live Artist Performer who is engaged for the principal purpose of compiling, presenting or performing music to patrons.

“*Live Artist Performer*” means any performer participating in the performance of music including featured and associated singers, musicians, DJs, dancers, models and conductors.

Music on Hold

"Music on Hold" means to reproduce onto and communicate music on the business' telephone on hold system.

Recorded Music for Dance Use Venue (RMFD Venue)

For the purposes of this scheme, a venue which provides recorded music for dance use means an establishment or a specific area within a multi-function establishment that:

- a) Provides recorded music for dance use by patrons; and
- b) Has a dance floor or other area for dancing or charges an entry fee (even if the fee is not charged to all patrons); and
- c) Is not being used for
 - i. a non-ticketed private function;
 - ii. a dance or dance party;
 - iii. an event that features ballroom or similar traditional dancing;
 - iv. An event promoted by a National Event Promoter; or
 - v. An event for underaged persons (such as a 'blue light' disco).

This definition covers venues which are stand-alone businesses providing recorded music for dance use, such as nightclubs, as well as venues which are operating as part of a multi-purpose venue, or within a multi-purpose premises in a physically separate area of that premises, where that separate area satisfies the above criteria.

For the sake of convenience we have used the term 'nightclub' throughout this paper but note that the actual tariff covers the use of recorded music for dance use wherever it occurs.

Physically Separate

"Physically Separate" means distinguishable from other areas of the venue. Examples of such distinguishing features include but are not limited to whether there is an Entry Fee for that area, whether the area has its own entrance or it is a separate room, or where it is a separate floor or other space within the venue that has a clearly defined perimeter or access rules.

Racing Screen

"Racing Screen" means a screen used exclusively for the display of thoroughbred, harness or greyhound racing. Where a Racing Screen is regularly used for a purpose other than racing, it must be declared as a TV Screen.

TV Screens – receiving broadcast only

"TV Screens - receiving broadcast only" means screens that only exhibit content received via services over the broadcast service bands or via cable or satellite delivery. This would exclude any internet delivered services. A screen that does not deliver any content containing sound recordings, music videos or musical works is not included.

SECTION 2: PROPOSED NEW ONEMUSIC LICENCE FEES

The proposed fee structure for the use of music in hotels, pubs, taverns and bars (inclusive of GST) is illustrated in the tables below. The rest of this consultation paper contains information about why and how we developed and amended these proposed fees in response to your feedback, and lets you know how to further take part in the consultation process. To find the rate table relevant to your different uses of music:

Background Music Use, with or without Dining: Table 1

Copying music – from CDs, or using a streaming service: Table 1

Music on your website: Table 1

Featured Music and Live Music Performance (using sound recordings): Table 2

Live Music Performance (no sound recordings): Table 3

‘All In’ – a flat annual rate for all of the above: Table 4

Recorded Music For Dance Use (Nightclubs): Table 5

Note that, where you use music in a range of ways, your total licence fee will be the sum of the applicable fees from each relevant table.

Table 1 – Background Music

Package	Radio & Racing ¹ TV Screens	TV Screens (receiving broadcasts only) ²	Background and Digital Music Systems**	TV Screens Showing Music Videos (including Video Jukeboxes)	Background Music Licence Fee	Background Music Plus Dining & 7-30 Capacity	Background Music Plus Dining & 31-50 Capacity	Background Music Plus Dining & 51+ Capacity
Bronze	One racing or broadcast TV screen OR one radio only		N/A	N/A	\$130	\$1,230	\$2,030	\$2,130
Silver	Any Number	Single Screen Only	N/A	N/A	\$200	\$1,300	\$2,100	\$2,200
Gold	Any Number	Single Screen Only	1 Only	N/A	\$525	\$1,625	\$2,425	\$2,525
Platinum	Any Number	2 – 6 Screens	Any Number	Any Number	\$1,200	\$2,300	\$3,100	\$3,200
Diamond	Any Number	7 – 9 Screens	Any Number	Any Number	\$2,100	\$3,400	\$4,000	\$4,100
Sapphire	Any Number	10+ Screens	Any Number	Any Number	\$3,350	\$4,450	\$5,250	\$5,350
Copying		Up to 2,000 tracks at any one time					\$400	
Website		Incidental use only					\$550	

Gold, Platinum, Diamond & Sapphire include Corporate Music Use for your employees at the hotel.

**** Includes Audio Jukeboxes and devices such as tablets, smartphones, computers and CD players.**

If more than one dining area in the hotel has a separate music source, additional fees per relevant capacity will apply

¹Racing Screen means a screen used exclusively for the display of thoroughbred, harness or greyhound racing. Where a Racing TV Screen is regularly used for a purpose other than racing, it must be declared as a TV Screen.

²TV Screens - receiving broadcast only' means screens that only exhibit content received via services over the broadcast service bands or via cable or satellite delivery. This would exclude any internet delivered services. Of course, in this scheme context, a screen that does not deliver any content containing sound recordings, music videos or musical works is not included.

Table 2 – Featured Music including Live Music Performance (with sound recordings)

Relevant Table 1 fee, plus the following, as required:

FEATURED MUSIC AND LIVE MUSIC PERFORMANCE (WITH SOUND RECORDINGS) PER NIGHT RATE**					
CAPACITY	OFFERED UP TO 56 NIGHTS PER YEAR	OFFERED 57 TO 104 NIGHTS PER YEAR*	OFFERED 105 TO 156 NIGHTS PER YEAR*	OFFERED 157 TO 208 NIGHTS PER YEAR*	OFFERED 209 TO 365 NIGHTS PER YEAR*
1 to 25	\$3.99	\$3.80	\$3.60	\$3.39	\$3.19
26 to 50	\$7.99	\$7.59	\$7.19	\$6.79	\$6.39
51 to 75	\$11.98	\$11.38	\$10.79	\$10.29	\$9.58
76 to 100	\$15.97	\$15.17	\$14.37	\$13.57	\$12.78
101 to 200	\$31.94	\$30.34	\$28.75	\$27.15	\$25.55
201 to 350	\$55.90	\$53.11	\$50.31	\$47.52	\$44.72
351 to 500	\$79.85	\$75.86	\$71.87	\$67.87	\$63.88
501 to 750	\$119.78	\$113.79	\$107.80	\$101.82	\$95.82
751 to 1000	\$159.70	\$151.72	\$143.73	\$135.75	\$127.76
1001 +	\$273.78	\$260.09	\$246.40	\$232.71	\$219.02
ATTENDANCE RATE ##					\$0.28

Note: where all the recorded music has been directly licensed or where there is no use of sound recordings, the Live Music Performance (no sound recordings) rate applies.

Table 3 – Live Music Performance (no sound recordings)

And/or the following, as required:

LIVE MUSIC PERFORMANCE (NO SOUND RECORDINGS) PER NIGHT RATE**					
CAPACITY	OFFERED UP TO 56 NIGHTS PER YEAR	OFFERED 57 TO 104 NIGHTS PER YEAR*	OFFERED 105 TO 156 NIGHTS PER YEAR*	OFFERED 157 TO 208 NIGHTS PER YEAR*	OFFERED 209 TO 365 NIGHTS PER YEAR*
1 to 25	\$2.00	\$1.90	\$1.80	\$1.70	\$1.60
26 to 50	\$4.00	\$3.80	\$3.60	\$3.40	\$3.20
51 to 75	\$5.99	\$5.69	\$5.40	\$5.15	\$4.79
76 to 100	\$7.99	\$7.59	\$7.19	\$6.79	\$6.39
101 to 200	\$15.97	\$15.17	\$14.38	\$13.58	\$12.78
201 to 350	\$27.95	\$26.56	\$25.16	\$23.76	\$22.36
351 to 500	\$39.93	\$37.93	\$35.94	\$33.94	\$31.94
501 to 750	\$59.89	\$56.90	\$53.90	\$50.91	\$47.91
751 to 1000	\$79.85	\$75.86	\$71.87	\$67.88	\$63.88
1001 +	\$136.89	\$130.45	\$123.20	\$116.36	\$109.51
ATTENDANCE RATE ##					\$0.14

Note

* In each category, where Featured Music is offered 56 or more nights a year, four nights will be included at no charge.

** Where the highest priced ticket or Entry Fee is no more than \$40. Where ticket or entry fee exceeds \$40, a separate OneMusic licence is required.

For Featured Music use where there is an Entry Fee; the venue keeps accurate nightly attendance figures; and the venue agrees to provide an annual statement of attendance and nights of operation with a written declaration by an authorised person warranting the veracity of those figures.

Table 4 – ‘All In’ Annual Rate

Covering Background/Copying/Website/Featured/Dining Music Use – but excluding Recorded Music for Dance Use (Nightclubs)

TOTAL CAPACITY OF FEATURED MUSIC AREA(S)	ANNUAL LICENCE FEE
1 to 25	\$4,438
26 to 50	\$5,528
51 to 75	\$6,609
76 to 100	\$7,694
101 to 200	\$12,037
201 to 350	\$18,552
351 to 500	\$25,068
501 to 750	\$35,926
751 to 1000	\$46,785
Because this is a bundled offering, the Partial Rights discount is not available for this rate.	

Table 5 - Nightclubs

Plus the following for Recorded Music For Dance Use, as required:

NIGHTCLUB (RECORDED MUSIC FOR DANCE USE) PER NIGHT RATE					
CAPACITY	OFFERED UP TO 56 NIGHTS PER YEAR	OFFERED 57 TO 104 NIGHTS PER YEAR*	OFFERED 105 TO 156 NIGHTS PER YEAR*	OFFERED 157 TO 208 NIGHTS PER YEAR*	OFFERED 209 TO 365 NIGHTS PER YEAR*
1 to 25	\$44	\$43	\$42	\$39	\$37
26 to 50	\$87	\$85	\$83	\$79	\$75
51 to 75	\$131	\$128	\$125	\$118	\$112
76 to 100	\$174	\$170	\$166	\$158	\$149
101 to 200	\$349	\$340	\$332	\$315	\$299
201 to 350	\$610	\$596	\$581	\$552	\$523
351 to 500	\$872	\$851	\$830	\$789	\$747
501 to 750	\$1,307	\$1,276	\$1,245	\$1,183	\$1,121
751 to 1000	\$1,743	\$1,702	\$1,660	\$1,577	\$1,494
1001 +	\$1,917	\$1,872	\$1,826	\$1,735	\$1,643
ATTENDANCE RATE **					\$2.52

Note

** Where Recorded Music For Dance Use is offered 56 or more nights a year, four nights will be included at no charge.*

*** For Recorded Music for Dance Use nights where there is an Entry Fee; the venue keeps accurate nightly attendance figures; and the venue agrees to provide an annual statement of attendance and nights of operation with a written declaration by an authorised person warranting the veracity of those figures.*

To see how the proposed OneMusic Australia scheme will apply to your specific circumstances, you can use the calculator found here: www.jotform.com/apraamcos/hotels. To use the calculator, review:

- The devices you use to provide background music in your venue, from a single radio to multiple screens and video jukeboxes.
- If you offer Featured Music on some nights:
 - the capacity of the areas used;
 - the number of nights of operation; and
 - whether you can comply with the requirements to report on attendance numbers.
- If you have an area where the dining rate would apply, and if so the capacity of that area.
- Whether the All-In Rate provides a saving on the aggregate of the above rates.
- If you operate part or all of your hotel as a nightclub on some nights:
 - the capacity of the areas used;
 - the number of nights of operation; and
 - whether you can comply with the requirements to report on attendance numbers.

Using the above information you can determine what the annual fees for your venue would be under this proposal compared to your current total licence fees for APRA AMCOS and PPCA. Remember – these cost comparisons will only be valid if you currently need and hold a licence with both APRA AMCOS and PPCA.

What should I do next?

If you have any questions about OneMusic Australia during this consultation, feel free to ask them at questions@onemusic.com.au

If you'd like to take part in the consultation process, we'd love to hear your thoughts at consultations@onemusic.com.au

SECTION 3: SUMMARY OF AMENDMENTS

OUR CONSULTATION PROCESS WITH YOU

HOTELS, PUBS, TAVERNS, BARS, ACCOMMODATION HOTELS AND CASINOS

OneMusic Australia is consulting with Hotels, Pubs, Taverns and Bars and would like to hear what you think. If you have already provided us with comment, thank you – but as we’ve made a number of changes in this updated proposal your further feedback is welcome and encouraged.

In your venue, you’re likely to be paying licence fees to APRA AMCOS and PPCA, the caretakers of the copyright in the music you use. These fees ensure you’re legally entitled to use music in your venue, and with your support music creators are paid for their contribution to your business.

This is the second consultation paper we’ve released on the proposed OneMusic Australia rate for Hotels, Pubs, Taverns and Bars. We’ve made some adjustments to our original proposal based on the feedback we’ve received so far – thank you.

We acknowledge that some submissions asserted that the existing APRA AMCOS, existing PPCA and/or proposed OneMusic rates are too high. However, these submissions did not include any underlying critical analysis - including relevant data, economic analysis or examination – necessary to give proper consideration or weight to these submissions. If the same assertions still apply to the revised fees in this paper, we invite submissions that include critical assessment and analysis. We’d like you to take a look, and let us know if you have any additional feedback. Remember, this is just a proposal, and may not become the final scheme.

What’s different in the second consultation paper:

- We’ve made it clearer that the rates proposed for hotels also apply to accommodation hotels and casinos. However, for simplicity’s sake we do refer to ‘hotel’ throughout the paper.
- We’ve combined the rates for hotels (Background/Featured Music) with abridged versions of the second round papers for dining and dance use (i.e. nightclub) because many hotels also require this coverage. The full version of those papers is available [here](#). The structure of this paper reflects this change, so it’s a little longer as a result.
- Even though this second paper is long in order to address the extensive feedback we’ve received, the basics of the proposed new rates are set out on the following five pages.

Hotels – Background and Featured Music Use

- We’ve added a lower-priced background music tier for hotels that only have one radio or television, which is cheaper than the current APRA rate.
- We’ve included “attached bottle shops” under all background music tiers – no separate retail licence is required, saving \$144-\$650 per annum for all hotels with an attached bottle shop.
- If you take out one of the Gold, Platinum, Diamond or Sapphire packages, we’ve included coverage for use of music in corporate and workplace areas of your hotel³, such as offices and staff areas, or as music on hold (up to two lines) under the background music rate at no extra cost.
- We’ve increased the number of tiers for Featured Music use to provide for a more graduated approach. We’ve also given you four free nights of Featured Music use where your use of music in that way occurs 56 or more nights per year.
- Alternatively, for Featured Music use where there is an Entry Fee and the venue keeps accurate and verifiable nightly attendance figures, the rate will be based on actual recorded attendance numbers and will also differentiate between circumstances where recorded music is / is not used.
- For businesses that use streaming or download services or copy music from CDs as their source of music, we’ve lowered the proposed price of the annual fee for copying to \$400 for a music library of up to 2,000 tracks, a reduction of \$200 per annum on the initial proposal.

Hotels – Dining Music Use

- We’ve reduced the maximum annual fee payable for Dining music use in each capacity tier, so that the most you’ll pay each year is lower than in our initial proposal. For a hotel with a dining capacity of 31-50 and average meal price of \$24, the maximum fee is now only \$1,900 compared to the current combined APRA AMCOS and PPCA fee of approximately \$3,500.

³For hotel chains this does not include head or other back offices and for casinos and accommodation hotels it does not include reception or front-of-office areas.

- Furthermore, the Dining rate will now only apply where there is a restaurant/dining room/café area with its own music source as per the current APRA AMCOS definition, meaning that many hotels currently covered by the PPCA dining tariff will no longer be categorised as 'dining'. OneMusic may also charge a separate Dining rate, even if music use is the same, where the dining area is leased by a separate business.
- We now propose to continue with the current PPCA practice of applying a reduction of 50% to the background music rate for those accommodation motels and similar businesses where the dining area is primarily for the benefit of residents of that establishment and their guests, and is not promoted to the general public.

Hotels – Background, Featured and Dining All-In Rate

- Because some feedback considered that the proposed structure of the licence scheme in the first consultation paper was too complicated, we have developed an 'all-in' rate to cover all of the music uses otherwise covered under Background, Featured and Dining. We acknowledge that these rates will only be attractive to some hotels, depending on their size and music use.

Hotels – Recorded Music for Dance Use

- We've listened to your concerns and removed the per person capacity metric for Dance Use and simplified the rate into capacity-based tiers. This way we still get a good idea of the relative size of your business to ensure there's a link between use of music and the licence fee, but we won't be charging a 'per person' fee based on capacity.
- However, we've retained the previous structure whereby the more nights per year you open, the lower your nightly fee, and added an extra discount so that when you open for Dance Use 56 or more nights a year you will receive four free nights of music. By way of example this would save a hotel operating a nightclub with a capacity of 120 persons at least \$1,196 a year.
- In addition, for those nightclubs that have an Entry Fee and the nightclub keeps accurate and verifiable nightly attendance figures, licence fees will be assessed on attendance.
- We've explained how we'd like you to report your capacity to us, and how to report a modified capacity depending on how the venue space is configured on different nights, such as reporting a reduced capacity on nights where only one level or room is open.

SECTION 4: FEEDBACK AND BACKGROUND TO THE PROPOSED LICENCE AND RATES

OneMusic Australia is an initiative of APRA AMCOS and PPCA. On 13 October 2017, OneMusic Australia released a consultation paper seeking feedback on a proposed music licensing scheme for Hotels, Pubs, Taverns and Bars. That paper can be found [here](#).

OneMusic Australia received welcome feedback on that paper from hotels, pubs, taverns, bars and industry bodies which has been very helpful in determining if the proposed scheme is practical and accepted by the sector.

This document serves as further notification that OneMusic Australia has reviewed the way in which hotels, pubs taverns, bars, accommodation hotels and casinos are licensed to use music in order to implement a new, wide-ranging and simplified music licensing scheme. This paper is not for the purpose of consultation on the individual distribution processes undertaken by APRA AMCOS and PPCA.

The proposed scheme will commence in mid-2019 and OneMusic Australia will provide due notice to businesses to migrate their existing licences where relevant.

HOTELS INDUSTRY FEEDBACK RECEIVED – BACKGROUND & FEATURED MUSIC USE

OneMusic Australia received feedback from individual venues, Music Victoria (the State peak body for contemporary music), Yarra Music Venues Group, and from the peak industry body, the Australian Hotels Association (AHA). OneMusic Australia also met with the National CEO of AHA to discuss its submission. The feedback received by One Music Australia was straightforward and concerned in the most part with the same issues, so we have used the specific issues raised by the AHA and individual businesses as the basis for this second paper.

The issues raised are as follows:

RATE ISSUES

BACKGROUND TIERS

In order to accommodate those venues with very minimal music use from a single broadcast source, an additional tier for background music has been added, catering for businesses that have only one television or one radio receiving broadcasts. This has become the new 'Bronze' package, and pricing has been set at \$130 per annum, lower than the equivalent current APRA licence for the same use.

BUNDLING OF RATES

OneMusic Australia received feedback as to whether it would consider rolling a number of uses such as those for telephone on hold, dining, and fitness centres into the fee for general music used in the venue. We prefer to make these rates optional for venues that need additional components to acquire them as necessary, particularly in circumstances where we are tailoring the e-commerce system to simplify the process. In this way hotels that do not need coverage for this type of use need not bear the cost, and those that do can easily obtain the necessary extra coverage.

We also have concerns that bundling rights may increase the number of venues that experience an upward variance in annual licence fees under OneMusic Australia. Furthermore, the range of variances between businesses will be broadened.

That said, OneMusic Australia is happy to include coverage for music in the workplace, which applies to music used in areas of a venue that are not accessible to the public, under the original Bronze to Platinum background music packages with no variance to the packages and rates.

However, we have introduced the concept of an optional "all in" annual rate covering background music, featured music, dining music, copying and website use based on the capacity of the featured music area. This bundled offering will not appeal to all hotels but will further simplify licensing for those hotels for which it does.

FEATURED MUSIC

The definition of Featured Music is provided in Section 1 of this paper.

OneMusic Australia received feedback opposing the use of capacity as a metric for the calculation of fees for Featured Music (and also Recorded Music for Dance Use), and we have addressed in more detail concerns about the use of capacity later in this consultation paper. While we maintain that capacity is an efficient metric to determine music licensing rates, we are willing to adjust

these rates to make licensing Featured Music more affordable for both smaller venues and venues that offer Featured Music several days per week. We're also proposing that for venues holding Featured Music events where:

- there is an Entry Fee,
- the venue keeps accurate nightly attendance figures, and
- the venue agrees to provide an annual statement of attendance and nights of operation with a written declaration by an authorised person warranting the veracity of those figures,

the rate will be based on actual recorded attendance numbers and will also differentiate between circumstances where recorded music is / is not used. Where a hotel can do this for live (non-recorded music) performances but cannot for "DJ nights", it would report on attendance and capacity for the two types respectively.⁴ A licensee's election to report attendance subject to the provisions outlined will be fixed for each twelve month licence period and the resulting fee is not subject to review against the capacity-based fee structure.

We also received feedback from venues with a live music focus and the AHA that the proposed single Featured Music rate covering both recorded and live music was problematic. In the first paper we acknowledged the innovation behind the proposal and that acceptance of the approach would require a trade-off between simplicity and accuracy. The feedback shows that hotels preferred accuracy over simplicity in this area and OneMusic now proposes separate rates.

Additionally, any venues that offer Featured Music (per category) more than 56 days per year and pay according to capacity tiers will receive coverage for four of those days at no charge. For example, if the venue offers Featured Music 200 nights a year in an area with a single capacity, OneMusic would only charge for 196 nights.

COPYING

In the first consultation paper, the two options below were proposed for licensing the reproduction, or copying, of tracks. This includes copying from CDs and using streaming or download services.

TRACKS COPIED PER YEAR PER LOCATION	RATE PER YEAR (INC GST)
1 – 500	\$400
501 – 1,000	\$800

Fig.1

MAXIMUM NUMBER OF TRACKS PER DEVICE AT ANY ONE TIME	RATE PER YEAR (INC GST)
2,000	\$600

Fig.2

OneMusic considers that the option at Figure 2 provides the greatest level of flexibility to businesses. In forming this view OneMusic also reviewed the rate and now proposes a reduction to \$400. OneMusic notes that the combined rate is both cheaper than the aggregate of the current two licences and enables the copying of more tracks, so proposes to adopt the structure outlined in Figure 2, at a rate of \$400.

OTHER ISSUES

BETTER OFF/WORSE OFF

Some submissions expressed concern that the tariff harmonisation process set out in the consultation paper could lead to some hotels being 'worse off'. It is impossible to restructure the rates such that there are no variations in the licence fees of individual premises, although we have done all we can to minimise those variations. We note that the desire to ensure that no such variations occur is mutually exclusive to the desire for simplicity in rate structure and streamlined licence management processes, the latter of which obviously requires changes to the rates and will therefore impact on the fee paid by individual hotels.

⁴Election to use attendance subject to the provisions is fixed for the year and the fee is not subject to review against the capacity-based fee structure.

PARTIAL RIGHTS

A number of respondents to the first OneMusic Australia consultation paper for Hotels, Pubs, Taverns and Bars, and indeed Accommodation Hotels and Casinos, have asked about circumstances in which a PPCA licence is not required. We have addressed the circumstances where PPCA licences are not required in the following ways:

- a) the Bronze and Silver packages for background music do not include the use of sound recordings in their fees;
- b) where only live music is performed, and not protected sound recordings or music video clips, the featured live music rates do not include a consideration for the use of sound recordings (and this rate will also apply where all Featured Recorded Music is directly licensed from an entity other than the PPCA); and
- c) in all other circumstances where alternative licences for sound recordings have been obtained from another source, fees will be reduced by 48.25%.

ONEMUSIC NEW ZEALAND

Respondents to the first consultation paper have asked why the licensing fees for OneMusic Australia are not the same as those for OneMusic New Zealand. OneMusic Australia has sought to harmonise existing Australian APRA AMCOS and PPCA fees, neither of which are based on music licensing fees in New Zealand.

The fees and licensing schemes in both territories have been developed from a different historical basis and are not linked, indeed they have varied between the two countries for some considerable time. Licensing schemes and rates can differ greatly across international territories and markets due to historical, structural, and developmental variables, and a comparison of any two will reveal disparities for those reasons. (For example in the UK the APRA AMCOS' equivalent organisation, PRS, has rates for live performances in a hotel that are generally higher than those proposed here).

OneMusic Australia's proposed rates are derived – either directly or indirectly - from existing well established Australian licence schemes operating in the market, many of which have been in place for a long period. If the hotel industry believes that these historical rates are unfair then this can be appropriately addressed through the industry making a reference to the Copyright Tribunal.

CAPACITY VS ATTENDANCE

For the areas of a hotel, pub, tavern or bar that will have a licence that includes a rate based on capacity (for example, a venue that has a restaurant and/or a nightclub area), AHA and other respondents commented that they were concerned about using capacity as a metric on which to base fees.

It seems there is a misconception that a capacity-based scheme means that every night a venue is open and attendance is less than capacity, the venue is over-paying. However, capacity-based schemes do not assume that capacity is the same as attendance.

Using capacity gives a means to obtain a convenient and transparent indication of the value of music under a particular rate and provides for appropriate scaling between smaller and larger venues. There are other metrics that could be used – for example bar turnover - however that has already been rejected as a licence fee basis, and capacity represents a much simpler, clearer and non-confidential metric on which to base fees.

OneMusic Australia acknowledges that venues do not always operate at capacity, does not assume that all venues are successful all the time, and has taken this into account when setting what we believe are fair and equitable licence fees. Indeed, whilst a venue may regularly operate below capacity, it is equally true that the number of customers that visit a venue throughout its opening hours may often exceed its capacity.

OneMusic Australia also notes that it now proposes to use attendance rather than capacity in certain circumstances – see above under Featured Music.

TRANSPARENCY

The AHA response included repeated requests for detailed data that was used by OneMusic Australia in its modelling, research, testing and analysis for the purpose of developing the proposed scheme. Beyond the sample data provided to us on a confidential basis by the AHA, we are bound by confidentiality obligations to our licensees and cannot disclose more detail than has already been provided. OneMusic Australia maintains that it has acted in a transparent manner and notes that these provisions do not take precedence over confidentiality.

PRIVACY AND CONFIDENTIALITY

We note that concerns regarding APRA AMCOS' and PPCA's compliance with their respective privacy and confidentiality obligations have been expressed by some respondents, due to the information being shared between APRA AMCOS and PPCA for the purpose of establishing OneMusic Australia, including the data-matching and alignment of renewal cycles required to do so.

Both APRA AMCOS and PPCA are committed to ensuring that personal information collected from licensees is handled strictly in accordance with each organisation's privacy policy. In that regard, the personal information shared between APRA AMCOS and PPCA for the purposes of OneMusic Australia is done so on a strictly confidential basis and limited to only such personal information necessary to allow for the continued and effective administration of music licensing in preparation for, and for the operation of, that joint licensing initiative. Such disclosure is consistent with the terms of each organisation's privacy policy, being limited to sharing only with associated collecting societies in Australia and for the purposes of administering the licensing and distribution of royalties.

Similarly, to the limited extent that APRA AMCOS and PPCA have shared licensees' confidential information with one another, this has been done in accordance with all contractual confidentiality obligations set out in the respective organisations' existing licence agreements with licensees. In addition, the limited number of key executives at each of APRA AMCOS and PPCA who have access to any confidential data have all entered into appropriate confidentiality arrangements setting out precisely how they must handle that information and for what purposes they may use it.

Finally, it is important to remember that not all information that APRA AMCOS or PPCA holds in relation a licensee is personal or confidential in nature. Any information which is publicly available (including for example a licensee's business name and address, the size of a venue's dance floor or capacity, or even the number of televisions a particular venue has playing on any given evening) is not properly regarded as confidential. Nor is the fact that an individual business holds a particular type of licence from APRA AMCOS or PPCA. That said, if any licensee has concerns regarding APRA AMCOS and/or PPCA's handling of their personal or confidential information they should feel free to contact OneMusic Australia at complaints@onemusicaustralia.com.au.

DISTRIBUTION

Questions have been raised regarding how licensing fees will be distributed to music creators under OneMusic Australia. OneMusic Australia will not be involved in the distribution of licensing fees and the responsibility for distribution will remain with both APRA AMCOS and PPCA. Both societies will retain their current and respective board-approved distribution policies and practices and as ever are actively looking at ways they can be improved.

DISPUTE RESOLUTION

OneMusic Australia's response to the AHA's submission referred to APRA AMCOS' independent dispute resolution service run by Resolution Pathways. Because we remain in consultation and open dialogue with the industry on the final form of a OneMusic Hotel Licence Scheme, in our view it is likely premature to involve Resolution Pathways in the process. However, once we release a final version of the scheme following receipt and consideration of submissions in relation to this paper, hotels and licensee stakeholders will be in a position to assess the extent to which the consultation process has addressed any concerns they may have and if relevant refer those aspects of the proposed licence scheme to Resolution Pathways. OneMusic Australia acknowledges the importance in keeping Resolution Pathways informed of the consultation process, including to ensure plans are in place in case there is an increase in individual referrals once the new schemes go live.

OneMusic also notes that the outcome of a dispute referred to ADR may cause a variation in the way certain definitions should be interpreted and in which case OneMusic will update the relevant plain English guides as appropriate.

OTHER DOCUMENTATION

OneMusic will produce supplementary documentation in due course similar to the information currently provided by APRA AMCOS and PPCA. This will include standard terms and conditions for all OneMusic licences, the ability for new licensees to check their licence fee before purchase and plain-English licence guides.

DINING MUSIC USE – KEY ITEMS OF FEEDBACK AND RESPONSE

DEFINITION OF “DINING BUSINESS OR ESTABLISHMENT”

Submissions were received from Clubs Australia and AHA that the definition of “Dining Business or Establishment” is too broad despite it being effectively the same definition as used by PPCA since the introduction of its current restaurant tariff in 2009. The definition as proposed in the first consultation paper provided:

“Dining Business or Establishment” means a business or a specific area within a multi-function establishment (e.g. a pub, club or entertainment complex):

- a) *that is open to the public; and*
- b) *where the primary function is either:*
 - (i) *the sale of food, with or without beverages; or*
 - (ii) *the sale of hot beverages (e.g. tea, coffee) alone or in conjunction with the sale of food and which is not licensed for the consumption of alcohol; and*
- c) *that has a designated seating area available for patrons of that business or establishment to consume the food/hot beverages on the premises,*

but excluding any such business or area within a multi-function establishment where accommodation is its primary function (e.g. hotel, motel or guest house) and the sale of food/hot beverages is for the benefit only of residents and their guests (i.e. the Dining Business or Establishment is not promoted to the general public).

To accommodate the concerns raised about the definition, OneMusic now proposes the following amendments. OneMusic Australia also notes that further to the proposed discount for accommodation hotels set out above, the final paragraph is no longer required. The resulting definition for dining businesses located within hotels is now proposed is as follows:

“Dining Business or Establishment” means a specific area within a multi-function establishment (e.g. a pub, club or entertainment complex):

- a) *that is open to the public; and*
- b) *where the primary function is either:*
 - (i) *the sale of food, with or without beverages; or*
 - (ii) *the sale of hot beverages (e.g. tea, coffee) alone or in conjunction with the sale of food and which is not licensed for the consumption of alcohol; and*
- c) *that has a designated seating area of at least seven seats available for patrons of that business or establishment to consume the food/hot beverages on the premises; and*
- d) *the music played in the dining area is different to that audible in the rest of the premises,*

but excludes any area where the provision of food and/or beverages does not include full or part table service.

To the extent that the definition is not clear, OneMusic Australia provides the following examples to aid clarity.

- *A pie warmer or a coffee machine in a bar of a multi-function establishment* – these items alone do not fit the definition of ‘dining area’. If they are in a part of a multi-function establishment where the primary function is the sale of food with or without beverages or the sale of hot beverages with a designated seating area for that purpose, then the area of the establishment containing the pie warmer or coffee bar may be considered a dining area, if full or partial table service is provided and the area has a separate music source.
- *Counter lunch in multi-function establishment* – counter lunches or other meals served in areas of a multi-function establishment such as a hotel and which are not primarily used for food service or where there is no table service do not qualify as a dining area. Areas where customers can normally buy and consume a cold drink without buying and consuming a meal or a hot beverage are not considered to have the sale of food or hot beverages as their primary function.
- *Bistros in multi-function establishment* – if a bistro’s primary function is the sale of food with or without beverages and has a designated seating area for that purpose and a separate music source, it would be considered a separate dining area.
- *Dining area with restaurant paging system or ‘food buzzer’* – an alert system such as the use of ‘food buzzers’ to notify patrons that their meal is ready to collect is not considered either full or part table service. Where diners in an area primarily used for the service of food are given a table number and their food is delivered by a waiter or waitress, it may be considered a dining area with partial table service if it has a separate music source.

- *Multiple dining areas* – the proposed fees for hotels with separate dining areas are based on the maximum fees for each capacity tier as described in the OneMusic Australia consultation paper for Dining, which have been added to the relevant background music rates for Hotels. In circumstances where a venue has more than one separate dining area, each meeting the definition set out above, the rates set out in the Dining paper will apply to each such dining area.

Please note that in circumstances where the dining area in a hotel is operated by a third party – ie not the same business that operates the hotel – then the party operating the dining area is responsible for licensing the music, regardless of whether or not the dining area has a separate music source.

GUEST DINING AREAS IN ACCOMMODATION HOTELS

The AHA requested more information regarding licensing background music for dining areas in accommodation hotels that are primarily for guests. Under PPCA's current R2 tariff, the playing of protected sound recordings in restaurant areas operating within a hotel, motel, guest house or similar establishment offering accommodation as its primary function, where the restaurant area is primarily for the benefit of residents of that establishment and their guests (i.e. the restaurant area is not promoted to the general public) attracts a fee considerably lower than the fee applicable to dining businesses that are open to and promoted to the general public. We propose a similar arrangement under OneMusic Australia, and a reduction of 50% (where there is no partial rights licence required) will be applied to the background music per day/night fees below for dining areas in accommodation hotels that fulfil the above criteria (subject to annual minimum fees).

RECORDED MUSIC FOR DANCE USE – SUMMARY OF FEEDBACK AND RESPONSE

ATTENDANCE VS. CAPACITY

A number of submissions expressed concern about the 'move' to a capacity-based scheme for nightclubs (including nightclub areas with hotels). It should be noted that PPCA has licensed Recorded Music For Dance Use under a capacity-based scheme for ten years (and the APRA attendance-based rate is subject to a capacity threshold). In addition to the points mentioned above we note that the Copyright Tribunal acknowledged that nightclubs do not always operate at capacity, and took this into account when setting what it considered to be fair and equitable licence fees.

However, OneMusic Australia accepts the feedback received that a per person capacity fee applied per night of operation as described in the first consultation paper is unpopular. While OneMusic Australia still considers capacity to be an appropriate and practical measure of the relative size of a nightclub (or a nightclub area in a hotel), we understand that a per-person fee based on capacity is problematic to some licensees.

We have further simplified the structure of the proposed licence scheme, arranging capacity into tiers that indicate the relative size of the venue, rather than multiplying the per-night fee by the venue's exact relevant capacity. After extensive testing that modelled different tiers and fees based on capacity and number of nights open per week, we settled on the modelling that resulted in a fee reduction (from current APRA AMCOS and PPCA tariffs) for the highest number of venues – 60% of those with both licences. The modelling also indicates that across all those venues, total licence fees will decrease in each of the capacity tiers and by approximately 8% overall.

A venue is still able to adjust the capacity reported on nights where their capacity is reduced, for example when only one floor or room of the nightclub is open for business.

Venues that operate more than 56 days per year will also receive coverage for four of those days at no charge.

OneMusic has previously noted its compliance concerns about an attendance-based metric but notes also the concern expressed in submissions about applying a capacity-based metric for both the APRA AMCOS and PPCA fees under the OneMusic licence. Seeking to find a balance between those two positions, OneMusic proposes that where a venue provides Recorded Music For Dance Use it can report on an attendance rate subject to the following conditions:

- the venue keeps accurate nightly attendance figures;
- the venue charges an Entry Fee;
- the venue can and agrees to provide an annual statement of attendance and nights of operation with a written declaration by an authorised person warranting the veracity of those figures.

Under this attendance rate option the 'free' nights and the decreasing fee according to number of operating nights – both measures offered by OneMusic to address industry concerns about capacity-based reporting - are accordingly not available.

Consistent with APRA AMCOS' current practices, venues able to report in this way will provide their reasonable accurate estimate of attendance for the year and pay a provisional licence fee subject to an adjustment against actual figures at the end of the venue's licence year.

If a venue elects to take out this option⁵ but then fails to provide the written declaration and information, OneMusic will have the right to rescind the concession and instead recalculate licence fees based on its reasonable assessment of relevant capacity and nights of operation.

MEASURING CAPACITY

Notwithstanding that PPCA has charged on capacity, many submissions queried how capacity would be established. Both current schemes use capacity (either as the metric or the cap) and OneMusic does not intend to change the current approach on measuring capacity. We have included in the definition section at the front of this paper examples of the kind of official sources licensees can use when determining the capacity of their venue, together with a proposed methodology – currently used when necessary by PPCA – where such official sources are not available.

“PHYSICALLY SEPARATE”

Questions have been raised regarding the meaning of the continued use of ‘physically separate’ when defining nightclub areas in multi-purpose premises. The definition of a nightclub includes ‘a venue operating *within a multi purpose premises in a **physically separate area*** [emphasis added] *of that premises, where that separate area satisfies the [nightclub] criteria*’. While the definition appears not to have been problematic in the past for licensees of both APRA AMCOS and PPCA, OneMusic understands that the release of the first consultation paper has rightly caused licensees to look more closely at relevant definitions and so has now provided a definition of “Physically Separate” in Section 1, which will be included in the licence scheme.

It should be noted that the same area may not be considered as a “Nightclub” on every day of the week. For example, if a room is occupied by tables on Sunday to Thursday inclusive but is cleared to make way for a dance floor on Friday and Saturday nights and it now meets the definition of “Physically Separate” then the Recorded Music For Dance Use rate would apply to that area for those two nights.

Our licensing reps will liaise with hotels and nightclub operators as required if a question arises and where agreement cannot be reached the licensee or potential licensees has recourse to Resolution Pathways (APRA AMCOS' independent ADR service that will be available to all OneMusic clients).

⁵Election to use attendance subject to the provisions is fixed for the year and the fee is not subject to review against the capacity-based fee structure.



SUBMITTING YOUR FEEDBACK

OneMusic Australia, having regard to the submissions it has received to the initial consultation paper, intend to implement the new Hotels, Pubs, Taverns and Bars Scheme as varied and set out above in mid 2019, subject to any new and substantive arguments that are received by 31 December 2018.

According to demand, OneMusic Australia will conduct in-person or virtual ‘town hall’ meetings with hotels and their representative bodies in state and territory capital cities.

Please provide your feedback, including if you would like to attend a consultation session, in the form of a submission and/or request to consultations@onemusic.com.au. Submissions are preferred in a Microsoft Word or PDF format.

FURTHER QUESTIONS

If you have any questions or would like to discuss the proposal further, please email questions@onemusic.com.au and we will be in touch.

DATE: 19 October 2020

ONE MUSIC AUSTRALIA THIRD CONSULTATION PAPER

RECORDED MUSIC FOR DANCE USE AND FEATURED RECORDED MUSIC

OUR CONSULTATION PROCESS WITH YOU

In the lead-up to the launch of OneMusic Australia, a joint initiative of APRA AMCOS and PPCA for licensing the public performance of our music, we consulted with many business sectors to propose harmonised music licences.

Our consultation with the nightclub and hotel industry commenced in October 2017 and produced a wealth of valuable feedback and robust debate. Although our aim was to finalise a harmonised rate for Recorded Music for Dance (RMFD) and Featured Recorded Music by July 2019, industry feedback made it clear that more work must be done to create a licence scheme that is both fair to music creators and licensees, and accepted by industry.

For that reason, rates for RMFD and Featured Recorded Music under OneMusic Australia are, for the time being, based on the current rates and metrics used under the respective previous pre-OneMusic APRA AMCOS and PPCA schemes.

Our intention was to consult again with industry stakeholders in the first half of 2020, however due to the disruption caused by COVID-19 and the resulting lockdown, the consultation process has been delayed.

This paper outlines our new proposal for OneMusic Australia RMFD and Featured Recorded Music rates, and the reasoning behind it.

Attendance-based rate

We now propose to calculate the OneMusic Australia RMFD and Featured Recorded Music licensing fees on a rate using annual attendance as a metric, not venue capacity. By 'attendance' we mean the maximum number of admissions during a single trading period, capped at capacity.

Previous proposals have included a rate based on capacity. Despite the current PPCA rates using capacity as a metric, we have listened to your feedback, and understand and acknowledge that capacity is unpopular as a basis for licensing RMFD. Additionally, the challenges to hospitality businesses like hotels, bars and nightclubs presented by COVID-19-related social distancing rules mean that most will not be operating at anywhere near their normal capacity.

A year of licensing under the OneMusic Australia brand has uncovered a number of inconsistencies between figures declared to APRA AMCOS and to PPCA, resulting in differences in the way tariffs are applied to businesses by the two companies. A single attendance-based metric will assist with making reporting declarations less complicated for businesses.

Additionally, while a flat fee or fixed amount per nightclub has been suggested as a fair way to license the nightclub sector, we feel that would disadvantage smaller venues, including limiting opportunities for entering the market. An attendance-based metric allows nightclubs to adjust their licence expense on nights where attendance is low.

This proposal aims to simplify licensing for RMFD and Featured Recorded Music and make it consistent using two single, attendance-based tariffs.

Background

We believe, based on your feedback, that a single rate based on attendance represents the simplest and fairest way to license nightclubs for the use of RMFD.

The application of this method, combined with accurate reporting by businesses, is expected to represent and respond to post-COVID attendance rates. In addition, it is expected to remove the potential for disputes around inconsistent data, improve the likelihood that more businesses will be licensed correctly for their music use, and be easier and simpler for licensees to report.

We note that attendance-based rates will require compliance work to be undertaken by OneMusic Australia representatives and would expect the industry to be supportive of this in order to allow OneMusic Australia to move away from capacity-based rates.

Proposed Rates

We note that there is a large difference between the rates for Featured Recorded Music and RMFD. We accept there is a view that the aggregate rate for RMFD is too high, but equally it is our view that the Featured Recorded Music rate undervalues music. We believe this can be appropriately addressed in part through a reduction in the rate for RMFD and an increase in the rate for Featured Recorded Music. Accordingly, the proposed rates are only offered on a package basis.

HOW THE PROPOSED RATES ARE CALCULATED.

RMFD

The different metric base notwithstanding, the current aggregate APRA AMCOS and PPCA rate is \$2.266 (\$1.354 for PPCA and \$0.912 for APRA AMCOS). The proposed OneMusic rate for RMFD is calculated at two times the existing rate for APRA rights. The existing APRA AMCOS cap on attendance at capacity would also continue under this proposal.

In circumstances where attendance would equal capacity, the new rate represents a 20% saving when compared with the existing rates. Where attendance is lower than capacity, the saving is higher.

The proposed rate for RMFD is \$1.824 per person admitted to the RMFD Area annually¹.

Featured Recorded Music

The different metric base notwithstanding, the current aggregate APRA AMCOS and PPCA rate is \$0.22 (\$0.163 for APRA AMCOS and \$0.057 for PPCA). As the existing attendance-based rate for APRA rights is significantly higher than the capacity-based PPCA rate for Featured Recorded Music, doubling the APRA rate as we have proposed above for RMFD would result in an increase to \$0.326 per attendee. While we believe there is merit in taking this logical approach, our proposal is instead to increase the combined current rates by 20% - the same percentage by which the RMFD rate has been reduced.

For the Featured Recorded Music rate only, we are prepared to 'freeze' any CPI increases for three years from its introduction. This would mean that CPI would be applied at CPI less 2%, or 0% - whichever is the higher fee.

We also propose to include Karaoke under the definition of 'Featured Recorded Music'.

The proposed rate for Featured Recorded Music is \$0.264 per person admitted to the FRM Area annually².

We note that the aggregate annual APRA AMCOS and PPCA revenue from RMFD is generally significantly higher than that received for Featured Recorded Music. As a result, inconsistencies in reporting by venues aside, on face value the proposed changes to these two tariffs would produce a significant net reduction in licence fees.

¹ RMFD Area means a standalone dance venue or a specific area within a multi-function establishment that:

- a. provides Recorded Music for Dance Use to patrons; and
- b. has a dance floor or other area for dancing or charges an Entry Fee (even if the fee is not charged to all patrons); and
- c. is not being used for:
 - i. a non-ticketed private function;
 - ii. a dance or dance party;
 - iii. an event that features ballroom or similar traditional dancing
 - iv. an event promoted by a National Event Promoter; or
 - v. an event for under-aged persons (such as a 'blue light' disco).

² FRM Area means a specific area, either within a multi-function establishment or a standalone venue, where Featured Recorded Music performances are audible.

NEXT STEPS

We would like to provide surety to the market before most venues are able to again offer Recorded Music for Dance Use and Featured Recorded Music as they emerge from lockdowns. For that reason, we would like to introduce the proposed new rates and methodology as quickly as possible, keeping the consultation shorter than normal in order to bring the overall benefit quickly to market. For these reasons we seek your urgent feedback, to allow us to progress and finalise consultation on these schemes.

Please provide your feedback by 26 February 2021.

We intend to introduce the new rates for renewals and new business from 1 January 2021 at the latest.



SUBMITTING YOUR FEEDBACK

OneMusic Australia urges you to provide feedback, suggestions, and comments based on the above proposal, and is also open to meeting with interested parties for discussion upon request.

Please provide your feedback and/or meeting requests to consultations@onemusic.com.au on or before 26 February 2021.

FURTHER QUESTIONS

If you have any questions or would like to discuss the proposal further, please email questions@onemusic.com.au and we will be in touch.

DATE: 24 March 2021

ONE MUSIC AUSTRALIA FINAL POSITION PAPER

RECORDED MUSIC FOR DANCE USE AND FEATURED RECORDED MUSIC

What's in this paper?

- New rate for licensing Recorded Music for Dance (RMFD) commencing 1 April 2021
- New rate for licensing Featured Recorded Music (FRM) commencing 1 April 2022
- Definitions relevant to the new rates
- How we arrived at the new rates
- Summary of the consultation process

RECORDED MUSIC FOR DANCE (RMFD)

Rate

The rate for RMFD is \$1.824 per person admitted to the RMFD Area, capped per day of operation at the area's capacity.

How the rate is calculated

We'll ask you to provide us with the number of people admitted to the RMFD Area over the year, and we apply the RMFD rate to that number. The annual number will be capped at the capacity of the area multiplied by your days of operation for the relevant area.

We will take into account any variations to capacity imposed as a result of the Covid-19 pandemic.

Please note that the RMFD rate is applied to physically separate areas where Recorded Music for Dance is played. In multi-purpose venues, for example those that have a separate restaurant or a separate bar with a different sound source that does not play RMFD, different tariffs may apply to those areas. In such circumstances, OneMusic will work with venues to determine which licence scheme is most appropriate for their music use and venue configuration, including for example the 'Hotel scheme'. The application of the RMFD tariff to a location's OneMusic licence will be assessed independently of the location's liquor licence or agreements the location has with other organisations.

When it starts

As the new lower rate represents a fee reduction for most businesses offering RMFD compared with the current OneMusic Australia licence, we will start offering it to businesses starting, re-opening, or renewing their OneMusic Australia licences from 1 April 2021.

If you've been licensed with us for the use of RMFD in the past and intend to continue using our music in the same way, this rate will apply to your business.

What we're not doing

We are not changing the definition of RMFD Area (i.e. the area that we consider when calculating attendance). That essentially remains the same as it has been for the last 10 years.

FEATURED RECORDED MUSIC (FRM)

Rate

The rate for Featured Recorded Music is \$0.264 per person admitted to the FRM Area, capped per day of operation at the area's capacity.

How the rate is calculated

We'll ask you to provide us with the number of people admitted to the FRM Area over the year, and we apply the FRM rate to that number. The annual number will be capped at the capacity of the area multiplied by your days of operation for that area.

We will take into account any variations to capacity imposed as a result of the Covid-19 pandemic.

When it starts

We will start offering the new FRM rate to businesses starting or renewing their OneMusic Australia licences a year after the introduction of the RMFD rate, starting from 1 April 2022. In the interim, the existing OneMusic rates will continue to apply.

If you've been licensed by us for the use of Featured Recorded Music in the past and intend to continue using our music in the same way, this rate will apply to your business.

What we're not doing

We are not changing the definition of FRM Area (i.e. the area that we consider when calculating attendance). That essentially remains the same as it has been for the last 10 years.

DEFINITIONS

The following definitions are relevant to the new rates, and will be included in the licence agreements that contain the rates. They're essentially the same definitions we've used in previous OneMusic agreements.

Featured Recorded Music means recorded music used at the Location or in an FRM Area that is given prominence as a feature of that venue or any part of that venue (not including a Recorded Music Performance). It includes performances by DJs, including those advertised as part of a specific event or series of events, Karaoke, nights of operation where the music has been compiled with a particular or recognisable theme such as 'Retro Night', 'Friday Night Beats' or 'Sunday Jazz'.

FRM Area means a specific area, either within a multi-function establishment or a standalone venue, where Featured Recorded Music performances are audible.

Recorded Music for Dance means the use of recorded music for the purpose of dancing.

RMFD Area means a Physically Separate area, either within a multifunction establishment or a standalone dance venue, that:

- a) provides Recorded Music for Dance Use by patrons; and
- b) has a dance floor or other area for dancing or charges an Entry Fee (even if the fee is not charged to all patrons); and
- c) is not being used for:
 - i. a non-ticketed private function;
 - ii. a dance or dance party;
 - iii. an event that features ballroom or similar traditional dancing;
 - iv. an event promoted by a National Event Promoter; or
 - v. an event for under-aged persons (such as a 'blue light' disco).

HOW WE ARRIVED AT THE NEW RATES

Previous proposals have included rates for RMFD and Featured Recorded Music based on capacity. Feedback on those proposals by businesses and associations that responded to the proposals suggested strongly that capacity was unpopular as a basis for licensing RMFD. Additionally, the challenges to hospitality businesses like hotels, bars and nightclubs presented by COVID-19-related social distancing rules mean that most will not be operating at anywhere near their normal capacity for some time.

Additionally, a single attendance-based metric will assist with making reporting declarations less complicated for businesses.

RMFD

The proposed OneMusic rate for RMFD is calculated at two times the existing March 2021 rate for APRA rights, as that existing rate is based on attendance. The existing APRA AMCOS cap on attendance at capacity will also continue.

Featured Recorded Music

To account for the change to the existing attendance-based rate for APRA rights, which is significantly higher than the capacity-based PPCA rate for Featured Recorded Music, automatically doubling the APRA rate as we did for RMFD would have resulted in an increase to \$0.326 per attendee. Our proposal instead is to only increase the combined current rate by 20% - the same percentage by which the RMFD rate has been reduced – and for the rate to also cover Karaoke nights.

We will not be introducing this rate until 1 April 2022 to enable businesses ample time to prepare for its introduction. For the Featured Recorded Music rate only, we are also prepared to ‘freeze’ any CPI increases for three years from its introduction. This would mean that for those three years, CPI would be applied at CPI less 2%, or 0% - whichever is the higher.

THE CONSULTATION PROCESS

OneMusic Australia started the consultation process with businesses and associations in the hotel and nightclub industries in October 2017, seeking feedback on proposals for new licensing rates for Recorded Music for Dance (RMFD) and Featured Recorded Music (FRM), amongst others.

Although our aim was to finalise a harmonised rate for RMFD and FRM by July 2019, industry feedback made it clear that more work was needed to create a licence scheme that is not only fair to music creators and licensees, but also has broad acceptance by industry.

It was our intention to consult again with industry stakeholders in the first half of 2020, however due to the disruption caused by COVID-19 this was delayed.

While OneMusic notes however that some associations and licensees remain unhappy with the proposed changes including as to the rate and definitional issues, feedback received about the reduced RMFD rate and changing to an attendance-based metric has been largely positive, particularly in the context of limited COVID-related trading. Individual licensees, pub groups and the Australian Hotels Association have expressed support for both the move from capacity to attendance to calculate the rate, and the reduction in the combined rate.

Changes to the original proposal for new RMFD rates over the three-and-a-half year consultation period are a direct result of the feedback we have received from numerous associations and licensees, and we would like to thank all those who participated in the process.

We considered all feedback, including suggestions that did not eventually result in changes to the rate or calculation method. We assessed suggestions based on how likely they were to result in a rate and metric that was fair, consistent, and easy to administer and define for the largest number of licensees, while ensuring that the work of music creators is not undervalued.

As the new OneMusic Australia RMFD rates represent a licence fee reduction for most businesses, it will be introduced on 1 April 2021.

To assist businesses with the transition to the new Featured Recorded Music rate, it will not be introduced until 1 April 2022.

NEXT STEPS

The new, cheaper RMFD rates will come into effect from 1 April 2021.

They'll apply straight away from that date for all of our RMFD customers, whether you're a new or existing licensee.

Of course, if you haven't been trading or using RMFD or FRM, the new rates will only apply you once you're back up and running again.

If you're an existing OneMusic customer for RMFD or FRM you'll keep the same licence renewal date you have now. We'll contact you to make the necessary adjustments, and if you've yet to relicence with us – we'll be in touch to discuss the commencement date of your OneMusic licence.

Businesses may object to some of the proposals set out above. Licensees and associations have recourse to expert processes under APRA's existing alternative dispute resolution service, Resolution Pathways.

If there is a reference to Resolution Pathways and the parties are unable to agree on an outcome, then either party may make a reference to the Copyright Tribunal.

FURTHER QUESTIONS

If you have any questions or would like to discuss the proposal further, please email questions@onemusic.com.au and we will be in touch.

OUR CONSULTATION PROCESS WITH YOU

OneMusic Australia is consulting with you and would like to hear what you think.

If you use music in your dance school, performance school, or an instructor of either, you're likely to be paying a licence fee to organisations like APRA, PPCA and AMCOS/ARIA the caretakers of the copyright of the music you use. That way, you know the correct legal permission has been granted to use that music in your business. However, we realise it can be confusing to have to pay music licence fees to multiple organisations. So late this year, OneMusic Australia will be the one organisation for all your music licensing needs, and you'll be able to pay for your licence online.

Because APRA, PPCA and AMCOS/ARIA have been operating separately for a long time, existing music licences have different fees and terms. It's not an easy job to build a single licence scheme that suits everyone, so we've come up with a proposal for you to look at and then provide us with your feedback. Remember, this is just a proposal, and may not be the final scheme.

The basics of the proposal

- We are keeping with a **user-pays structure** linked to the different ways you might use music.
- **For classes, lesson and rehearsals** - we propose a fee per instructor (for individuals) or for location (for schools) scaled according to the number of classes per week. Starting at \$175 per year (and capped at \$700), we think that the number of classes is a better measure of usage than the current per-day rate.
- **For dance events, recitals and performances** – you can now buy this under your licence with no requirement for you to make a separate application. The simple to budget and administer annual fee is \$300.
- **For copying music/making recordings for lessons and events etc** - we're proposing a continuation of the current AMCOS/ARIA 'per-student' structure and price.
- If you are **using music on your website** – you can also buy this under your licence for an additional \$550 per year.
- To calculate the number of classes and students, we propose to take the average from the first full week in February and August of each year, meaning there's no need for you to keep a weekly log

After feedback has been received, OneMusic Australia intends to develop and launch its new licence schemes in late 2018.

To see how the proposed OneMusic Australia rates will apply to your specific circumstances, check:

- The average number of weekly classes using music;
- The average number of students;
- Whether you have music on your website and/or put on events, Christmas or end of year concerts and the like; and
- Which licences you currently have for your premises – cost comparisons will only be valid if you currently hold a licence with APRA, PPCA and AMCOS/ARIA.

What should I do next?

If you have any questions about OneMusic Australia during this consultation, feel free to ask them at questions@onemusic.com.au

If you'd like to take part in the consultation process, we'd love to hear your thoughts at consultations@onemusic.com.au by 19 January 2018.

DATE: 3 November 2017

ONE MUSIC AND ARIA DANCE AND PERFORMANCE INSTRUCTORS AND SCHOOLS MUSIC LICENSING CONSULTATION

OneMusic Australia is a joint venture initiative of APRA AMCOS and PPCA.

APRA AMCOS is the trading name of the Australasian Performing Right Association and the Australasian Mechanical Copyright Owners Society. APRA AMCOS grants licences for the live performance, broadcast, communication, public playing or reproduction of its members' and affiliates' musical works. APRA AMCOS then distributes the licence fees collected to its 95,000 songwriter, composer and music publisher members, and affiliated societies worldwide.

PPCA is the Phonographic Performance Company of Australia Ltd. PPCA grants licences for the broadcast, communication or public playing of recorded music (such as CDs, records and digital downloads or streams) and music videos. PPCA then distributes the net licence fees collected to its licensors (generally record labels) and registered Australian recording artists.

ARIA is the Australian Recording Industry Association Ltd. ARIA represents the rights of its licensors in certain circumstances, including for the purpose of reproducing sound recordings for use by dance & performance instructors & dance schools (hereafter 'dance schools'). ARIA licensors include record labels and performing artists.

In the second half of 2018, APRA AMCOS and PPCA intend to launch the OneMusic Australia partnership to provide a one-stop shop for dance schools' music licence needs and remove the requirement to obtain multiple licences separately from different organisations.

OneMusic Australia aims to harmonise existing tariffs, simplify music licensing, reduce administrative burden for our customers and counter market confusion around the difference between APRA AMCOS and PPCA. An eCommerce facility for the purchase and maintenance of music licences will ensure that dance schools have access to the correct licences, allowing easy account management with OneMusic Australia. We believe that this new licensing structure will be of great value to dance schools by making compliance, reporting, budgeting and administration easier.

In association with Recorded Music New Zealand, APRA AMCOS has been operating OneMusic in New Zealand for more than three years, where it has been a huge success. It has simplified the process of music licensing for dance schools in New Zealand, increased awareness of copyright and compliance but also ensured that music remains an important, valuable and legal input to businesses everywhere.

APRA AMCOS and PPCA, trading as OneMusic Australia, are parties to the Code of Conduct for Collecting Societies and have a policy to consult, where appropriate, with relevant industry bodies or licensees when developing and implementing new or revised licence schemes for the use of music. We believe that receiving input from music users allows us to better understand how music is used across different industries. Consultation also ensures that our clients have a better understanding of how royalty payments flow and the purpose of such licences, which in turn leads to improved ongoing relationships.

This document serves as notification that OneMusic Australia and ARIA intend to review the way in which dance schools are licensed to use music with a view to implementing a simplified scheme. This paper is not for the purpose of consultation on the individual distribution processes undertaken by APRA AMCOS, ARIA and PPCA.

Further information about OneMusic Australia can be found [here](#).

CONSULTATION TIMELINE

OneMusic Australia expects that the consultation on the proposed scheme will progress as follows:

- a) Circulation of this first consultation paper for public response;
- b) Consolidation of responses;
- c) Depending on the initial feedback, the circulation of a second consultation paper if required, taking into account submissions made at part b) above;
- d) Final submissions accepted and integrated where appropriate; and
- e) Written documentation provided to businesses serving as at least three months' notification of the commencement of the new scheme.

THE PROPOSED SCHEME

Dance schools currently require multiple licences from APRA AMCOS, ARIA and PPCA for their varied use of musical works and sound recordings. The proposed OneMusic Australia scheme, which is detailed below, is structured to consolidate these licences into one simple to administer scheme, which covers the majority of music use across the industry.

The goals of the proposed scheme and the OneMusic Australia joint venture in general are:

- a) To simplify licensees' initial and ongoing reporting and administration requirements (in particular through the development of an eCommerce platform);
- b) To develop future-proofed schemes in preparation for the evolution of audio and audio-visual delivery platforms; and
- c) To develop simple and industry-relevant structures that are fair and equitable across venue types and locations and, insofar as possible, to be licence fee neutral when considered across the industry as a whole.

CONSIDERATIONS

Almost by definition, a dance school simply cannot operate without music; it is a fundamentally important and major input into dance schools as they need easy access to the widest choice of music to support their business.

In developing this proposal, OneMusic Australia and ARIA primarily considered the existing five different licence agreements that dance schools may require to cover their use of music:

- APRA Dance Classes Licence: To cover dance schools to play music during classes and rehearsals.
- PPCA Dance Studios, Dance and Line Dance Instructors Licence: To cover dance schools to play sound recordings during classes and rehearsals.
- AMCOS/ARIA Dance Classes Licence: To cover dance schools to copy music and sound recordings to use in rehearsals, concerts and events or for the purpose of supplying to students for their personal and domestic use.
- APRA Event Licence: To cover dance schools to use music during events such as end of year concerts, events or recitals.
- PPCA General Licence: To cover dance schools to use music which is in the format of a sound recording during events.

The licence fee payable under each of these licence agreements is calculated using different metrics:

- APRA Dance Classes Licence and PPCA Dance Studios, Dance and Line Dance Instructors Licence: Rate based on the number of classes run per week.
- AMCOS ARIA Dance Schools Licence: Rate per student.
- APRA Event Licence: Flat fee, or a percentage of revenue derived from ticket sales.
- PPCA General Licence: Flat fee either annually for all concerts, or per event.

OneMusic Australia also notes that many dance schools, as an adjunct to their main business, operate websites to provide an online presence for their school. OneMusic Australia also understands that many of those businesses use their website to not only provide information to pupils and parents but also to showcase the dance school including uploading videos of performances by the school

or in classes, which require appropriate music licences.

OneMusic Australia is of the view that this current requirement to obtain separate licences for this range of associated music uses can be complicated, however also understands that not all dance schools require all five licences.

OneMusic Australia is therefore proposing in this document a new “user-pays” licence scheme. Under this single scheme multiple rights will be available to dance schools and instructors for the use of music according to a “tick box” solution where dance schools only need obtain the specific package(s) covering the uses they actually utilise during each licence year.

RIGHTS

The rights that the proposed scheme would cover are split into four separate packages within the structure of the scheme.

Package One – Performing/playing Music in Classes, Lessons and Rehearsals

Those dance schools that use music – both live and recorded – during lessons, classes and rehearsals (including private lessons held by the dance school) would require this type of licence coverage.

Package Two – Performing/playing Music at Events, Recitals and Other Performances

This package will cover the use of music – live and recorded – at events organised or authorised by the dance school. This includes recitals, end of year concerts and events, Christmas concerts and events, showcases, open days and public appearances (for example at the local plaza).

Package Three – Copying Music for Students’ Domestic Use and Practice

This package, subject to certain limitations, will permit dance schools to:

- a) copy legally obtained sound recordings for the purpose of playing during classes, lessons and rehearsals;
- b) copy legally obtained sound recordings for the purpose of providing them to students for their personal practice outside dance school classes, lessons and rehearsals; and
- c) making video recordings of dances – rehearsals or performances – for the purpose of providing to students for their own personal use or practice.

Package Four – Website Use

The rights that OneMusic Australia is able to provide under its licence for online uses are limited, partly due to restrictions on the use of music in advertisements. Due to the limited rights OneMusic Australia is able to provide under this part of the scheme, dance schools must:

- limit music use to audio-only content;
- only use music where it is incidental and where the primary purpose of the website is not the streaming or sharing of musical content;
- use no fewer than 5 and no more than 15 tracks playing in a random linear, non-interactive loop;
- not derive any revenue from the playing of music; and
- only stream music from their website (e.g. does not include use on a dance school’s social media, including but not limited to Facebook and YouTube).

In circumstances where one or more of these criteria are not met, separate licensing will be required, possibly including source licensing from content owners.

OneMusic Australia believes that the scope of this licence will cover the overwhelming majority of needs of dance schools. Those clients that require a wider scope (including for example online audio-visual or synchronisation rights) should seek advice from APRA AMCOS, ARIA and PPCA on additional licensing options.

STRUCTURE

Each package under the proposed scheme will be structured to best fit the way in which music is used under that package. OneMusic Australia did consider and test other tariff structures whereby each package was priced according to the same metric – that is, tiered licence fees for all packages based on the number of days operating per week, the number of students enrolled or the number of classes held per week. In the end, however, OneMusic Australia considered that this approach lacked the fairness and equity of the proposed model, for example it appears incongruous to base the licence fee for the playing of music at events on the number of days the dance school opens per week.

The proposed structure for the four packages is as follows, noting that all figures are inclusive of GST and will increase annually in line with the weighted average of eight capital cities Consumer Price Index (CPI).

	PACKAGE ONE (PERFORMANCE)	PACKAGE TWO (EVENTS)	PACKAGE THREE (COPYING)	PACKAGE FOUR (WEBSITE)
Average Classes Per Week, Per Location	Annual Fee Per Location	Annual Fee Per Location	Annual Fee Per Student, Per Location	Annual Fee Per Website
1 – 5	\$175.00	\$300.00	\$6.05 (Annual Minimum Fee = \$90.75)	\$550.00
6 – 20	\$350.00			
21 – 40	\$525.00			
41+	\$700.00			

Package One – covering the use of music in classes, lessons and rehearsals – is a tiered rate structure with the licence fee payable dependent on the total number of classes timetabled per week. OneMusic Australia considered that the current per day of operation structure that applies under the relevant APRA and PPCA licences does not take into account the number of classes, and that this, not days of operation, is a more accurate measurement of the use of music by schools. OneMusic Australia is aware that different terms may have a different number of classes timetabled throughout the week and proposes to use an average figure of the number of classes from the first full week of February and the first full week of August in each year.

Package Two – covering the use of music at events, recitals and performances – is a flat fee per year, irrespective of the number of events held and provided that the ticket price charged is not greater than \$40. This structure has its roots in the current PPCA licensing structure which is a flat fee for one event, or a flat fee for all events per year where more than one is held. We believe this is the easiest mechanism for dance schools to budget and administer, as it removes the need to report each individual concert or event at the end of the licence year.

Package Three – covering the copying and making of recordings – is the same as the current AMCOS & ARIA Dance Schools Licence, with the rate increased only to take into account likely CPI increases between now and the anticipated OneMusic Australia launch date. Similar to Package One, the relevant number of students will be the average number of those enrolled at the end of the first full week of February and the first full week of August in each year.

Package Four – covering website use (subject to the limitations set out above) is a flat fee per year. In order to also ensure that schools are covered for the use of sound recordings, this proposed rate is double the existing APRA AMCOS standalone 'online mini' licence fee that APRA AMCOS has made available to licensees for several years.

OneMusic Australia notes that those relevant dance schools in the first year of the new scheme will need to provide a forward estimate of class and student numbers in the immediately following February and August, or August and February as the case may be, in order to calculate the relevant provisional licence fee.

Worked Example: A dance school has 300 students enrolled at one location as at the end of the first full week in February and has 42 classes timetabled during that week. In August the relevant numbers are 320 and 45, producing an average of 310 students and

43.5 classes. The dance school also holds four recitals throughout the year, one showcase and multiple public exhibitions at the local shopping centre on Sundays. Lastly, while the dance school has its own website, it hosts no audio content. Their licence fee for the year would be:

	LICENCE FEE
Package One	\$700.00 (for 41+ classes)
Package Two	\$300
Package Three	\$1,875.50 (310 x \$6.05)
Package Four	Nil
TOTAL ANNUAL FEE (incl GST)	\$2,875.50

OneMusic Australia is of the view that this proposed structure is easy for dance schools to budget and administer, and offers reduced transaction and associated administration costs.

REPORTING

OneMusic Australia proposes that, as occurs currently for APRA AMCOS and PPCA, licensees would be invoiced annually in advance subject to a reassessment against a declaration of timetabled classes and student numbers with their annual renewal. Should the annual licence fee be greater than \$500, payments may be made on a quarterly basis for no additional cost.

OneMusic Australia is of the view that the proposed reporting structure, coupled with our easy to use eCommerce system, will enable clients to be properly licensed for the different ways they use music.

TRANSITIONAL ARRANGEMENTS

Our analysis shows that there are a number of dance schools that are currently licensed only by APRA AMCOS, ARIA or PPCA but actually require licences for the rights offered by all four organisations. For this reason it has been difficult to assess the average impact across the industry when comparing the proposed licence scheme with the existing ones. Nonetheless, subject to the changed metrics (most particularly the movement from the per-day to per-class rate for public performance) OneMusic Australia has sought to introduce a solution that is generally licence-fee neutral for those schools that are fully compliant with the current schemes. APRA AMCOS, ARIA and PPCA recommend that dance schools revisit their licensing status now, rather than wait for OneMusic Australia to commence, in order to ensure they are fully covered and not unwittingly infringing.

ALIGNING LICENCE YEARS

Dance schools may currently have three different annual anniversary/renewal dates between the APRA Dance Schools Licence, the PPCA Dance Studios, Dance and Line Dance Instructors Licence and the AMCOS/ ARIA Dance Schools Licence. The anniversary dates for the APRA and PPCA schemes are linked to the date those licences were first taken out, and the anniversary date for the AMCOS & ARIA scheme is fixed as at 31 December. OneMusic Australia proposes to generally align all three licences to the APRA anniversary date and schools will receive correspondence in due course enabling this to occur.



SUBMITTING YOUR FEEDBACK

OneMusic Australia is committed to developing music licensing schemes that are fair, equitable and relevant to Australian industries. Your feedback on the above proposal is integral to this process.

Please provide your feedback in the form of a submission to consultation@onemusic.com.au by close of business **19 January, 2018**. All submissions must be in a Microsoft Word or PDF format.

FURTHER QUESTIONS

If you have any questions or would like to discuss the proposal further, please email questions@onemusic.com.au and we will be in touch.

OUR CONSULTATION PROCESS WITH YOU

OneMusic Australia is consulting with dance and performance instructors and schools and would like to hear your views.

This is the second consultation paper we've released on the proposed OneMusic Australia scheme for dance and performance instructors and schools. We've made some adjustments to our original proposal based on the feedback we've received so far – thank you.

In your business, you're likely to be paying licence fees to APRA AMCOS and PPCA, the caretakers of the copyright in the music you use. These fees ensure you're legally entitled to use music in your school, and with your support music creators are paid for their contribution to your business.

If you have already provided us with comment, thank you – but as we've made a number of changes in this updated proposal your further feedback is welcome and encouraged. Remember, this is just a proposal, and may not become the final scheme.

What's different in the second consultation paper:

- We've listened to your concerns about the fees for Packages One, Two, and Three being charged on a 'per location' basis, and have removed the per-location requirement from Packages Two and Three, and amended it for Package One so it does not apply to instructors that teach in different locations on different days.
- After hearing from a number of dance schools that only hold one event or concert per year, we've changed Package Two for events. It is proposed that dance schools will choose between one flat \$200 fee for one event per year, or \$400 for unlimited events per year.

To see how the proposed OneMusic Australia scheme will apply to your specific circumstances, review:

- For Package One, determine the average number of classes you have per week. This will be the average of the number of timetabled classes you have in the first full week of February and the first full week of August.
- For Package Two, check the number of concerts and/or events you hold during the year.
- For Package Three, if you copy legally obtained sound recordings for use in instruction, providing to students for personal practice, or making video recordings for use by students for personal practice, check how many students you have.
- Package Four applies to you if you use between five and fifteen incidental, audio-only music tracks on your website. In circumstances where you have music on your website but the criteria for Package Four (outlined later in this paper) are not met, separate licensing will be required.
- Using the above pieces of information you can determine which packages are relevant to your dance school and what your new fees would be under this proposal compared to your current total licence fees for APRA AMCOS, PPCA, and ARIA. Remember – these cost comparisons will only be valid if you currently hold a licence with APRA AMCOS, PPCA and ARIA.

What should I do next?

If you have any questions about OneMusic Australia during this consultation, feel free to ask them at questions@onemusic.com.au

If you'd like to take part in the consultation process and provide some feedback, we'd love to hear your thoughts at consultations@onemusic.com.au

YOUR PROPOSED NEW ONEMUSIC LICENCE FEES

The proposed fee structure for the use of recorded music for the purpose of dancing (inclusive of GST) is illustrated in the table below. The rest of this consultation paper contains information about why and how we developed and amended these proposed fees in response to your feedback, and lets you know how to further take part in the consultation process.

	PACKAGE ONE (PERFORMANCE)	PACKAGE TWO (EVENTS*)	PACKAGE THREE (COPYING)	PACKAGE FOUR (WEBSITE)
Average Classes Per Week**	Annual Fee Per Location***	Annual Fee	Annual Fee Per Student	Annual Fee Per Website
1 – 5	\$175.00	One event per year: \$200 Unlimited events per year: \$400.00	\$6.05 ¹ (Annual Minimum Fee = \$90.75)	\$550.00
6 – 20	\$350.00			
21 – 40	\$525.00			
41+	\$700.00			

* where ticket price is \$40 or less

** 'Average Classes Per Week' will be calculated using the number of classes from the first full week of February and the first full week of August in each year to account for fluctuation across different terms.

*** 'Per Location' only applies to permanent locations owned or leased by dance schools, where classes are offered concurrently across locations. Dance and performance instructors that conduct classes at different locations at different times or days (i.e. classes are not held concurrently in different locations) will not be required to pay the annual fee for more than one location.

¹ The current AMCOS ARIA per student rate subject to estimated increase by CPI.

DATE: 20 June 2018

ONEMUSIC AUSTRALIA SECOND CONSULTATION PAPER DANCE AND PERFORMANCE INSTRUCTORS AND SCHOOLS

OneMusic Australia is an initiative of APRA AMCOS and PPCA. On 3 November 2017, OneMusic Australia released a consultation paper seeking feedback on a proposed music licensing scheme for dance and performance instructors and schools. That paper can be found [here](#).

OneMusic Australia received welcome feedback on that paper from dance and performance instructors and schools which has been very helpful in determining if the proposed scheme is practical and accepted by the sector. This document serves as further notification that OneMusic Australia has reviewed the way in which dance and performance instructors and schools will be licensed to use music in order to implement a new, wide-ranging and simplified music licensing scheme. This paper is not for the purpose of consultation on the individual distribution processes undertaken by APRA AMCOS and PPCA.

The proposed scheme is expected to commence from mid 2019 and OneMusic Australia will provide due notice to dance and performance instructors and schools to migrate their existing licences where relevant.

FEEDBACK RECEIVED

The feedback received by OneMusic Australia was straightforward and concerned in the most part with the same issues.

APPLYING FEES 'PER LOCATION'

The proposed OneMusic Australia licensing scheme for dance and performance instructors and schools includes four packages, each of which covers a different type of music use. In the first consultation paper for this scheme, three of the four packages applied fees 'per location'.

We have received feedback from primarily smaller operators on this point, and acknowledge that in some circumstances, a 'per location' fee represents a large fee increase for smaller schools and instructors that teach out of multiple premises by necessity rather than by choice.

To that end, we have removed the 'per location' calculation requirement from packages Two (Events) and Three (Copying), and amended it for Package One so it does not apply to instructors that teach in different locations on different days.

SYLLABUS MUSIC

Feedback was received regarding the licensing of music provided by organisations that set syllabi for dance classes, for example the Royal Academy of Dance (RAD) and the Australian Teachers of Dancing (ATOD) amongst others. Feedback relating to syllabus music was from dance schools that felt that if they had already paid for music provided as part of a syllabus, they should not have to pay again to license it for public performance.

To clarify, organisations that provide syllabus music where the work and/or the sound recording is still in copyright pay a fee to *reproduce* the music onto a CD, digital file, or other media as part of their business. As those organisations are the ones reproducing the music, the onus is upon them to make sure the appropriate rights for that reproduction are cleared.

A separate right is the *public performance right*, that is, the right to play that music as part of their business. Any business that plays music that is in copyright – for example a dance school, a shop, a bar, a venue for hire, or a gym – is responsible for clearing the public performance right for use of that music.

To determine how much of the syllabus music used by dance schools is in copyright, we sought sample lists of syllabus music from a number of organisations, but unfortunately only one responded. An analysis of the sample lists received from that organisation showed that they contained works and sound recordings that are in copyright. As a result, we maintain that the package fees in the licensing scheme for dance schools covers the public performance of all in-copyright music *including* that provided by organisations as part of a syllabus. If a dance school can demonstrate that they conduct regular classes that do not include any APRA musical works or PPCA sound recordings, those classes will not need to be included in the school's reporting to OneMusic.

EVENTS

Smaller dance schools have provided feedback regarding the proposed Package Two for events, which has a flat fee of \$300 and covers the use of music at events, recitals and performances irrespective of the number of events held and provided that the ticket price charged is not greater than \$40.

It has been indicated that for smaller schools that only have one event or concert per year and currently pay the minimum APRA casual event fee and the PPCA single event fee, the proposed \$300 fee represents a considerable increase in annual licensing fee expenditure.

For that reason, fees for Package Two will be revised to allow for dance schools that only have one event per year to pay a fee of \$200, with those holding two or more events per year paying a flat annual fee of \$400. Events and concerts held at venues that already hold an appropriate OneMusic licence for the public performance of musical works and sound recordings will not need to be licensed by dance schools, however it is the responsibility of the dance school to establish whether or not the venue or concert promoter already has a licence.

EXCLUSION OF EISTEDDFOD AND DANCE COMPETITION REPRODUCTION FEES

The current Eisteddfod licence offered by APRA AMCOS, ARIA and PPCA covers both the public performance of works and sound recordings in eisteddfodau and the reproduction of musical works and sound recordings, i.e. copying or making recordings. Some respondents have noted that if both dance schools and eisteddfodau are paying for the reproduction of works and recordings for use in eisteddfodau, that this is 'double-dipping'.

For clarity on this point, the fees in the proposed Package Three – Copying Music for Students' Domestic Use and Practice cover the copying of legally obtained sound recordings for the purpose of playing during classes, lessons and rehearsals, for providing them to students and their family members for their practice or their own personal use, and for making video recordings of rehearsals or performances for students' personal use.

The OneMusic Australia Dance Schools licence does not cover copying for use in eisteddfodau. Obtaining a licence for the copying of musical works and sound recordings for use in eisteddfodau is the responsibility of eisteddfod organisers, and this use is covered under the combined APRA AMCOS, PPCA and ARIA Eisteddfod Licence.

WEBSITE

Some respondents to the first consultation paper for the proposed OneMusic Australia dance schools licensing scheme expressed disappointment that broader licensing cover for the use of music on websites and social media was not offered. The rights that OneMusic Australia is able to provide under its licence for online uses are limited, partly due to restrictions on the use of music in advertisements. Due to the limited rights OneMusic Australia is able to provide under this part of the scheme, dance schools must:

- limit music use to audio-only content;
- only use music where it is incidental and where the primary purpose of the website is not the streaming or sharing of musical content;
- use no fewer than 5 and no more than 15 tracks playing in a random linear, non-interactive loop;
- not derive any revenue from the playing of music; and
- only stream music from their website (e.g. does not include use on a dance school's social media, including but not limited to Facebook and YouTube).

In circumstances where one or more of these criteria are not met, separate licensing will be required, possibly including source licensing from content owners.

OneMusic Australia believes that the scope of this licence will cover the overwhelming majority of needs of dance schools. Those clients that require a wider scope (including for example online audio-visual or synchronisation rights) should seek advice from APRA AMCOS, ARIA and PPCA on additional licensing options.

IMPLEMENTATION

Once feedback has been received on this consultation paper and OneMusic Australia has published its final licensing scheme for Dance and Performance Instructors and Schools, implementation of the new scheme will begin in mid 2019. Dance schools may currently have three different annual anniversary/renewal dates between the APRA Dance Schools Licence, the PPCA Dance Studios, Dance and Line Dance Instructors Licence and the AMCOS/ ARIA Dance Schools Licence. The anniversary dates for the APRA and PPCA schemes are linked to the date those licences were first taken out, and the anniversary date for the AMCOS & ARIA scheme is fixed as at 31 December. OneMusic Australia proposes to generally align all three licences to the APRA anniversary date and schools will receive correspondence in due course enabling this to occur.

TRANSITIONAL ARRANGEMENTS

Our analysis shows that there are a number of dance schools that are currently licensed only by APRA AMCOS, ARIA or PPCA but actually require licences for the rights offered by all four organisations. For this reason it has been difficult to assess the average impact across the industry when comparing the proposed licence scheme with the existing ones. Nonetheless, subject to the changed metrics (most particularly the movement from the per-day to per-class rate for public performance) OneMusic Australia has sought to introduce a solution that is generally licence-fee neutral for those schools that are fully compliant with the current schemes. APRA AMCOS, ARIA and PPCA recommend that dance schools revisit their licensing status now, rather than wait for OneMusic Australia to commence, in order to ensure they are fully covered and not unwittingly infringing.



SUBMITTING YOUR FEEDBACK

OneMusic Australia, having regard to the submissions it has received to the initial consultation paper, intend to implement the new Dance and Performance Instructors and Schools Scheme as varied and set out above in mid 2019, subject to any new and substantive arguments that are received by **18 July 2018**.

Please provide your feedback in the form of a submission to consultation@onemusic.com.au. Submissions are preferred in a Microsoft Word or PDF format.

FURTHER QUESTIONS

If you have any questions or would like to discuss the scheme further, please email questions@onemusic.com.au and we will be in touch as soon as possible.

DATE: 14 September 2018

DANCE AND PERFORMANCE INSTRUCTORS AND SCHOOLS **FINAL POSITION PAPER**

OneMusic Australia is an initiative of APRA AMCOS and PPCA. On 3 November 2017 OneMusic Australia released a consultation paper seeking feedback on a proposed music licensing scheme for dance and performance instructors and schools. Feedback from industry associations and stakeholders was received, leading to a second consultation paper being released on 20 June 2018. Those papers can be found [here](#).

Feedback received by OneMusic Australia has been helpful in determining if the proposed scheme is practical and accepted by the sector. This document serves as further notification that OneMusic Australia has reviewed the way in which dance and performance instructors and schools will be licensed to use music in order to implement a new, wide-ranging and simplified music licensing scheme. This paper is not for the purpose of consultation on the individual distribution processes undertaken by APRA AMCOS and PPCA.

The proposed scheme set out below is expected to commence from mid-2019 and OneMusic Australia will provide due notice to dance and performance instructors and schools to migrate their existing licences where relevant.

FEEDBACK RECEIVED

OneMusic Australia received a significant amount of feedback to the first consultation paper for Dance and Performance Instructors and Schools, and very little feedback to the second paper.

For this reason, while amendments were made to the proposed licence scheme based on feedback to the first paper, no further amendments have been made since the release of the second paper. Accordingly, the final licence scheme for Dance and Performance Instructors and Schools is expected to include the structure and rates set out below.

YOUR NEW ONEMUSIC LICENCE FEES

The proposed fee structure for the use music by dance and performance instructors and schools (inclusive of GST) is illustrated in the table below.

Based on historical experience, it is very likely that most schools will need two or more packages, depending on their music use.

	CLASSES PACKAGE	EVENTS PACKAGE*	COPYING PACKAGE	WEBSITE PACKAGE
Average Classes Per Week**	Annual Fee Per Location***	Annual Fee	Annual Fee Per Student	Annual Fee Per Website
1 – 5	\$175.00	One event per year: \$200	\$6.05 ¹ (Annual Minimum Fee = \$90.75)	\$550.00
6 – 20	\$350.00	Unlimited events per year: \$400.00		
21 – 40	\$525.00			
41+	\$700.00			

* where ticket price is \$40 or less

***'Average Classes Per Week' will be calculated using the number of classes from the first full week of February and the first full week of August in each year to account for fluctuation across different terms.

***'Per Location' only applies to permanent locations owned or leased by dance schools, where classes are offered concurrently across locations. Dance and performance instructors that conduct classes at different locations at different times or days (i.e. classes are not held concurrently in different locations) will not be required to pay the annual fee for more than one location.

CLASSES PACKAGE

Covering the use of music in classes, lessons and rehearsals – the Classes Package - is a tiered rate structure with the licence fee payable dependent on the number of classes timetabled per week. OneMusic Australia is aware that different terms may have a different number of classes timetabled throughout the week and proposes to use an average figure of the number of classes from the first full week of February and the first full week of August in each year.

EVENTS PACKAGE

The Events Package covers the use of music at events, recitals and performances – it is a flat fee per year for any events, recitals and performances where the ticket price charged is not greater than \$40 (including GST and any booking or handling fees). Dance schools that only have one event per year to pay a fee of \$200, with those holding two or more events per year paying a flat annual fee of \$400. Events and concerts held at venues that already hold an appropriate OneMusic licence for the public performance of musical works and sound recordings will not need to be licensed by dance schools, however it is the responsibility of the dance school to establish whether or not the venue already has a licence.

COPYING PACKAGE

The Copying Package covers copying and making of recordings, and is the same as the current AMCOS & ARIA Dance Schools Licence, with the rate increased only to take into account likely CPI increases between now and the anticipated OneMusic Australia launch date. It now also includes digital copying rights for businesses that use streaming services to create playlists for their students to access. Similar to the Classes Package, the relevant number of students will be the average number of those enrolled at the end of the first full week of February and the first full week of August in each year. This package does not cover copying for use in eisteddfodau. Obtaining a licence for the copying of musical works and sound recordings for use in eisteddfodau is the responsibility of eisteddfod organisers, and this use is covered under the combined APRA AMCOS, PPCA and ARIA Eisteddfod Licence.

¹ The current AMCOS ARIA per student rate subject to estimated increase by CPI.

WEBSITE PACKAGE

The rights that OneMusic Australia is able to provide under its licence for online uses are limited, partly due to restrictions on the use of music in advertisements. Due to the limited rights OneMusic Australia is able to provide under this part of the scheme, dance schools must:

- limit music use to audio-only content;
- only use music where it is incidental and where the primary purpose of the website is not the streaming or sharing of musical content;
- use no fewer than 5 and no more than 15 tracks playing in a random linear, non-interactive loop;
- not derive any revenue from the playing of music; and
- only stream music from their website (e.g. does not include use on a dance school's social media).

Subject to the limitations set out above, the Website Package is a flat fee per year.

OneMusic Australia notes that those relevant dance schools in the first year of the new scheme will need to provide a forward estimate of class and student numbers in the immediately following February and August, or August and February as the case may be, in order to calculate the relevant provisional licence fee.

IMPLEMENTATION

Implementation of the new Dance and Performance Instructors and Schools Licence is scheduled to begin in mid-2019. Schools may currently have three different annual anniversary/renewal dates between the APRA Dance Classes Licence, the PPCA Dance Studios, Dance and Line Dance Instructors Licence and the AMCOS/ARIA Dance Schools Licence. The anniversary for the APRA and PPCA schemes is linked to the date those licences were established, and the anniversary date for the AMCOS & ARIA scheme is fixed as at 31 December. OneMusic Australia proposes to generally align all three licences to the APRA Dance Classes Licence anniversary date and schools will receive correspondence in due course enabling this to occur.

TRANSITIONAL ARRANGEMENTS

Our analysis shows that there are a number of dance schools that are currently licensed only by APRA AMCOS, ARIA or PPCA but actually require licences for the rights offered by all four organisations. APRA AMCOS, ARIA and PPCA strongly recommend that dance schools revisit their licensing status now, rather than wait for OneMusic Australia to commence, in order to ensure they are fully covered and not unwittingly infringing.

FURTHER QUESTIONS

If you have any questions or would like to discuss the scheme further, please email questions@onemusic.com.au and we will be in touch as soon as possible.

DATE: xxxx

LIVE ADULT ENTERTAINMENT VENUES MUSIC LICENSING CONSULTATION

OneMusic Australia is a joint venture initiative of APRA AMCOS and PPCA.

APRA AMCOS is the trading name of the Australasian Performing Right Association and the Australasian Mechanical Copyright Owners Society. APRA AMCOS grants licences for the live performance, broadcast, communication, public playing or reproduction of its members' and affiliates musical works. APRA AMCOS then distributes the licence fees collected to its over 89,000 songwriter, composer and music publisher members, and affiliated societies worldwide.

PPCA is the Phonographic Performance Company of Australia Ltd. PPCA grants licences for the broadcast, communication or public playing of recorded music (such as CDs, records and digital downloads or streams) or music videos. PPCA then distributes the net licence fees collected to its licensors (generally record labels) and registered Australian recording artists.

In 2018, APRA AMCOS and PPCA intend to launch a partnership called OneMusic Australia to provide a one-stop shop for live adult entertainment venues' music licensing needs and remove the need to obtain separate licensing from APRA AMCOS and PPCA.

OneMusic Australia aims to simplify music licensing, reduce administrative burden and counter market confusion around the difference between APRA AMCOS and PPCA. Further information about OneMusic Australia can be found at www.onemusic.com.au/faqs.

In association with Recorded Music New Zealand, APRA AMCOS has been operating OneMusic in New Zealand for more than three years. It has simplified the process of music licensing for businesses in New Zealand, increased awareness of copyright and compliance, and ensured that music remains an important, valuable and legal input to businesses everywhere.

APRA AMCOS and PPCA, trading as OneMusic Australia, are parties to the Code of Conduct for Collecting Societies and have a policy to consult, where appropriate, with relevant industry bodies when developing and implementing new or revised licence schemes for the use of music. We believe that receiving input from music users allows us to better understand how music is used across different industries. Consultation also ensures that our clients have a better understanding of how royalty payments flow and the purpose of such licences, which in turn leads to improved ongoing relationships.

This document serves as notification that OneMusic Australia intends to review the way in which live adult entertainment venues are licensed to use music with a view to implementing a new, wide-ranging and simplified music licensing scheme. A state-of-the-art eCommerce facility for the purchase and maintenance of music licences will further ensure that music users have easy access to the correct music licences, allowing them to easily manage their accounts with OneMusic Australia.

APRA AMCOS and PPCA expect to launch OneMusic Australia in the second half of 2018.

CONSULTATION TIMELINE

OneMusic Australia expects that the consultation on the proposed live adult entertainment venues scheme will progress as follows:

- a) Circulation of this first consultation paper for client response;
- b) Consolidation of client responses;
- c) Submissions accepted and integrated where appropriate; and
- d) Written documentation provided to live adult entertainment venues serving as formal notification of the new scheme.

PROPOSED LIVE ADULT ENTERTAINMENT VENUES SCHEME

OneMusic Australia is proposing a simplified licence scheme for live adult entertainment venues, including “gentlemen’s clubs”, that primarily offer to their patrons adult entertainment such as live striptease shows, erotic and lap dancing and burlesque shows.

CONSIDERATIONS

In developing the scheme, OneMusic Australia has remained keenly aware of the issues facing live adult entertainment venues currently, including but not limited to liquor licensing restrictions and lock-out laws. OneMusic Australia has reviewed the existing APRA AMCOS and PPCA licences available in the market and developed a licensing metric that we believe is fair and reasonable for the sector, as well as for our members.

In analysing the existing APRA AMCOS and PPCA licences held by Australian live adult entertainment venues, OneMusic Australia found that there appears to be a disparity between the kinds of usage reported to APRA AMCOS and to PPCA. Accordingly, we think that one of the primary objectives of any new scheme should be simplicity including to ensure that those venues which are not licensed, under-licensed or incorrectly licensed are correctly licensed for their use of music by OneMusic Australia.

RIGHTS

The grant of rights that this proposed scheme for live adult entertainment venues would cover are:

- a) Playing background music at the venue across normal trading hours; and
- b) Music used for the purpose of non-ticketed performances such as striptease shows, exotic or erotic dancing, burlesque shows, cabaret shows, and other similar performances.

Music in this context includes all works and recordings represented by APRA AMCOS and PPCA respectively. The breadth of repertoire is vast including the worldwide repertoire of hundreds of thousands of musicians and millions of recordings.

The scheme does not cover the use of music at ticketed events held at the venue, the use of the venue, or a designated part of the venue, as a nightclub (i.e. where recorded music is provided for dance use for patrons), the use of music on the venue’s website or social media pages, or any other use not expressly noted above. Where such rights are represented by OneMusic Australia, separate licences will be available for these uses.

STRUCTURE

The proposed scheme for live adult entertainment venues is based on a rate per day/night of operation, tiered according to a capacity threshold. The proposed rate is \$33.00 including GST per day/night of operation where the venue’s capacity is 150 or less and \$44.00 per day/night where capacity is greater than 150.

By way of comparison, we believe that two existing licences that APRA AMCOS and PPCA currently apply for similar uses of music, provide a guide as to the lower and upper value of music used at live adult entertainment venues. Those are the APRA AMCOS and PPCA rates for featured/foreground music used at a hotel and the ‘nightclub rate’. If these existing licences are applied to an adult entertainment venue with a capacity of 100 people, the approximate nightly fee would be \$21 and \$240 respectively. Against those comparators, the proposed fee of \$33 for a venue with a capacity of up to 150 people is very much at the lower end of the scale. Furthermore, the proposed licence would allow live adult entertainment venues to also play background music (including from music videos and televisions) across normal trading hours. Under the current APRA AMCOS and PPCA licence schemes, additional fees would be required for this use, which may be upwards of \$1,000 a year.

The licence fee under this scheme is subject to a minimum fee of \$110.00 (including GST) per venue, per quarter. All fees under this scheme will increase annually in line with the weighted average of eight capital cities Consumer Price Index annually.

REPORTING

OneMusic Australia proposes that the invoicing/reporting structure under the scheme provides for quarterly invoicing in advance, subject to readjustment on the provision of the actual number of nights of operation in the quarter.

All reporting will be undertaken through the OneMusic Australia eCommerce facility before the anniversary of the licence.

IMPACT

OneMusic Australia has tested the implementation of this scheme across a sample of current APRA AMCOS and PPCA licensees in this sector. The findings from these tests show that, as noted above, many live adult entertainment venues in Australia are not correctly licensed for their use of music.

Therefore, the implementation of the proposed scheme will work to rectify the lack of compliance with the Copyright Act (1968) across the industry by providing venues with a simple, easy to calculate and equitable licensing solution.



SUBMITTING YOUR FEEDBACK

OneMusic Australia is committed to developing music licensing schemes that are fair, equitable and relevant to Australian industries. Your feedback on the above proposal is integral to this process.

Please provide your feedback in the form of a submission to consultation@onemusic.com.au by close of business May xx, 2017. All submissions must be in a Microsoft Word or PDF format.

FURTHER QUESTIONS

If you have any questions or would like to discuss the proposal further, please email questions@onemusic.com.au and we will be in touch.

DATE: 12 April 2019

ADULT ENTERTAINMENT VENUES

FINAL POSITION PAPER

OneMusic Australia is an initiative of APRA AMCOS and PPCA. On 10 May 2017 OneMusic Australia released a consultation paper seeking feedback on a proposed music licensing scheme for adult entertainment venues. That paper can be found [here](#).

The consultation paper for adult entertainment venues has been publicly available for over a year, and OneMusic Australia has received minimal feedback on the proposed scheme's structure or rate. As there have been no substantive objections or suggested changes to the licensing scheme, no amendments have been made to the scheme since the release of the first consultation paper.

Accordingly, the final licence scheme for Adult Entertainment Venues is expected to include the structure and rates described below.

YOUR NEW ONEMUSIC LICENCE FEES

BACKGROUND MUSIC FOR ADULT ENTERTAINMENT VENUES	
LOCATION CAPACITY (PERSONS)	DAY RATE
Up to 150	\$33
151 plus	\$44
Subject to a minimum annual fee per location of \$440	

Rates include 10% GST. The GST-exclusive component of the rates set out in the table above will be increased by CPI on 1 July of each licence year after 30 June 2020.

DEFINITIONS

The following definitions are relevant to the OneMusic licensing scheme for adult entertainment venues. The definitions will form part of the final terms and conditions offered by OneMusic, subject to possible minor amendments required to draft the agreement without changing the intent of the meaning.

Background Music for Adult Entertainment Venues means any licensed music (recorded or otherwise), including music videos, used at the location, which is:

- a) primarily intended to be passively listened to and not to be the main focus; or
- b) used for the purpose of non-ticketed live performances, such as striptease shows, exotic or erotic dancing, burlesque shows, cabaret shows, and other similar performances.

Location Capacity means the total capacity (number of persons) of the adult entertainment venue licensed by the relevant Local Government Authority or Fire Department (as applicable to your location).

CALCULATOR

To see how the proposed OneMusic Australia scheme will apply to your specific circumstances, you can use the calculator found here: form.jotform.co/90917194612864

NEXT STEPS

Implementation of the new Adult Entertainment Venues Licence is scheduled to begin in mid-2019. OneMusic Australia intends to publish the main terms of the licence scheme shortly in order to provide advance notice to businesses of the new structure and rates.

Businesses may object to some of the proposals set out above. Licensees and associations have recourse to expert processes under APRA's existing alternative dispute resolution service, Resolution Pathways.

If there is a reference to Resolution Pathways and the parties are unable to agree on an outcome, then either party may make a reference to the Copyright Tribunal.

FURTHER QUESTIONS

If you have any questions or would like to discuss this scheme further, please email questions@onemusic.com.au and we will be in touch as soon as possible.

Table of total OneMusic Australia licensees and locations

Name	Sum of Total OneMusic Licensees*	Sum of Total Locations*
1. Adult Entertainment	53	54
2. Child Care Service	306	1235
3. Cinema	245	477
4. Clubs	2916	2955
5. Community Halls	516	585
6. Community Music Organisations and Groups	1561	2192
7. Councils (Local Government)	516	516
8. Dance and Performance Instructors and Schools	2978	3612
9. Dining	5786	8149
10. Dramatic Contexts	0	463
11. Eisteddfodau and Competitions	0	116
12. Events	0	4859
13. Film Screenings	0	20
14. Fitness, Exercise and Wellbeing Providers and Instructors	3680	4764
16. Function, Convention and Conference Centres	532	711
17. Hotels	5991	7510
18. Karaoke	33	43
19. Places of Interest, Activity and Amusement	1618	2234
20. Recorded Music for Dance Use	77	81
21. Retail and Service Providers	15876	50304
22. State and Federal Government Licence Scheme	147	304
23. Vehicles	132	349
24. Workplace Music Use	1254	1254
Grand Total	44,257	93,350

*Accurate as of 10 January 2023

RATE SETTING GUIDE

GENERAL BACKGROUND

OneMusic Australia commenced operation in 2019 to enable a 'one stop shop' as a single point of access for the licensing of music performed by businesses in Australia. Australasian Performing Right Association (**APRA**) operates OneMusic Australia on behalf of itself, Australasian Mechanical Copyright Owners Society (**AMCOS**) and Phonographic Performance Company of Australia (**PPCA**)¹.

OneMusic Australia developed a suite of licences aimed at servicing the music needs of industries or sectors to address the different ways each industry or sector uses music. Licences are grouped, for convenience, into industries or sectors, which are called 'schemes' for the purposes of these Rate Setting Guides. For instance, the *Retail & Service Providers* scheme, the *Fitness, Exercise & Wellbeing* scheme, and the *Hotels, Pubs, Taverns, Bars & Casinos* scheme.

This summary sets out the general development process and rationale for the fixing of rates and rate structures across all of OneMusic Australia's licensing categories and schemes. More detailed information regarding the setting of rates and rate structures for individual licensing categories or schemes are contained in the Rate Setting Guides available [[HERE](#)].

The rights comprised in each OneMusic Australia licence scheme broadly involve the following rights:

- the public performance of musical works in APRA's repertoire (**APRA Rights**);
- the reproduction (copying) of musical works in AMCOS' repertoire (**AMCOS Rights**); and
- the public performance and reproduction (copying) of sound recordings and the public performance of music videos in PPCA's repertoire (**PPCA Rights**).

In general terms, the **rates and rate structures** across the suite of OneMusic Australia's licensing categories and schemes have been fixed having regard to one or more of the following factors:

1. with reference to any relevant decisions of the **Copyright Tribunal**;
2. by benchmarking against the rates and rate structures:²
 - that existed prior to the commencement of OneMusic Australia; and/or
 - that apply to comparable uses of comparable copyright material;
3. an assessment as to the extent to which the rates and rate structures require modification as a result of being combined under a single licence category or scheme;
4. the purpose and importance of music to the relevant industry, sector or music user;
5. the nature of the businesses within the industry or sector (to avoid unintended inequity or administrative burden); and
6. the number of rights exercised in the use of that music.

Each of the 6 (six) factors above are discussed below.

1. Copyright Tribunal decisions

The rates and rate structures that OneMusic Australia, APRA AMCOS and PPCA set are subject to review by the *Copyright Tribunal of Australia* (**Copyright Tribunal**). The Copyright Tribunal's role is to determine the reasonableness of any given scheme that is referred to it.

Relevant decisions of the Copyright Tribunal have established the basis for the rates and rate structures for a number of licence schemes that existed prior to the commencement of OneMusic Australia, both for

¹ Three of OneMusic Australia's schemes – *Dance and Performance Instructors and Dance School Scheme*, *Child Care Service Scheme*, and *Funeral Directors Scheme* – also include some limited rights administered by the Copyright Agency and/or the Australian Recording Industry Association.

² OneMusic Australia's benchmarking reflects the method for pricing copyright materials as recommended by the ACCC in its publication - *ACCC Guidelines to assist the Copyright Tribunal in the determination of Copyright remuneration* (April 2019) pp 14-16.

APRA AMCOS and for PPCA, and continue to underpin OneMusic Australia's rates and rate structures for those schemes.

2. Benchmarking

The rates and rate structures that existed prior to the advent of OneMusic Australia were developed over time by APRA AMCOS and, separately, PPCA, and evolved with reference to a range of factors, including by consultations and negotiations with affected industries and, as noted above, by implementing relevant Copyright Tribunal decisions.

OneMusic Australia used the pre-existing rates and rate structures as a key input and benchmark for those developed for joint licensing under OneMusic Australia.³

Similarly, in many cases, OneMusic Australia fixes its rates and rate structures for particular licensing categories by benchmarking them against appropriate comparators, whether they be those applicable to similar uses of copyright material or the same uses in different, but comparable, jurisdictions.⁴ For instance, the performance of live music under the scheme for hotels may be benchmarked against the rates payable for the playing of live music at a dedicated music venue. Or reproduction (copying) of music for the purposes of performing those recordings in public, could be benchmarked to the rates applicable for the physical copying of CDs for commercial manufacture.

Any future review of licence schemes, rates or rate structures would follow a similar benchmarking approach, albeit that the pre-existing rates used would be the then current rates actually being charged by OneMusic Australia.

3. Joint Licensing

To enable a single point of access under OneMusic Australia's joint licensing, several pre-existing APRA AMCOS and PPCA rates and rate structures required review and adjustment. This typically involved adjustments to the rate structure of previous licence categories (for instance, to align a PPCA rate structure that was based on a premises' capacity to one based on attendance). Additionally, while rates were typically simply combined, there were instances where pre-existing APRA AMCOS or PPCA rates were adjusted to ensure that, in most cases, the joint rate was comprised of 50% for APRA rights and AMCOS rights and the other 50% for PPCA rights.⁵

4. Music purpose

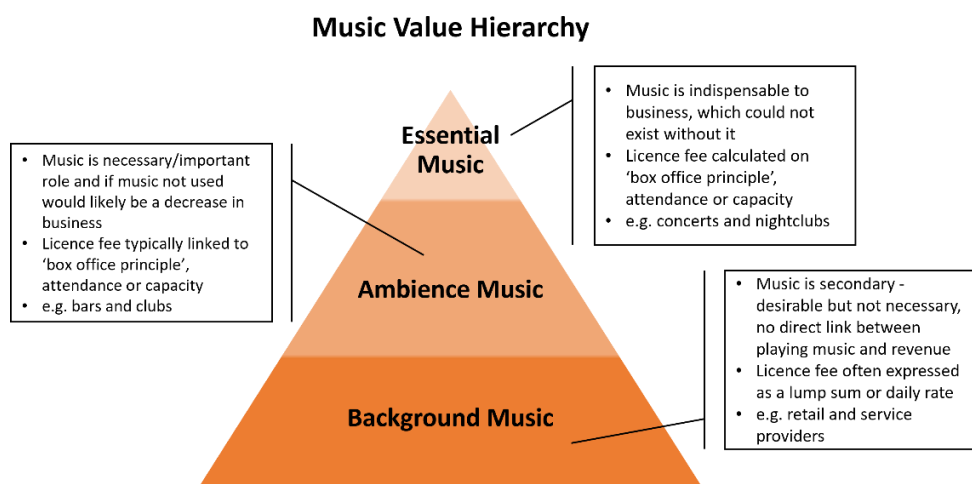
In developing rates, OneMusic Australia starts with a 'hierarchy of music' that reflects the value of music. This hierarchy assists to determine the basis for charging with reference to the purpose and importance of music to the licensee business. This hierarchy is set out below:⁶

³ This form of benchmarking is consistent with the approach recommended by the ACCC in its guidelines - *ACCC Guidelines to assist the Copyright Tribunal in the determination of Copyright remuneration* (April 2019) pp 15-16

⁴ As noted by the ACCC in its guidelines, caution is recommended when using international benchmarking for the purposes of setting fees for Australia. However, in some cases, appropriate international rates can be included as a factor by OneMusic Australia when fixing its rates and rate structures.

⁵ *Phonographic Performance Co of Australia Ltd under Section 154(1) of Copyright Act 1968 (Cth), Re* [2007] ACopyT 1 at [215].

⁶ This hierarchy has been adopted by music licensing bodies internationally for many years and was, in a slightly different form, implicitly accepted by the Copyright Tribunal of Australia in *Reference by Australasian Performing Right Association Ltd* [2006] ACopyT 3.



5. The Nature of the Businesses

When developing its rates and rate structures, OneMusic Australia considers the nature of the relevant businesses, so as to reduce the risk of unintended inequities or burdens. To achieve this, OneMusic Australia develops its licensing categories (and their rates and rate structures) so that they:

- (a) are scalable (for instance, so that smaller businesses in the same licensing category do not pay the same amounts as larger businesses);
- (b) reflect the way music is typically used in that particular industry or sector (for example, retail shops typically use mostly background music, with only some using featured or live music);
- (c) provide for ease and appropriateness of reporting (that is, that the burden of regular reporting of music played or attendance is not required of businesses in circumstances where that would be too onerous relative to the value of the music); and
- (d) are simple enough to encourage compliance.

OneMusic Australia separately makes an assessment as to which licence categories should be available under each licence scheme on the basis of historical licensing information.

6. The Number of Rights

Each licence category captures the nature and extent of the copyright involved in the use of music under that category. For instance, a public performance licence for *musical works* (the written song) may also include the public performance of the *sound recordings* of those works – that is, the licence for that use involves two separate rights. Similarly, a licence may also include a reproduction right (copying) for both or either of the musical works or sound recordings.

RATE SETTING GUIDE

ADULT ENTERTAINMENT

The *Adult Entertainment* scheme (**AE Scheme**) has been developed by OneMusic Australia (**OneMusic**) for live adult entertainment venues, such as clubs offering live striptease shows, exotic or erotic dancing, lap dancing, and burlesque and cabaret shows.

This Rate Setting Guide describes how OneMusic sets the rates under the *AE Scheme*. For more information about how OneMusic fixes rates and determines rate structures more generally, please see the **Rate Setting Guide - General Background** available [HERE](#).

This scheme provides coverage for the use of OneMusic's music in these licensing categories:

1. Performance Music
2. Background Music
3. Website Use

Licences under the *AE Scheme* do not cover the use of music at the premises, or a designated part of the premises, when used as a nightclub (i.e. where recorded music is provided for patrons to dance). Use of music at a nightclub is covered by the *Recorded Music for Dance Use* scheme, more information about the rates is available [HERE](#).

1. Performance Music

Performance Music is music, including music videos, that is used for the purpose of live adult entertainment performances at the premises (whether live or recorded), such as striptease shows, exotic or erotic dancing, burlesque shows, cabaret shows, and other similar performances.

Rate Structure:

The rate structure for *Performance Music* under the *AE Scheme* is an amount calculated by reference to the annual number of persons admitted to the premises. The full per person rate was phased in over a period of three years.

Rate:

The licence fee was benchmarked against the licence fees for *Featured Recorded Music* and were derived in direct consultation with members of the industry.

The licence fees are slightly higher than for *Featured Recorded Music*, to take account of the fact that the music is considered to be more central to the entertainment than the featured music use in a hotel.

2. Background Music

Background Music is when the music played is not given prominence or used as a feature of the location. It includes music contained in television programs and films – for instance, where televisions are playing at the premises.

Background music has been a feature of APRA's public performance music licensing since the 1930s and is typically recorded music that is delivered via a sound system at the location (CDs, Digital Music Services, etc.), but can also be from televisions, radios, and commercial background music suppliers.

Rate Structure:

The rate structure for *Background Music* under the *AE Scheme* is a flat annual fee depending on:

- the number of audible television screens used at the licensed location;
- the number of music systems and music video screens, if any, used at the licensed location; and
- the device and/or source of music used.

The **number of audible televisions** at a location indicates the relative volume of music use being used throughout that location.

The **number of music systems** at a location indicates the relative volume of music use being used throughout that location, with a single music system attracting a lower rate than a location with multiple music systems. A **music system** means any device capable of playing music at the location, including a music system from a "commercial background music supplier", audio jukeboxes and devices such as tablets, smartphones, computers, and CD players.

The **device or source of music** indicates the value of the music to the licensee. The less sophisticated the device or source, such as radio, the lesser assumed value of the use to the licensee. For instance, a licensee who chooses radio as the source for its *Background Music* is indicating less of an interest in the selection of musical works and the value to its business, compared to a licensee who uses a customised or even professionally curated digital playlist via a Music System.

The rate structure for *Background Music* comprises six (6) tier options – *Sapphire, Diamond, Platinum, Gold, Silver* and *Bronze*. *Bronze*, at the lowest rate, being limited to a single television screen and a single radio, and *Sapphire*, at the highest rate, being available to those locations with 10 or more television screens, any number of music systems and music video screens and an add-on option for additional copyrights for publicly performing music from a digital music service.

Rate:

The licence fees are the same as those for background music in hotels. More information about the rate setting process for background music is available [HERE](#).

3. Website Use

The use of music as background streams on websites is a licensing category that appears in a number of OneMusic's schemes, including the *AE Scheme*.

More information about the rate setting process for **Website Use** is available [HERE](#).

4. Digital Copy/Delivery

Digital Copy/Delivery covers the right to reproduce (copy) and publicly perform music from a digital music service. The Rate Settling Guide for Digital Copy/Delivery is available [HERE](#).

RATE SETTING GUIDE

CHILD CARE SERVICES

The *Child Care Services* scheme (**CCS Scheme**) has been developed by OneMusic Australia for early childhood facilities such as Centre-based Care, Family Day Care, Pre-School, Kindergartens and Outside School Hours Care using music, books and art to entertain and engage children.

This Rate Setting Guide describes how OneMusic Australia sets the rates under the *CCS Scheme*. For more information about how OneMusic Australia fixes rates and determines rate structures more generally, please see the **Rate Setting Guide - General Background** available [HERE](#).

This scheme provides coverage for the use of OneMusic Australia's music in *Music for Child Care* and for the use of *Literary Works* (where OneMusic acts as agent for the Copyright Agency Ltd).

Music for Child Care and Literary Works

Music for Child Care means the use of music in a child care facility, including:

- as background music;
- as live performances at a child care facility (including making and communicating recordings of performance for personal and non-commercial use); and
- as Workplace Music and Telephone on Hold music.

Literary Works means the use of a Reasonable Portion of words and text from books, poems, plays and other literary works whose rights are controlled by the Copyright Agency in Australia in, and for the purposes of, a child care service. A **Reasonable Portion** is defined as 10% of a whole work of more than ten pages, or one chapter of a work that is divided into chapters.

Rate Structure:

The rate structure for *Music for Child Care* and *Literary Works* is an amount per Licensed Place depending on the type of child care service. OneMusic categorises the child care service as one of three types: Long Day Child Care Facility, Restricted Hours Child Care Facility or Vacation Child Care Facility.

Long Day Child Care Service means any child care facility that is not exclusively a Restricted Hours Child Care Service or a Vacation Child Care Service.

Restricted Hours Child Care Service means a child care facility that only provides services for a maximum of 5.5 hours a day.

Vacation Child Care Service means a child care facility that only provides services during gazetted school holidays in the relevant State or Territory.

Licensed Places means the maximum number of children who can be educated and cared for at the child care facility at any one time, as stated on the Service's 'service approval'.

Rate:

Initially there was only one rate under the scheme, which applied to all child care facilities. This rate was negotiated in a commercial negotiation with Early Childhood Australia, which is the peak industry body, in 2014 – 2015. In 2020 on a unilateral basis (but as a result of informal comments OneMusic was receiving from child care facilities) OneMusic introduced the concessional rates for vacation and restricted hours child care facilities to acknowledge the different types of operations in this industry.

RATE SETTING GUIDE

CINEMAS SCHEME

The *Cinemas* scheme has been developed by OneMusic Australia (**OneMusic**) for permanent cinemas and similar locations which offer regular screenings of films.

One-off or casual film screenings and film festivals are covered by OneMusic's *Film Screenings* licence; for which the Rate Setting Guide is available [HERE](#).

This Rate Setting Guide describes how OneMusic sets the rates under the *Cinemas* scheme. For more information about how OneMusic fixes rates and determines rate structures more generally, please see the **Rate Setting Guide - General Background** available [HERE](#).

Licensees under this scheme range from small, single-location premises (for example, an independent or Art House cinema) to large, multi-location operators (for example, Hoyts) and are licensed to screen films to the extent they contain music, including permission to play OneMusic's music in previews, advertisements, in a theatre foyer or other common areas, and via telephone music on hold.

This scheme provides coverage for the use of OneMusic's music in these licensing categories:

1. Music for Cinemas
2. Featured Music Performances
3. Telephone on Hold

1. Music for Cinemas

Music for Cinemas includes both Music in Cinematograph Films and Background Music.

Music in Cinematograph Films means musical works performed in Cinemas by means of the exhibition of cinematograph films.

Background Music means any music used at the location, including music contained in television programs and films, that is not given prominence or used as a feature of that location. Background Music includes music played in a Cinema's Common Area, including in a bar or concession stand area, and when music is contained in cinema promo reels that may be playing on television screens in those areas.

Rate Structure:

The rate structure for *Music for Cinemas* under the *Cinemas* scheme comprises two (2) tier options based on the rights required.

Option A applies to each location where a licence is required for the use of PPCA Sound Recordings as Background Music. **Option B** applies to each location where no licence is required for the use of PPCA Sound Recordings as Background Music.

The rate structure for **Option A** comprises quarterly fees depending on:

- for APRA Works used as Music in cinematograph films and as Background Music, the Gross Box Office Receipts;
- for PPCA Sound Recordings used as Music in cinematograph films, the number of screens at the location and the annual screenings; and
- for PPCA Sound Recordings used as Background Music, the size of the Common Area in m².

The rate structure for **Option B** comprises quarterly fees depending on:

- for APRA Works used as Music in Cinematograph Films and as Background Music, the Gross Box Office Receipts; and
- for PPCA Sound Recordings used as Music in Cinematograph Films, the number of screens at the location and the annual screenings.

Common Area means the total size of the area or areas of the location where Background Music is audible, including foyers and other common areas.

Gross Box Office Receipts means the total amount paid for admission to screenings of cinematograph films at all Cinema locations (including the value of all tickets sold or redeemed), excluding government taxes or other charges, such as GST.

Rate:

The APRA rate structure was agreed in commercial negotiations with representatives of the cinema industry including their peak industry body, Motion Picture Distributors Association of Australia, and their legal representatives, in 2006.

The PPCA rate structure for Music in cinematograph films is the rate that was charged by PPCA prior to the commencement of OneMusic and has been in place since at least 2000.

The PPCA rate structure for Background Music is the OneMusic rate for Background Music used by the *Places of Interest Activity and Amusement* licence, for which the Rate Setting Guide is available [HERE](#), but subject to a 50% deduction on account of the APRA 'cinema rate' also covering such Background Music use.

2. Featured Music Performances

Under the *Cinemas* scheme, the *Featured Music Performances* licence category is for performance of music (recorded or otherwise) at the Cinema that is given prominence as a feature of that Cinema or any part of that Cinema. Featured Music includes performances, including live performances or karaoke, that have been advertised to the public as having music as a feature such as 'Live DJ Every Friday', 'Live Music Thursday', or where music is advertised as part of a specific event or series of events.

Featured Music Performance does not include performances where there is a specific Entry Fee or where Gross Expenditure on Live Artist Performers is greater than \$4,000. The Cinema may need to obtain a separate Event licence (available [HERE](#)) from OneMusic for such performances.

A **Live Artist Performer** is any performer participating in the performance of music including featured and back-up singers, musicians, DJs, electronic music artists, dancers etc.

Gross Expenditure means the total of all salaries, wages, profit shares, allowances and accommodation, travel and other expenses (excluding GST), of the Live Artist Performer or their agent, manager, assistant, or associate.

Rate Structure:

The *Featured Music Performances* rate is a fixed amount for each day Featured Music is performed at the cinema, with two price tiers depending on the size of the Common Area in m².

A daily set fee was considered the most appropriate rate structure given that there is unlikely to be a box office (as entry will typically be free), reporting of attendance numbers would be difficult to monitor, and it would be difficult to impose reporting obligations on licensees.

Rate:

The licence fee was benchmarked against the licence fees for *Featured Recorded Music* under the *Hotels, Pubs, Taverns, Bars and Casinos* Licence Scheme, which is \$0.264 per person admitted. In an area of 2,000m² and assuming one person per m², the per person rate under this licence is \$0.00638 for each day Featured Music is performed at the Cinema.

3. Telephone on Hold

Telephone on Hold music under the *Cinemas* scheme involves the same rates and rate structure as under the *Workplace Music and Telephone on Hold* scheme.

More information about the rate and rate structure for **Workplace Music and Telephone on Hold** is available [HERE](#).

RATE SETTING GUIDE

CLUBS

The *Clubs* Scheme has been developed by OneMusic Australia (**OneMusic**) for not-for-profit member-based entities such as RSL Clubs, Sporting Clubs, Cultural Clubs and Registered and Licenced Clubs.

This Rate Setting Guide describes how OneMusic Australia sets the rates under the *Clubs* Scheme. For more information about how OneMusic Australia fixes rates and determines rate structures more generally, please see the **Rate Setting Guide - General Background** available [HERE](#).

This scheme provides coverage for the use of our music in these licensing categories:

1. Music for Clubs
2. Website Use
3. Premium Featured Music Events
4. Recorded Music for Dance Use
5. Music in Fitness Classes from any number of devices

1. Music for Clubs

Music for Clubs includes:

- i) Background Music for all locations (including all ancillary areas such as gymnasiums);
- ii) Featured Music Events (whether live or recorded performances) where Entry Fee is \$40 or less;
- iii) Music for Dance Classes;
- iv) Workplace Music;
- v) Telephone on Hold;
- vi) Exhibition of Music Videos;
- vii) Karaoke Events where Entry Fee is \$40 or less; and
- viii) Delivery/Copy for the above uses.

Background Music covers OneMusic's music played from radios and CD players, and music (including music videos) played from smartphones, tablets, TV screens and other devices that are not used as a prominent feature of the entertainment of the Club facilities or event. The music is not given prominence or used as a feature of the Club.

Featured Music Events covers Featured Recorded Music Performances, Live Music Performances, Recorded Music Performances and Karaoke Events where the Entry Fee is \$40 or less.

Music for Dance Classes covers music used in association with dance classes, lessons and rehearsals at Clubs. It does not include the use of music in dance classes undertaken primarily for the purposes of exercise (such as those occurring in fitness centres or gyms).

Workplace Music covers music when it's played by (or for) Club staff including music on employees' headphones or radios while working, in staff recreation areas and lunchrooms as well as in Club presentations and training sessions and includes the use of music during staff-only video conferences when held via a secure network. **Telephone on Hold** is use of music on a Club's on-hold system. More information about Workplace Music and Telephone on Hold is available [HERE](#).

Exhibition of Music Videos means to cause a music video, in so far as it consists of visual images, to be seen in public and, in so far as it consists of sounds, to be heard in public.

Delivery/Copy covers the right to reproduce (copy) and publicly perform music from a digital music service in a business setting. More information about Digital Copy/Delivery is available [HERE](#).

Rate Structure:

The rate structure for *Music for Clubs* under the *Clubs* Scheme is a rate per member (with two tiers), subject to a six-year phase-in with licence fees according to the licence fee paid by the club prior to the commencement of OneMusic.

Rate:

OneMusic and Clubs Australia, which represents each of the State and Territory Club associations, wished to introduce a simple single rate scheme and negotiations took place including the sharing of data and modelling (with reference to existing licence fees paid by clubs and membership numbers) to reach agreement on the rate and structure.

2. Website Use

The use of music as background streams on websites is a licence category that appears in a number of OneMusic's schemes, including the *Clubs* scheme.

The fixed annual rate for *Website Use* is dependent on the number of websites for each Club and is able to be 'added on' to a *Music for Clubs* licence.

More information about **Website Use** is available [HERE](#).

3. Premium Featured Music Events

Under the *Clubs* Scheme, the *Premium Featured Music Events* usage category is split into three sub-categories:

- i) Featured Recorded Music Performances where Entry Fee is greater than \$40;
- ii) Live Music Performances where Entry Fee is greater than \$40; and
- iii) Recorded Music Performances where Entry Fee is greater than \$40.

Featured Recorded Music Performances means recorded music used at the Club that is given prominence as a feature of that venue (not including a Recorded Music Performance). It includes performances by DJs or a Karaoke night and those as part of a specific event or series of events such as 'Sunday Jazz'.

Live Music Performances means a performance of music at an event or function by a Live Artist Performer. For example, a Live Music Performance is where a live band plays guitars and keyboard while singing, all live.

Recorded Music Performances means a musical performance at the Location by a Live Artist Performer where Sound Recordings are played as an element of their live performance. For example, a Recorded Music Performance includes performers who play recorded music to accompany their activity on stage or by including remixes, samples, or stems from other tracks in their performance.

A **Live Artist Performer** means any performer participating in the performance of music including featured and associated singers, musicians, DJs, electronic music artists, dancers, models, and conductors.

Rate Structure:

The rate structure for *Premium Featured Music Events* under the *Clubs* Scheme depends on the sub-category.

The rate structure for *Featured Recorded Music Performances* is a per attendee rate multiplied by the number of persons admitted to relevant Featured Recorded Music Performance area within the Club where Featured Recorded Music Performances can be heard for each day of operation (24 hour period).

The rate structure for *Live Music Performances* is a percentage of the annual:

- Gross Expenditure on Live Artist Performers; and
- Gross Sums Paid for Admissions, as relevant.

The **Gross Expenditure** means the total of all salaries, wages, profit shares, allowances and accommodation, travel and other expenses (but excluding GST), of the Live Artist Performer or their agent, manager, assistant, or associate.

The **Gross Sums Paid for Admissions** means the total amount paid for entry to the event (including the value of all tickets sold or redeemed), but excluding government taxes or other charges.

The rate structure for *Recorded Music Performances* is a percentage of the annual:

- Gross Expenditure on Live Artist Performers; and
- Gross Sums Paid for Admissions, as relevant,

PLUS an amount per persons admitted to each Recorded Music Performance.

Rate:

The licence fees are similar to the fees under the *Hotels, Pubs, Taverns, Bars and Casinos* licence; more information about the rate and structure is available [HERE](#).

4. Recorded Music for Dance Use

Recorded Music for Dance Use means recorded music played for the purpose of dancing such as in a nightclub or dance area.

Rate Structure:

The rate structure for *Recorded Music for Dance Use* is an amount per person admitted to each RMFD Area for each day of operation per year. The daily fee is capped according to the capacity of the RMFD Area.

RMFD Area means a physically separate area, either within a multi-function establishment or a standalone dance venue, that provides Recorded Music for Dance Use by patrons and has a dance floor or charges an Entry Fee.

Rate:

The original rate, which was calculated according to the capacity of the RMFD Area, was determined by the Copyright Tribunal of Australia in 2007, in a reference by PPCA that was subsequently applied by APRA (but according to attendance, rather than capacity). The OneMusic rate, which was introduced in March 2021, is now calculated on attendance covering both APRA and PPCA rights and is discounted from what would be the rate if the previous APRA rate and the previous PPCA were added together.

5. Music in Fitness Classes from any number of devices

Under the *Clubs* Scheme, the *Music in Fitness Classes* usage category is for the use of music in a timetabled fitness class or session, which is directed by a fitness instructor, inside or outside the Club.

A **Fitness Class** means any structured form of exercise conducted commercially in a 'class or tutorial style' (for instance, Zumba, circuit and cycle/spin as well as yoga, Pilates and aqua fitness). These classes could be held within a Club, Fitness Centre or anywhere else including outdoors - as long as it is led by a Fitness and Wellbeing Instructor. To fall under this definition, the Fitness Class needs to be directed by a staff or freelance fitness instructor and is included in a timetable type of notice to clients and prospects.

Rate Structure:

The rate structure for *Music in Fitness Classes* under the *Clubs* Scheme is calculated by reference to the number of classes per year, split into two options.

Option A provides for a single rate per Fitness Classes irrespective of the number of participants per class and **Option B** provides for two rates according to the number of Fitness Classes with more than 10 participants per year and the number of Fitness Classes with 10 or fewer participants per year.

Rate:

The licence fees are the same as under the licence scheme for Fitness Classes. More information about the rate and structure is available [HERE](#).

RATE SETTING GUIDE

COMMUNITY HALLS

The *Community Halls* Scheme has been developed for those who operate community halls not owned by the local Council. This may be a church hall, a scout/guide hall, a school of arts hall or any other type of community hall. Halls owned by a local Council are licensed under the *Councils* scheme available [HERE](#).

This Rate Setting Guide describes how OneMusic Australia (**OneMusic**) sets the rates under the *Community Halls* Scheme. For more information about how OneMusic fixes rates and determines rate structures more generally, please see the **Rate Setting Guide - General Background** available [HERE](#).

This scheme provides coverage for the use of our music in these licensing categories:

1. Music for Community Halls
2. Premium Live Performances

1. Music for Community Halls

Under the *Community Halls* Scheme, the *Music for Community Halls* licence category is for all Background Music from any source used by you or someone who has hired the Hall, plus performances by Live Artist Performers at any event or function at the Hall (including to exhibit music videos).

Background Music means OneMusic's music played from radios and CD players, and music and music videos played from smartphones, tablets, TV screens and other devices where music is not a prominent feature of the entertainment at the Community Hall or event

A **Live Artist Performer** is any performer participating in the performance of OneMusic's music including featured and back up singers, musicians, DJs, electronic music artists, dancers. Where Gross Expenditure on Live Artist Performers for an event is more than \$6,000 this is a Premium Live Performance (see below).

Gross Expenditure on Live Artist Performers means the total of all salaries, wages, profit shares, allowances and accommodation, travel and other expenses (but excluding GST), of the Live Artist Performer or their agent, manager, assistant, or associate.

Rate Structure:

The rate structure for *Music for Community Halls* is a Day Rate calculated by reference to the Community Hall's Capacity. The annual fee will therefore be dependent on the capacity of the hall and the number of days of operation.

The **Community Hall Capacity** means the total capacity (number of persons) of the Community Hall licensed by the relevant Local Government Authority or Fire Department, in units of 100.

Rate:

The prior structure for the APRA AMCOS rate was on a per event basis while the PPCA rate was on a per day of operation basis (both calculated by reference to capacity). Following a consultation process with existing licensees that took place between 2017 and 2019, the OneMusic rate structure was introduced to apply a per day of operation fee for both APRA AMCOS and PPCA rights. In addition, OneMusic increased the expenditure threshold where an additional fee for live performances would apply. Given these changes, and because the rates under the previous licence scheme had not been increased for decades, OneMusic agreed that an increased daily rate would be phased in over a period of three years.

2. Premium Live Performances

The *Premium Live Performances* licence category covers performances in the Community Hall that are considered **Premium**.

A **Premium** live performance means when the when the Gross Expenditure on Live Artist Performers for a single event is more than \$6,000.

Rate Structure:

The rate structure for *Premium Live Performances* is a day rate calculated by reference to the Community Hall's Capacity and the total number of days of operation. The annual fee will therefore be dependent on the capacity of the hall and the number of days in the year when *Premium Live Performances* occur.

The **Community Hall Capacity** means the total capacity (number of persons) of the Community Hall licensed by the relevant Local Government Authority or Fire Department, in units of 100.

Rate:

For ease of reporting and compliance for this particular often volunteer and non-commercial based sector, the rates were converted from the *Hotels* percentage-based rate for live music (based on artist expenditure) to a simple per-day rate and then discounted.

RATE SETTING GUIDE

COMMUNITY MUSIC GROUPS

The *Community Music Groups Scheme* has been developed for community music groups which includes individual bands, choirs, ensembles or performance groups:

- that have public performance of music as their primary purpose;
- that are operated not for profit;
- with only amateur, unpaid participants (other than any conductor or band leader);
- formed with the aim of developing musical learning;
- led by experienced music educators;
- conducted with open and inclusive participation; and
- where any joining fees are conducive to open and inclusive participation.

This licence scheme may also cover Other Community Groups - social interest groups, youth or senior groups, social clubs or church activities which fall outside the *Christian Copyright Licensing International (CCLI)* scheme with OneMusic Australia (**OneMusic**). The *Community Music Groups Scheme* is available to Other Community Groups that are:

- operated not for profit;
- conducted with open and inclusive participation; and
- free to join or have joining fees that are conducive to open and inclusive participation.

This Rate Setting Guide describes how OneMusic sets the rates under the *Community Music Groups Scheme*. For more information about how OneMusic fixes rates and determines rate structures more generally, please see the **Rate Setting Guide - General Background** available [HERE](#).

This scheme provides coverage for the use of OneMusic's music in the *Music for Community Music Groups* licence category.

Music for Community Music Groups

Music for Community Music Groups provides three levels of cover according to the needs of the group.

APRA Works covers an unrestricted number of live music performances by the Community Music Group at Community Events.

APRA Works and AMCOS Works covers:

- an unrestricted number of live music performances by the Community Music Group at Community Events;
- reproduction of AMCOS Works for the purpose of practice and rehearsals of performances by the Community Music Group at Community Events and making Community Event Audio Recordings; and
- reproduction of AMCOS Works in the form of Approved Print Music.

PPCA Sound Recordings covers the unrestricted use of PPCA Sound Recordings in performances by the Community Music Group at Community Events.

Reproduction of AMCOS Works and Approved Print Music means making physical copies of original print music through a photocopier or printer (not digital copies shared on a computer).

A **Community Event** means any event where the Community Music Group's band, choir, ensemble or performance group performs, provided that the performance is conducted:

- free-of-charge; or
- if conducted for a fee, only for the purpose of recovering the Community Music Group's costs or for fundraising directly for the Group.

Rate Structure:

The rate structures for all three levels of cover under the *Music for Community Music Groups* are flat amounts per Music Group.

Rate:

The APRA AMCOS rates were formulated following discussions with community music groups in 2014 and 2016, including a survey sent to 2,300 music groups, with the assistance of the Music Council of Australia.

The PPCA rate under the *Community Music Groups Scheme* is the same as that offered by PPCA prior to the launch of OneMusic and, other than CPI-based increases, remains unchanged for at least 22 years.

RATE SETTING GUIDE

DANCE AND PERFORMANCE INSTRUCTORS AND DANCE SCHOOLS

The *Dance and Performance Instructors and Dance Schools Scheme (DPIDS Scheme)* has been developed for dance schools and dance, acting, and performance tutors.

This Rate Setting Guide describes how OneMusic Australia (**OneMusic**) sets the rates under the *DPIDS Scheme*. For more information about how OneMusic fixes rates and determines rate structures more generally, please see the **Rate Setting Guide - General Background** available [HERE](#).

This scheme provides coverage for the use of OneMusic's music in these licensing categories:

- | | |
|------------------------------------|----------------------------|
| 1. Music in Dance Classes | 4. Video Recording Package |
| 2. Dance School Events | 5. Website Use |
| 3. Audio Recording/Digital Package | |

1. Music in Dance Classes

The *Music in Dance Classes* licence category provides permission to Dance and Performance Schools to play or perform music in association with dance classes, lessons, and rehearsals.

Dance classes taking place in fitness centres or gyms (such as Zumba or Hip-Hop) are covered under the *Fitness Centre and Fitness & Wellbeing Instructors scheme*, available [HERE](#).

Rate Structure:

The rate structure for *Music in Dance Classes* is a flat fee per Location, with four price tiers depending on the number of dance classes per week over a 12-month period.

Location means a particular place where the dance instruction takes place. However, if a dance instructor spreads their dance classes across different Locations at different times of the day or different days of the week (such that two or more classes are not held at the same time on the same day at more than one location) we will count this as operating in one Location.

Rate:

OneMusic consulted with dance school licensees and peak bodies during 2018. The previous rate structure for both APRA and PPCA was a rate per day per location irrespective of the number of classes held. The new rates more closely align the licence fee with the number of classes, which acts as a better proxy for audience/box office.

2. Dance School Events

The *Dance School Events* licence category is for the use of OneMusic's music at events, recitals, and performances by the Dance and Performance School or students of a Dance and Performance Instructor where the Entry Fee is \$40 or less (including GST and any booking and handling fee). It excludes ballets, performances in a dramatic context, and Eisteddfod Performances.

Rate Structure:

The rate structure for the *Dance School Events* licence category is a flat fee per licensee, with two price tiers depending on the number of Dance School Events per year.

Rate:

APRA consulted with dance school licensees and peak bodies in 2018. The previous APRA and PPCA live performance rates were used as a benchmark.

3. Audio Recording/Digital Package

The *Audio Recording/Digital Package* covers the Reproduction (copying) of up to 2,000 tracks containing PPCA Sound Recordings and/or APRA Works and AMCOS Works. This includes downloading or accessing music from a consumer digital music service (for example, Spotify).

Rate Structure:

The rate structure for the *Audio Recording/Digital Package* is a flat fee per student.

Rate:

OneMusic consulted with dance school licensees and peak bodies in 2018. This licence was previously offered by AMCOS (Australasian Mechanical Copyright Owners' Society) and ARIA (Australian Recording Industry Association) under a joint licensing arrangement. Under that licence there was a single rate covering both this Audio Recording/Digital Package and the Video Recording Package. The new rate for the Audio Recording/Digital Package was a continuation of the AMCOS/ARIA rate - a rate that had been in place since the early 1990s, subject to CPI adjustment – but at 1/3rd of that rate.

4. Video Recording Package

The *Video Recording Package* licence category includes:

- making up to three video recordings (that include APRA Works, AMCOS Works, and ARIA Sound Recordings) per student of a Dance School Event per year; or
- making three copies per student of the one video recording per year.

Rate Structure:

The rate structure for the *Video Recordings Package* is a flat fee per student.

Rate:

OneMusic consulted with dance school licensees and peak bodies in 2018. This licence was previously offered by AMCOS (Australasian Mechanical Copyright Owners' Society) and ARIA (Australian Recording Industry Association) under a joint licensing arrangement. Under that licence there was a single rate covering both this Video Recording Package and the Audio Recording/Digital Package. The new rate for the Video Recording Package was a continuation of the AMCOS/ARIA rate - a rate that had been in place since the early 1990s, subject to CPI adjustment – but at 2/3rds of that rate.

5. Website Use

The use of music as background streams on websites is a licensing category that appears in a number of OneMusic's schemes, including the *DPIDS Scheme*.

More information about the **Website Use** licence category is available [HERE](#).

RATE SETTING GUIDE

DIGITAL COPY/DELIVERY

The *Digital Copy/Delivery* rate has been developed by OneMusic Australia to enable businesses to use music legally when they use personal digital streaming services to provide, generally background, music for their customers. *Digital Copy/Delivery* is available as part of numerous OneMusic Australia licence schemes, such as the *Retail and Service Providers* and the *Hotels, Pubs, Taverns, Bars and Casinos* schemes.

It is important to note that while this cover gives a licensee permission to use our music in its business; **it does not override the Terms of Use** for the personal digital music service it is using, nor does it give the licensee permission to use that particular digital music service for a commercial purpose – that permission can only come from the owners of that digital music service. Accordingly, even with our licence, the use of digital music streaming services by a licensee in its business may be in breach of the terms and conditions of the end user agreement with that service.

This Rate Setting Guide describes how OneMusic Australia sets the rates for *Digital Copy/Delivery*. For more information about how OneMusic Australia fixes rates and determines rate structures more generally, please see the **Rate Setting Guide - General Background** available [HERE](#).

Digital Copy/Delivery

Digital Copy/Delivery covers the right to reproduce (copy) and publicly perform music from a consumer digital music service.

Rate Structure:

The rate structure for *Digital Copy/Delivery* is a fixed amount per business. For some OneMusic schemes it is available as a separately priced rate, and in others it is priced into the ‘public performance’ cover. In both instances a business may use up to 2,000 tracks at any one time.

Rate:

Although APRA AMCOS and PPCA had licences in place to permit a business to use, cache or make copies of music for the purpose of playing as background music, there were notable differences in the two existing structures. The PPCA scheme was limited to a maximum of 250 tracks per year on a cumulative basis, whereas the APRA AMCOS scheme was tiered depending on the maximum number of tracks copied on the relevant device at one time.

The APRA AMCOS rate was introduced in 2014 and benchmarked on the Copyright Tribunal Digital Download case decision, taking into account the volume of tracks used across the tiers. At the time of the OneMusic consultations, the APRA AMCOS rate was \$256.78 for up to 1,000 tracks at any one time and the PPCA rate was \$147.13 for a maximum of 250 tracks.

OneMusic sought submissions on different structures and in response to feedback and, using these two benchmarks, the OneMusic *Digital Copy/Delivery* was introduced at \$400 for a maximum of 2,000 tracks. While the new rate was essentially the same as the aggregate of the old APRA AMCOS and PPCA rates, it permitted a doubling of the threshold against the old APRA AMCOS rate, and an eight-fold increase against the old PPCA rate.

RATE SETTING GUIDE

DINING SCHEME

The *Dining* scheme has been developed by OneMusic Australia (**OneMusic**) for restaurants, cafés, bistros – essentially any commercial enterprise preparing meals and hot drinks such as tea and coffee, consumed onsite or off-site.

This Rate Setting Guide describes how OneMusic sets the rates under the *Dining* scheme. For more information about how OneMusic fixes rates and determines rate structures more generally, please see the **Rate Setting Guide - General Background** available [HERE](#).

Licensees under this scheme range from small, single-location premises (for example, a family-owned table service restaurant) to large, multi-location operators (for example, a counter-service fast food franchise).

This scheme provides coverage for the use of our music in these licensing categories:

1. Background Music for Dining
2. Featured Music
3. Website Use
4. Telephone on Hold

1. Background Music for Dining

Background Music means music that is not given prominence or used as a feature of a restaurant. *Background Music for Dining* includes music played from radios, CD players, smartphones, tablets, TV screens, and other devices that are used in a restaurant's dining area.

Rate Structure:

The rate structure for *Background Music for Dining* under the *Dining* scheme comprises three (3) tier options based on the device and/or source of the music used at the location – *Gold*, *Silver* and *Bronze*. *Bronze*, at the lowest rate, is limited to music played from a terrestrial or digital broadcast through TV and/or radio. *Gold*, at the highest rate, includes music played from an online stream or a music download via a personal digital music service or other online source.

The rate structure for each tier is a flat amount, with the amount depending on the Dining Area Capacity according to a series of tiers (e.g. 31-50 seats). A deduction applies for the *Gold* and *Silver* tiers where either none of our PPCA recordings or none of our songs are used. A separate deduction applies to all tiers for each location that is open fewer than 150 days per year.

The **Dining Area Capacity** means the seating capacity of the restaurant; in other words the number of seats generally placed for customers in the dining area - inside and outside - where the music can be heard.

Rate:

The existing APRA and PPCA rates/structure, as at 2019, were significantly different from each other. As a result OneMusic released three consultation papers in 2017 and 2018 that proposed a new rate structure. Following the release of the second paper, Restaurant & Catering Industry Association of Australia (the peak industry body) approached OneMusic with a view to entering into commercial negotiations on the new rates and structure. The outcome of those discussions were reflected in the final position paper, which was published in 2019.

2. Featured Music

Under the *Dining* scheme, the *Featured Music* licence category is for live or recorded music that is given prominence as a feature (that is, it is not background music). For instance, when a DJ plays music or where live music is put together for a specific purpose or event such as a 'Tex Mex Tuesdays' or 'Sunday Jazz and Canapes'. *Featured Music* does not include performances where there is an Entry Fee or where Gross Expenditure on Live Artist Performers for that performance is greater than \$6,000.

Rate Structure:

The *Featured Music* rate is a fixed amount for each day Featured Music is performed at the restaurant, with two price tiers depending on Dining Area Capacity.

Rate:

The licence fee is the same as the *Featured Music* component of the *Cinema* and *Retail and Service Providers* licences, and was benchmarked against the licence fees for *Featured Recorded Music* under the *Hotels, Pubs, Taverns, Bars and Casinos* licence, which is \$0.264 per person admitted.

3. Website Use

The use of music as background streams on websites is a licensing category that appears in a number of OneMusic Australia's schemes, including the *Dining* scheme.

More information about the rate and rate structure for **Website Use** is available [HERE](#).

4. Telephone on Hold

Telephone on Hold music under the *Dining* scheme involves the same rates and rate structure as under the *Workplace Music and Telephone on Hold* scheme.

More information about the setting of rate and rate structure for **Workplace Music and Telephone on Hold** is available [HERE](#).

RATE SETTING GUIDE

EISTEDDFODAU & COMPETITIONS

The *Eisteddfodau and Competitions* Scheme has been developed for performance and arts event organisers that operate as an eisteddfod or similar competition. Eisteddfodau or competitions usually include disciplines such as vocal, instrumental, dance, calisthenics or cheerleading.

This Rate Setting Guide describes how OneMusic Australia (**OneMusic**) sets the rates under the *Eisteddfodau and Competitions* Scheme. For more information about how OneMusic fixes rates and determines rate structures more generally, please see the **Rate Setting Guide - General Background** available [HERE](#).

This scheme provides coverage for the use of OneMusic's music in these licensing categories:

1. Music for Eisteddfodau
2. Website Use

1. Music for Eisteddfodau

The *Music for Eisteddfodau* licence category includes:

- an unrestricted number of devices playing recorded background music at Eisteddfodau or Competitions;
- music used for the purpose of live performances undertaken by Entrants in Eisteddfodau or Competitions;
- an unlimited number of Adjudicator Recordings; and
- Digital Copy/Delivery for the uses above.

An **Adjudicator Recording** is a copy of an eisteddfod or competition performance, with verbal feedback, that is provided to entrants for their private use.

Digital Copy/Delivery covers the right to reproduce (copy) and publicly perform music from a consumer digital music service. More information about Digital Copy/Delivery is available [HERE](#).

Rate Structure:

The rate structure for *Music for Eisteddfodau* is a flat fee, with the rate dependent upon the total number of entries and whether the competition is Regional or Non-Regional. The rate is reduced where all the entries either do not require a licence from APRA/AMCOS for the use of musical works, or from PPCA for the use of sound recordings. The rates may be increased each year by CPI.

Rate:

OneMusic developed the rate following a consultation with the Association of Eisteddfod Societies Australia in 2018, and later with Eisteddfod Organisers Australia in 2019.

2. Website Use

The use of music as background streams on websites is a licensing category that appears in a number of OneMusic's schemes, including the *Eisteddfodau and Competitions* Scheme.

More information about the rate and rate structure for **Website Use** is available [HERE](#).

RATE SETTING GUIDE

FITNESS, EXERCISE AND WELLBEING

The *Fitness, Exercise and Wellbeing* scheme has been developed for music used in a fitness facility or when instructing clients in fitness, toning, or strengthening, such as music played at gyms, Pilates studios, boot camps, aqua fitness classes, and Zumba classes.

This Rate Setting Guide describes how OneMusic Australia sets the rates under the *Fitness, Exercise and Wellbeing* scheme. For more information about how OneMusic Australia fixes rates and determines rate structures more generally, please see the **Rate Setting Guide - General Background** available [HERE](#).

Licensees under this scheme range from small, single-location premises (for example, a yoga studio) to large, multi-location operators (for example, a gym franchise).

This scheme provides coverage for the use of OneMusic Australia's music in these licensing categories:

- | | |
|--|--------------------------|
| 1. All Inclusive | 4. Website Use |
| 2. Background Music (including Music Videos) | 5. Digital Copy/Delivery |
| 3. Music in Classes | 6. Telephone on Hold |

1. All Inclusive

The *All Inclusive* licence category includes:

- any number of devices for Background Music;
- any number of Music Videos;
- any number of devices and any number of Fitness Classes using Music in Classes;
- Digital Copy/Delivery for up to 2,000 tracks; and
- any number of lines for Telephone on Hold music.

Background Music means music that is passively listened to in open exercise areas, change rooms, reception, and other common areas. Background Music also applies to Group Personal Training Sessions and Virtual Fitness Classes. Background Music could be played through a background music system or everyday devices such as tablets, smartphones, computers, CD players, and television screens (including personal screens fitted to exercise equipment).

A **Fitness Class** is any structured form of exercise conducted commercially in a class or tutorial style, such as Les Mills, MOSSA, Radical and Zumba, circuit, dance, cycle/spin as well as flexibility/stretching/abdominal workouts, yoga, Pilates or aqua fitness.

Rate Structure:

The rate structure for the *All Inclusive* licence category is a flat fee, with the fee depending on the total number of Members. The *All Inclusive* rate structure may provide a saving when compared to the aggregate licence fees for background music, music in classes, digital copy/delivery and telephone on hold, and is applied when this is the case.

The total number of **Members** means the total number of clients of the fitness centre who have entered into an agreement with the business (or a third-party provider such as ClassPass) to use the facilities or services. This covers a free period as part of a subscription, casual visit, class pass or a regular sign up.

Rate:

The rates were determined following a mediation with one fitness chain, then followed by a consultation process with peak industry bodies. The existing APRA AMCOS and PPCA rates were used as a benchmark.

2. Background Music (including Music Videos)

The *Background Music (including Music Videos)* licence category includes:

- any number of devices for Background Music; and
- exhibiting Music Videos.

Rate Structure:

The rate structure for the *Background Music (including Music Videos)* licence category is a flat fee, with the fee depending on the total number of Members (see definition above).

Rate:

OneMusic conducted a consultation process to develop a new rate including with the peak industry body, Fitness Australia (now known as AUSactive). The starting point for the new OneMusic rate was the rate previously negotiated between APRA and Fitness Australia in 2012 but adjusted to include sound recording rights (where applicable).

3. Music in Classes

The *Music in Classes* licence category includes any number of devices for Music in Classes.

Music in Classes means music used in association with a Fitness Class (including music supplied by companies that offer pre-choreographed group fitness services).

The licence category is split into two categories: Option A and Option B.

Rate Structure:

The rate structure for Option A under the *Music in Classes* licence category is a flat fee, with the rate depending on the total number of Fitness Classes per year irrespective of the number of participants for each class.

The rate structure for Option B under the *Music in Classes* licence category is a tiered flat fee, with the rate depending on the number of participants per Fitness Class and the total number of Fitness Classes per year.

Under both Option A and B, a deduction applies for any class where either no PPCA recordings or no APRA and/or AMCOS works are used.

Rate:

Fitness classes have been licensed on a per class rate for more than 25 years. APRA conducted a negotiation with Fitness Australia in 2010/11 to develop new rates. Fitness Australia and PPCA then agreed to use the same rates and structure. The OneMusic rates are essentially the sum of those two prior rates.

4. Website Use

The use of OneMusic Australia's music as background streams on websites is a licence category that appears in a number of OneMusic Australia's schemes, including the *Fitness, Exercise and Wellbeing* scheme.

More information about the rate and rate structure for **Website Use** is available [HERE](#).

5. Digital Copy/Delivery

Digital Copy/Delivery covers the right to reproduce (copy) and publicly perform music from a digital music service and appears in a number of OneMusic Australia's schemes, including the *Fitness, Exercise and Wellbeing* scheme.

More information about Digital Copy/Delivery is available [HERE](#).

6. Telephone on Hold

Telephone on Hold covers the use of OneMusic Australia's music on a 'telephone on hold' system, whether sourced from radio or a recorded source.

More information about Telephone on Hold is available [HERE](#).

RATE SETTING GUIDE

FUNCTIONS

The *Functions* scheme has been developed for function, convention, and conference centres.

This Rate Setting Guide describes how OneMusic Australia sets the rates under the *Functions* scheme. For more information about how OneMusic Australia fixes rates and determines rate structures more generally, please see the **Rate Setting Guide - General Background** available [HERE](#).

The *Functions* scheme may be used for expos, conferences, exhibitions, summits, fairs, awards nights, weddings, and formals.

This scheme provides coverage for the use of OneMusic Australia's music in these licensing categories:

1. Music for Functions and Events
2. Workplace Music
3. Telephone on Hold

1. Music for Functions and Events

The *Music for Functions and Events* licence category includes:

- an unrestricted number of devices (including Music Videos) playing OneMusic Australia's recorded background music from any source; and
- an unrestricted number of performances by Live Artist Performers (with some exceptions).

Rate Structure:

OneMusic Australia has provided two licence fee options for the *Music for Functions and Events* licence category: Option 1 and Option 2.

The rate structure for **Option 1** is a flat fee per Location, with a tiered rate depending on the capacity of all the function areas at the Location.

Location Capacity means the maximum number of people that are permitted into the Location by the relevant regulator or licensing body.

Under **Option 2**, the licence fee is calculated on a daily basis, with the rate depending on the Function Area Capacity for each Function Area and the days of operation when Music for Functions and Events is being used in that area.

Function Area Capacity means the capacity of the venue or area of the venue as hired. For example, a space with an official capacity of 500 may be made available for hire in different configurations with different capacities for cocktail, theatrical, convention, expo, or sit-down dinner events, with those capacities set and advertised to potential hirers.

The customer can select the option that provides the lowest licence fee.

Rate:

The rates were determined following consultation with a representative body. The rates took the rates from the *Community Halls* scheme, which presume community events and groups are hiring a space for essentially non-commercial purposes, and increased the fees to take account for the fact that the licence is intended for commercial events and functions. OneMusic agreed to phase in those rates across a three-year transitional period with the rates to increase by CPI on an annual basis thereafter.

2. Workplace Music

Workplace Music means music that is played by or for the function centre's staff, including music on employees' headphones or radios while working, in staff recreation areas and lunchrooms, as well as in presentations and training sessions. It also covers the use of OneMusic Australia's music during staff-only video conferences when held via a secure network.

The *Workplace Music* licence includes:

- any number of devices for Workplace Music; and
- Digital Copy/Delivery for the purposes of playing Workplace Music.

Digital Copy/Delivery means the right to reproduce (copy) and publicly perform music from a digital music service. More information about Digital Copy/Delivery is available [HERE](#).

Rate Structure:

The rate structure for the *Workplace Music* licence category is a flat fee, with the fee depending on the number of Full Time Equivalent Employees per year.

Rate:

More information about the rate and rate structure for **Workplace Music and Telephone on Hold** is available [HERE](#).

3. Telephone on Hold

The use of OneMusic Australia's music as *Telephone on Hold* music under the *Functions* scheme involves the same rates and rate structure as under the *Workplace Music and Telephone on Hold* scheme.

More information about the rate and rate structure for **Workplace Music and Telephone on Hold** is available [HERE](#).

RATE SETTING GUIDE

HOTELS, PUBS, TAVERNS, BARS AND CASINOS SCHEME

The *Hotels, Pubs, Taverns, Bars and Casinos Scheme (HPTBC Scheme)* has been developed by OneMusic Australia for the hospitality, gaming and liquor sector (such as pubs and casinos).

This Rate Setting Guide describes how OneMusic Australia sets the rates under the *HPTBC Scheme*. For more information about how OneMusic Australia fixes rates and determines rate structures more generally, please see the **Rate Setting Guide - General Background** available [HERE](#).

Licensees under this scheme range from small, single-location premises (for example, a family-owned country pub) to large, multi-location operators (for example, the ALH Group).

This scheme provides coverage for the use of our music in these licensing categories:

1.	Background Music for Location	6.	Recorded Music Performance
2.	Background Music for Dining	7.	Standalone Functions
3.	Featured Recorded Music	8.	Website Use
4.	Recorded Music for Dance Use	9.	Digital Copy/Delivery
5.	Live Music Performance	10.	All Inclusive

1. Background Music for Location

Background Music for Location is music that is played that is not given prominence or used as a feature of a licensee's location. It includes music contained in television programs and films – for instance, when programs are played via a television.

Background music has been a feature of APRA's public performance music licensing since the 1930s and is typically recorded music that is delivered via a sound system at the premises (CDs, Digital Music Services, etc.), but can also be from televisions, radios, and commercial background music suppliers.

Rate Structure:

The rate structure for *Background Music* under the *HPTBC Scheme* comprises six (6) tier options based on the number of televisions and/or music systems at the location – *Sapphire*, *Diamond*, *Platinum*, *Gold*, *Silver* and *Bronze*. *Bronze*, at the lowest rate, is limited to a single television and a single radio. *Sapphire*, at the highest rate, is available to those locations with 10 or more televisions, any number of music systems, and additional rights for publicly performing music from a digital music service.¹

Coverage for music video screens is also accommodated for in the higher value tiers - *Sapphire*, *Diamond*, and *Platinum*.

The rate structure for each tier of use is a flat fee, with the rate depending on:

- the number of audible televisions used at the licensed location;
- the number of music systems and Music Video Screens, if any, used at the licensed location; and
- the device and/or source of music used.

The **number of audible televisions** and the **number of music systems** at a location are indicators of the value of music to the licensee. The use of multiple audible screens or music systems assumes a larger premises and therefore more customers. For example, a separate sports bar showing different content on screens to the main bar, or multiple bars, each playing different music.

The **device or source of music** is another indicator of the value of the music to the licensee. The less sophisticated the device or source, such as radio, the lesser assumed value of the use. For instance, it can be assumed that a licensee who chooses radio as the source for its *Background Music* is indicating less of an interest in the selection of musical works and the value to its business, compared to a licensee who uses a customised or even professionally curated digital playlist via a Music System.

Rate:

¹ The right to reproduce (copy) and publicly perform music from a digital music service in a business setting (**Digital Copy/Delivery**). More information about Digital Copy/Delivery is available [HERE](#).

While the genesis of the rates was based on the rate for the use of APRA musical works as background music prior to the introduction of OneMusic Australia, which was the rate determined by the Copyright Tribunal in 2006 (adjusted for CPI)², the rates and the structure – including an uplift on those rates for sound recording rights - were agreed with the peak industry body, the Australian Hotels Association, as a result of commercial negotiations in the lead up to the launch of OneMusic Australia.

Background Music for Location under the *HPTBC Scheme* has been specifically developed to also allow licensees to add cover to copy music or to stream it from a digital music service in the event they are using devices or sources covered by relevant tiers (*Sapphire, Diamond, Platinum and Gold*). More information about the rate and rate structure for **Digital Copy/Delivery** is available [HERE](#).

A deduction applies to all tiers for each location that is open fewer than 150 days per year.

2. Background Music for Dining

Background Music for Dining means music that is not given prominence or used as a feature of a restaurant. *Background Music for Dining* includes music played from radios, CD players, smartphones, tablets, TV screens, and other devices that are used in a restaurant's dining area.

Rate Structure:

The rate structure for *Background Music for Dining* under the *HPTBC Scheme* comprises three (3) tier options based on the source of the music used at the location – *Dining Package A, Dining Package B and Dining Package C*.

Dining Package C, at the lowest rate, is limited to music played from a terrestrial or digital broadcast through TV and/or radio. *Gold*, at the highest rate, includes music played from an online stream or a music download via a personal digital music service or other online source.

The rate structure for each tier is a flat fee, with the rate depending on the Dining Area Capacity.

The **Dining Area Capacity** means the seating capacity of each of the Dining Areas.

A **Dining Area** is an area within the premises that is open to the public with seating for at least seven people. The primary function of the Dining Area is the sale of food.

Rate:

The rate is the same as under the *Dining* licence. More information about the rate and rate structure for *Background Music for Dining* under the *Dining* licence is available [HERE](#).

3. Featured Recorded Music

Featured Recorded Music is recorded music played prominently (for example, a DJ playing music, or karaoke).

Rate Structure:

The rate structure for *Featured Recorded Music* is a flat fee, with the fee depending on the number of persons admitted to each FRM Area for each day of operation (24-hour period) per year.

FRM Area is the specific area within the venue where Featured Recorded Music performance can be heard.

Rate:

This rate was negotiated with the Australian Hotels Association, using the *Recorded Music for Dance Use* licence fee as a guide.

4. Recorded Music for Dance Use

Recorded Music for Dance Use means recorded music played specifically for the purpose of dancing such as in a nightclub or dance area within the premises.

Rate Structure:

The rate structure for *Recorded Music for Dance use* is an amount per person admitted to each RMFD Area for each day of operation (24 hour period) per year.

RMFD Area is the separate area within the venue where recorded music is played for the purpose of dancing.

Rate:

² Reference by Australasian Performing Right Association Ltd [2006] ACopyT 3 at 27.

The rate is the same as under the *Recorded Music for Dance Use* licence. More information about the rate and rate structure for *Recorded Music for Dance Use* is available [HERE](#).

5. Live Music Performance

A *Live Music Performance* is a performance where singers, musicians, or performers perform music live and no sound recordings are used (for example, a live band with acoustic guitars, drums, and keyboards).

Rate Structure:

The rate structure of *Live Music Performance* is a percentage of revenue, with the percentage rate depending on the method of payment to the live artist performer.

If the live artist performer is paid a fee to perform directly by the venue, including any monies paid to the performer from the box office for that Live Music Performance, the rate is 2.2% of Gross Expenditure on live artist performers for all relevant Live Music Performances.

If the live artist performer is paid only by a third party, such as a booking agent, the rate is 1.65% of gross sums paid for admission for all live music performances.

Gross Expenditure means all monies and the monetary value of all benefits receivable directly or indirectly by the live artist performer including all salaries, wages, profit shares, allowances, accommodation, traveling, and other expenses whether receivable by the Performer or an agent.

Rate:

The percentages 1.65% and 2.2% have been applied by APRA for decades.

6. Recorded Music Performance

A *Recorded Music Performance* is a live music performance which incorporates some recorded music that the performer hasn't recorded himself or herself (for example, a hip hop show, or a drag show).

Where the entry fee for a Recorded Music Performance is more than \$40, the premises will instead be licensed under the *Events Scheme*. More information about the *Events Scheme* is available [HERE](#).

Rate Structure:

The rate structure for *Recorded Music Performance* is the sum of a fee for the PPCA Sound Recordings and a fee for the APRA Works and AMCOS Works.

The fee for the PPCA Sound Recordings is an amount per person admitted to each Recorded Music Performance multiplied by the number of admissions.

The fee for the APRA Works and AMCOS Works is a flat fee, with the rate depending on the method of payment to the live artist performer.

If the live artist performer is paid a fee to perform directly by the venue, including any monies paid to the performer from the box office for that Live Music Performance, the rate is 2.2% of Gross Expenditure on live artist performers for all relevant Recorded Music Performances.

If the live artist performer is paid only by a third party, such as a booking agent, the rate is 1.65% of gross sums paid for admission for relevant Recorded Music Performances.

Gross Expenditure means all monies and the monetary value of all benefits receivable directly or indirectly by the live artist performer including all salaries, wages, profit shares, allowances, accommodation, traveling, and other expenses whether receivable by the performer or an agent.

Rate:

This rate was benchmarked to the rates for *Live Music Performance*. PPCA has charged a per person rate for the use for decades.

7. Standalone Functions

The *Standalone Functions* licence category is for conference or meeting rooms regularly available for hire. Areas that are usually used as bars open to the public for normal day-to-day trading but occasionally hired for functions are not considered standalone function areas.

Rate Structure:

The rate structure for *Standalone Functions* is a flat fee, determined by calculating the applicable day rate by each 100 persons of the Standalone Function Area Capacity for each day the standalone function area is being used for one or more standalone functions, subject to a minimum annual fee.

The **Standalone Function Area Capacity** is the maximum capacity of each area made available for hire at the venue as advertised or offered to potential hirers.

Rate:

The day rate is the same as under the *Function, Convention and Conference Centres* licence. More information about the rate and rate structure for *Standalone Functions* under the *Function, Convention and Conference Centres* licence is available [HERE](#).

8. Website Use

The use of OneMusic Australia's music as background streams on websites is a licensing category that appears in a number of OneMusic Australia's schemes, including the *HPTBC Scheme*. The fixed annual rate for *Website Use* is able to be 'added on' to a *Background Music for Location* licence.

More information about the rate and rate structure for *Website Use* is available [HERE](#).

9. Digital Copy/Delivery

Digital Copy/Delivery covers the right to reproduce (copy) and publicly perform music from a digital music service and appears in a number of OneMusic Australia's schemes, including the *HPTBC Scheme*. The fixed annual rate for *Digital Copy/Delivery* is able to be 'added on' to a *Background Music for Location* licence.

More information about *Digital Copy/Delivery* is available [HERE](#).

10. All inclusive

The all inclusive package (excluding recorded music for dance use and standalone functions), for venues that host primarily live music several nights per week, can represent a discount on the relevant components when added together, and was negotiated with the Australian Hotels Association to reduce administration for such licensees.

RATE SETTING GUIDE

KARAOKE

The *Karaoke* scheme has been developed by OneMusic Australia for music used in dedicated Karaoke venues.

This Rate Setting Guide describes how OneMusic Australia sets the rates under the *Karaoke* Scheme. For more information about how OneMusic Australia fixes rates and determines rate structures more generally, please see the **Rate Setting Guide - General Background** available [HERE](#).

This scheme provides coverage for the use of OneMusic Australia's music in these licensing categories:

1. Music for Karaoke Venues
2. Website Use
3. Digital Copy/Delivery
4. Telephone on Hold

1. Music for Karaoke Venues

Music for Karaoke Venues includes music used for guests to enjoy Karaoke in Karaoke Rooms as well as background music throughout a whole dedicated Karaoke venue.

Music for Karaoke Venues is offered as a Joint Rights Licence (covering both PPCA Sound Recordings and APRA Works and AMCOS Works) or a Single Rights Licence (covering either PPCA Sound Recordings or APRA Works and AMCOS Works).

Rate Structure:

The rate structure for the *Music for Karaoke Venues* licensing category is a flat fee, with the rate depending on:

- Joint Rights Licence or Single Rights Licence;
- the Karaoke Area Capacity (persons); and
- the total number of days the Karaoke Venue is open per year.

The **Karaoke Area Capacity** means the maximum capacity of all Karaoke Rooms at the Location.

Rate:

APRA consulted with the industry between 2017 and 2019. The tariff was benchmarked to provide a rate between *Featured Music Use* and *Recorded Music for Dance*.

2. Website Use

The use of OneMusic Australia's music as background streams on websites is a licence category that appears in a number of OneMusic Australia's schemes, including the *Karaoke* Scheme.

The rate for *Website Use* is able to be 'added on' to a *Music for Karaoke Venues* licence. More information about the rate and rate structure for **Website Use** is available [HERE](#).

3. Digital Copy/Delivery

Digital Copy/Delivery covers the right to reproduce (copy) and publicly perform music from a digital music service and appears in a number of OneMusic Australia's schemes, including the *Karaoke* scheme.

The rate for *Digital Copy/Delivery* is able to be 'added on' to a *Music for Karaoke Venues* licence. More information about **Digital Copy/Delivery** is available [HERE](#).

4. Telephone on Hold

The use of OneMusic Australia's music as *Telephone on Hold* music under the *Karaoke* scheme involves the same rates and rate structure as under the *Workplace Music and Telephone on Hold* scheme.

More information about the rate and rate structure for **Workplace Music and Telephone on Hold** is available [HERE](#).

RATE SETTING GUIDE

LOCAL GOVERNMENT

The *Local Government* scheme has been developed for councils to cover the use of OneMusic Australia's music at Council Facilities, Council Events, and Authorised Third Party Events.

This Rate Setting Guide describes how OneMusic Australia sets the rates under the *Local Government* Scheme. For more information about how OneMusic Australia fixes rates and determines rate structures more generally, please see the **Rate Setting Guide - General Background** available [HERE](#).

Council Facilities, Council Events and Authorised Third Party Events

The *Council Facilities* licence category includes music use at Council offices or other facilities within the boundaries of the local government area that are owned by Council, such as Council chambers, libraries, community halls and function centres, warehouses, Local Sports Grounds, Council Child Care Centres and Council Fitness Centres. *Council Facilities* includes the following:

- Playing Background Music and Workplace Music at a Council Facility;
- Telephone on Hold and Website Use;
- Digital Copy/Delivery for 2,000 tracks;
- Exhibition of Music Videos at a Council Facility; and
- Music in Classes at Council Fitness Centres.

The *Council Events* licence category includes music use at events produced, controlled and operated by a Council within the boundaries of the local government area (other than Excluded Events). An **Excluded Event** includes the following:

- free event with expenditure on performers over \$50,000;
- ticketed event with a ticket price greater than \$40;
- ticketed event with a ticket price less than \$40 but expenditure on performers over \$6,000; and
- part of an Eisteddfod or Competition

Council Events includes the following:

- playing Background Music and Featured Music at Council Events;
- exhibition of Music Videos at Council Events;
- free Film Screenings by the Council at Council Events; and
- music played by authorised street performers within the boundaries of the local government area.

The *Authorised Third Party Events* licence category includes music use at any event held by a third party that is hiring or otherwise using a Council Facility for activities and/or events that have been pre-authorised by the Council. *Authorised Third Party Events* include the following:

- playing Background Music and Featured Music at Authorised Third Party Events; and
- exhibition of Music Videos at Authorised Third Party Events.

Rate Structure:

The rate structure for *Council Facilities*, *Council Events* and *Authorised Third Party Events* is a flat fee, with the rate depending on the type of local government area (rural or urban), the total number of persons per local government area, and the minimum fee. The rate and structure negate the need for a council to obtain multiple separate licences for the different use of music covered under the *Local Government* scheme.

Rate:

The rates were determined following consultation with local government bodies. Councils with sufficient information were assessed to ascertain what their aggregate licence fee would be if they were fully licensed for all uses of APRA AMCOS and PPCA music. Those amounts were then divided by the total number of persons in each respective local government area to derive a per person rate. From that point, the fees were negotiated down with a number of concessions given.

RATE SETTING GUIDE

PLACES OF INTEREST, ACTIVITY AND AMUSEMENT

The *Places of Interest, Activity and Amusement* scheme (**POIAA Scheme**) has been developed by OneMusic Australia for businesses that provide entertainment and activities, such as bowling alleys, zoos, museums, theatres, aquariums, skating rinks, games arcades, tourist attractions, exhibition spaces, theme parks, galleries, and wineries.

This Rate Setting Guide describes how OneMusic Australia sets the rates under the *POIAA Scheme*. For more information about how OneMusic Australia fixes rates and determines rate structures more generally, please see the **Rate Setting Guide - General Background** available [HERE](#).

Licenses under this scheme range from small, single-location premises (for example, an exhibition space) to large, multi-location operators (for example, theme parks).

This scheme provides coverage for the use of OneMusic Australia's music in these licensing categories:

- | | |
|----------------------------------|--|
| 1. Background Music | 5. Website Use |
| 2. Background Music in Car Parks | 6. Workplace Music and Telephone on Hold |
| 3. Featured Music | 7. Background Music for Dining |
| 4. Exhibiting Music Videos | |

1. Background Music

Background Music is music that is played that is not given prominence or used as a feature of a licensee's location. It includes music contained in television programs and films – for instance, when programs are played via a television.

Background music has been a feature of APRA's public performance music licensing since the 1930s and is typically recorded music that is delivered via a sound system at the location (CDs, Digital Music Services, etc.), but can also be from televisions, radios, and commercial background music suppliers.

Rate Structure:

The rate structure for the use of *Background Music* under the *POIAA Scheme* is a flat fee, with the rate depending on:

- the device and/or source of music used; and
- the size of the retail area in m².

The **device or source** of music indicates the value of the music to the licensee. The less sophisticated the device or source, such as radio, the lesser assumed value of the use. For instance, a licensee who chooses radio as the source for its *Background Music* is indicating less of an interest in the selection of musical works and the value to its business, compared to a licensee that uses a customised or even professionally curated digital playlist.

As a result, there are three (3) options depending upon the device and/or source of the music played – *Gold*, *Silver* and *Bronze*. *Bronze*, at the lowest rate, is limited to a terrestrial or digital broadcast through TV and/or radio. *Gold*, at the highest rate, includes additional rights for publicly performing music from a digital music service.

Each of *Gold*, *Silver* and *Bronze* are further divided into 'area size' tiers based on the dimensions of the area where the music is being played. The use of area size acts as a simple approximation of audience size to ensure small businesses do not pay the same amounts as retailers with large spaces. Dividing floor area into 11 tiers also results in a more finely tuned and 'just' regime for licensees.¹

A deduction applies for the *Gold*, *Silver* and *Silver Lite* tiers where either none of our PCCA recordings or none of our songs are used.

Rate:

The current rates applicable to each music category (*Gold*, *Silver* and *Bronze*) were fixed by OneMusic Australia as follows:

- starting with the rate for the use of APRA musical works as background music prior to the introduction of OneMusic Australia, which was the rate determined by the Copyright Tribunal in 2006 (adjusted for CPI)² (**Legacy APRA Rate**);
- starting with the rates applied by the PCCA for the use of PCCA sound recordings as background music in retail and service providers settings prior to the introduction of a single licence under OneMusic Australia (**Legacy PCCA Rate**);
- making an adjustment to the Legacy PCCA Rate to:

¹ Reference by Australasian Performing Right Association Ltd [2006] ACopyT 3 at 201

² Reference by Australasian Performing Right Association Ltd [2006] ACopyT 3 at 27

- provide parity in the rates between PPCA and APRA;
- align the bands of Retail Areas upon which the rates were to be applied (as PPCA and APRA AMCOS previously used different size bands for the customer areas); and
- include reproduction rights; and
- align the rate with OneMusic Australia rates for similar licence categories, such as those that apply to *Background Music for Retail* under the *Retail and Service Providers* scheme.

Background Music under the *POIAA Scheme* has been specifically developed to also allow licensees to choose a tier that includes a licence to copy music or to stream it from a digital music service. The rate applicable to the *Gold* tier is simply the *Silver* tier with the rate for **Digital Copy/Delivery** included. More information about the rate and rate structure for **Digital Copy/Delivery** is available [HERE](#).

2. Background Music in Car Parks

Before joint licensing by OneMusic Australia, background music used in car parks was licensed by both APRA AMCOS and PPCA in the same way and at the same rates as background music inside the premises. After consulting with industry stakeholders, OneMusic Australia considered that the effective rate for car parks should be lower than the rate applicable to the principal business areas, given that car parks typically have less foot traffic and are a more transient space than those areas.

Rate Structure:

The rate structure for the use of *Background Music in Car Parks* under the *POIAA Scheme* is a flat fee, regardless of car park size.

A flat fee that is able to be 'added on' to a *Background Music* licence category is more administratively simple than a rate based on the size of car parks, which would require more detailed reporting.

Rate:

The rate was fixed by OneMusic Australia as a more than 50% discount on the *Gold* tier for *Background Music*, with a presumed car park size of between 500m² and 1,000m².

3. Featured Music

Under the *POIAA Scheme*, the *Featured Music* licence category is for live or recorded music that is given prominence as a feature (for example, where music is advertised as an event taking place at the premises or has been compiled with a particular theme), excluding high value live or recorded music performances (that is, it only covers featured music performances where the entry fee is \$40 or below or where the artists have been paid \$4,000 or less). This music use category has been designed to provide an easy way to include featured music (usually live music) at locations covered by this scheme if they wish to do so.

While *Featured Music* is considered of higher value than background music when assessed against our *Music Value Hierarchy*, OneMusic Australia appreciates that a performance in a setting covered by this scheme is not like one that occurs at a concert or in a hotel or bar. That is, while the music use is of a high value, it is not necessarily a direct driver of revenue (that is, entry fees are rarely imposed). For more information about the *Music Value Hierarchy* please see the **Rate Setting Guide - General Background** available [HERE](#).

Rate Structure:

The *Featured Music* rate is a fixed amount for each day featured music is performed at the location, with two price tiers depending on location size. A daily set fee was considered the most appropriate rate structure, given that there is unlikely to be a box office (that is, entry will typically be free) and reporting of attendance numbers would be difficult to monitor and impose reporting obligations on licensees.

OneMusic Australia developed set daily amounts for the *POIAA Scheme* in two size tiers, as it is presumed that smaller locations will involve fewer listeners to a performance than a larger space.

The fixed rate for *Featured Music* is able to be 'added on' to a *Background Music* licence.

A deduction applies, on a day-by-day basis, where either none of our PPCA recordings or none of our songs are used.

Rate:

The daily amounts were fixed by OneMusic Australia as follows:

- starting with the rate for the use of recorded or live music performances in other sectors (for instance, *Featured Recorded Music* under the *Hotels, Pubs, Taverns, Bars and Casinos* scheme);

- by discounting the rate applicable to performances of recorded or live music in environments where the music is higher up the *Music Value Hierarchy*, such as hotels and bars; and
- by making a reasonable estimate for each floor size tier as to how many listeners may be present on the days when *Featured Music* is performed.

4. Exhibiting Music Videos

OneMusic Australia included the *Exhibiting Music Videos* licence category in the *POIAA Scheme* to enable this sector to easily license the use of commercial music videos on screens as a means of background music at their locations. Such use is an exercise of an additional right formerly licensed by PPCA, being the right to cause the visual element of music videos to be seen in public. The fee is applied on a separate 'user pays' basis because it is considered to be a high value use of music but not required by the great majority of customers.

Rate Structure:

The fixed rate for the exhibition of music videos is able to be 'added on' to a *Background Music* licence category, with the rate structure tiered according to a size threshold as a larger space will likely involve a larger potential audience.

Given the relatively limited use of music video screens in this sector, OneMusic Australia considered a flat fee was less burdensome for licensees than the former model, which required declaring the sizes and numbers of screens.

Rate:

The daily amounts were fixed by OneMusic Australia as follows:

- starting with the rate previously fixed by PPCA for the use of music videos in this sector (**PPCA MV Rates**);
- by making a conservative estimate as to the size and quantity of screens typically used in this sector (being 1 small screen); and
- by re-valuing the PPCA MV Rates to accommodate bands of Retail Area size to provide consistency with other licence categories in the scheme (noting that, as a result, for premise with areas under 2,000sqm being assessed at a more than 50% reduction in the PPCA MV Rates applicable to 1 small screen).

5. Website Use

The use of OneMusic Australia's music as background streams on websites is a licensing category that appears in a number of OneMusic Australia's schemes, including the *POIAA Scheme*.

More information about the rate and rate structure for **Website Use** is available [HERE](#).

6. Workplace Music and Telephone on Hold

The use of OneMusic Australia's music as Workplace Music and Telephone on Hold music under the *POIAA Scheme* involves the same rates and rate structure as under the *Workplace Music and Telephone on Hold* scheme.

More information about the rate and rate structure for **Workplace Music and Telephone on Hold** is available [HERE](#).

7. Background Music for Dining

The use of OneMusic Australia's music as *Background Music for Dining* music under the *POIAA Scheme* involves the same rates and rate structure as under the *Dining* scheme (albeit that the tiers of coverage are called *Dining Package A*, *Dining Package B* and *Dining Package C* rather than *Gold*, *Silver* and *Bronze*, to avoid confusion with the *Background Music* tiers).

A deduction applies for each POIAA dining area that is open less than 150 days per year.

More information about the rate and rate structure for **Background Music for Dining** is available [HERE](#).

RATE SETTING GUIDE

RECORDED MUSIC FOR DANCE USE

The *Recorded Music for Dance Use* scheme (**RMFD Scheme**) has been developed by OneMusic Australia (**OneMusic**) for businesses that use OneMusic's recorded music for customers to dance to – for example, a dedicated nightclub, a dance club, or a specific area in a hotel or other venue.

This Rate Setting Guide describes how OneMusic sets the rates under the *RMDU Scheme*. For more information about how OneMusic fixes rates and determines rate structures more generally, please see the **Rate Setting Guide – General Background** available [HERE](#).

This scheme provides coverage for the use of OneMusic's music in these licensing categories:

1. Recorded Music for Dance Use
2. Website Use
3. Telephone on Hold

1. Recorded Music for Dance Use

Recorded Music for Dance Use means recorded music played for the purpose of dancing such as in a nightclub or dance area.

Rate Structure:

The rate structure for *Recorded Music for Dance Use* is an amount per person admitted to each RMFD Area for each day of operation per year. The daily fee is capped according to the capacity of the RMFD Area.

RMFD Area means a physically separate area, either within a multi-function establishment or a standalone dance venue, that provides Recorded Music for Dance Use by patrons and has a dance floor or charges an Entry Fee.

Rate:

The original rate, which was calculated according to the capacity of the RMDU Area, was determined by the Copyright Tribunal of Australia in 2007, in a reference by PPCA that was subsequently applied by APRA (but according to attendance, rather than capacity). The OneMusic rate, which was introduced in March 2021, covers both APRA and PPCA rights and is discounted from what would be the rate if the previous APRA rate and the previous PPCA rate were added together.

2. Website Use

The use of OneMusic's music as background streams on websites is a licence category that appears in a number of OneMusic's schemes, including the *RMFD Scheme*.

The fixed annual rate for *Website Use* is able to be 'added on' to a *Recorded Music for Dance Use* licence. More information about the rate and rate structure for **Website Use** is available [HERE](#).

3. Telephone on Hold

The use of OneMusic's music as *Telephone on Hold* music under the *RMFD Scheme* involves the same rates and rate structure as under the *Workplace Music and Telephone on Hold* scheme.

More information about the rate and rate structure for **Telephone on Hold** is available [HERE](#).

RATE SETTING GUIDE

RETAIL & SERVICE PROVIDERS SCHEME

The *Retail and Service Providers* scheme has been developed by OneMusic Australia for the retail sector (such as fashion or grocery stores) and service providers (such as medical centres and hairdressers).

This Rate Setting Guide describes how OneMusic Australia sets the rates under the *Retail and Service Providers* scheme. For more information about how OneMusic Australia fixes rates and determines rate structures more generally, please see the **Rate Setting Guide - General Background** available [HERE](#).

Licensees under this scheme range from small, single-location premises (for example, a mixed-use corner store) to large, multi-location operators (for example, Target).

This scheme provides coverage for the use of our music in these licensing categories:

- | | |
|------------------------------------|--|
| 1. Background Music for Retail | 4. Exhibiting Music Videos |
| 2. Background Music in Car Parks | 5. Website Use |
| 3. Featured Music | 6. Workplace Music and Telephone on Hold |

1. Background Music for Retail

Background Music for Retail is music played that is not given prominence or used as a feature of the retail or service provider's premises. It includes music contained in television programs and films – for instance, when the programs are played via a television.

Background music has been a feature of APRA's public performance music licensing since the 1930s and is typically recorded music that is delivered via a sound system at the premises (CDs, Digital Music Services, etc.), but can also be from televisions, radios, and commercial background music suppliers.

Rate Structure:

The rate structure for the use of *Background Music for Retail* is a flat fee, with the rate depending on:

- the device and/or source of music used; and
- the size of the retail area in m².

The **device or source** of music indicates the value of the music to the licensee. The less sophisticated the device or source, such as radio, the lesser assumed value of the use. For instance, it can be assumed that a licensee who chooses radio as the source for its Background Music is indicating less of an interest in the selection of musical works and the value to its business, compared to a licensee who uses a customised or even professionally curated digital playlist.

As a result, there are four (4) options depending on the device and/or source of the music played – *Gold*, *Silver*, *Silver Lite* and *Bronze*. *Bronze*, at the lowest rate, is limited to a terrestrial or digital broadcast through TV and/or radio. *Gold*, at the highest rate, includes additional rights for publicly performing music from a digital music service.

Each of *Gold*, *Silver*, *Silver Lite* and *Bronze* are further divided into '**area size**' tiers based on the dimensions of the area where the music is being played. The use of area size acts as a simple approximation of audience size to ensure small businesses do not pay the same amounts as retailers with large spaces. Dividing floor area into 11 tiers also results in a more finely tuned and 'just' regime for licensees.¹

A deduction applies for the *Gold*, *Silver* and *Silver Lite* tiers where either none of our PPCA recordings or none of our songs are used.

Rate:

The current rates applicable to each music category (*Gold*, *Silver*, *Silver Lite* and *Bronze*) were fixed by OneMusic Australia as follows:

- starting with the rate for the use of APRA musical works as background music prior to the introduction of OneMusic Australia, which was the rate determined by the Copyright Tribunal in 2006 (adjusted for CPI)² (**Legacy APRA Rate**);
- starting with the rates applied by the PPCA for the use of PPCA sound recordings as background music in retail and service providers settings prior to the introduction of a single licence under OneMusic Australia (**Legacy PPCA Rate**); and
- making an adjustment to the Legacy PPCA Rate to:

¹ Reference by Australasian Performing Right Association Ltd [2006] ACopyT 3 at 201.

² Reference by Australasian Performing Right Association Ltd [2006] ACopyT 3 at 27.

- provide parity in the rates between PPCA and APRA;
- align the bands of Retail Areas upon which the rates were to be applied (as PPCA and APRA AMCOS previously used different size bands for the customer areas);
- include reproduction rights; and
- following consultation with industry stakeholders, to introduce more size tiers in the rate structure to provide lower rates for smaller premises.

Background Music for Retail has been specifically developed to also allow licensees to choose a tier that includes a licence to copy music or to stream it from a digital music service. The rate applicable to the *Gold* tier is simply the *Silver* tier with the rate for **Digital Copy/Delivery** included. More information about the rate and rate structure for **Digital Copy/Delivery** is available [HERE](#).

2. Background Music in Car Parks

Before joint licensing by OneMusic Australia, background music used in car parks was licensed by both APRA AMCOS and PPCA in the same way and at the same rates as background music inside the premises. After consulting with industry stakeholders, OneMusic Australia considered that the effective rate for car parks under the *Retail and Service Providers* scheme should be lower than the rate applicable within a premises, given that car parks typically have less foot traffic and are a more transient space than the retail floor.

Rate Structure:

The rate structure for the use of background music in retailers' or service providers' car parks in the *Retail and Service Providers* scheme is a flat fee, regardless of car park size.

A flat fee that is able to be 'added on' to a *Background Music for Retail* licence is more administratively simple than a rate based on the size of car parks, which would require more detailed reporting.

Rate:

The rate was fixed by OneMusic Australia as a more than 50% discount on the *Gold* tier for *Background Music for Retail*, with a presumed car park size of between 500m² and 1,000m².

3. Featured Music

Under the *Retail and Service Providers* scheme, the *Featured Music* licence category is for live or recorded music that is given prominence as a feature (for example, where music is advertised as an event taking place at the premises or has been compiled with a particular theme), excluding high value live or recorded music performances (that is, it only covers featured music performances where the entry fee is \$40 or below or where the artists have been paid \$4,000 or less). This music use category has been designed to provide retailers and service providers with an easy way to include featured music (usually live music) at their premises if they wish to do so.

While *Featured Music* is considered of higher value than background music when assessed against our *Music Value Hierarchy*, OneMusic Australia appreciates that a performance in a retail or service provider setting is not like one that occurs at a concert or in a hotel or bar. That is, while the music use is of a high value, it is not necessarily a direct driver of revenue (entry fees are rarely imposed). For more information about the *Music Value Hierarchy* please see the **Rate Setting Guide - General Background** available [HERE](#).

Rate Structure:

The *Featured Music* rate is a fixed amount for each day Featured Music is performed at the business, with two price tiers depending on premises size. A daily set fee was considered as the most appropriate rate structure given that there is unlikely to be a box office (entry will typically be free), reporting of attendance numbers would be difficult to monitor, and it would be difficult to impose reporting obligations on licensees.

OneMusic Australia developed set daily amounts for the *Retail and Service Providers* scheme in two size tiers, as it is presumed that smaller premises will involve fewer listeners to a performance than a larger space.

The fixed rate for *Featured Music* is able to be 'added on' to a *Background Music for Retail* licence.

A deduction applies, on a day-by-day basis, where either none of our PPCA recordings or none of our songs are used.

Rate:

The daily amounts were fixed by OneMusic Australia as follows:

- starting with the rate for the use of recorded or live music performances in other sectors (for instance, *Featured Recorded Music* under the *Hotels, Pubs, Taverns, Bars and Casinos* scheme);

- by discounting the rate applicable to performances of recorded or live music in environments where the music is higher up the *Music Value Hierarchy*, such as hotels and bars; and
- by making a reasonable estimate for each floor size tier as to how many listeners may be present on the days when *Featured Music* is performed.

4. Exhibiting Music Videos

OneMusic Australia included the *Exhibiting Music Videos* licence category into the *Retail and Service Providers* scheme to enable the retail and service provider sector to easily license the use of commercial music videos on screens as a means of Background Music at their premises. Such use is an exercise of an additional right formerly licensed by PPCA, being the right to cause the visual element of Music Videos to be seen in public. The fee is applied on a separate 'user pays' basis because it is considered to be a high value use of music but not required by the great majority of customers.

Rate Structure:

The fixed rate for *Exhibiting Music Videos* is able to be 'added on' to a *Background Music for Retail* licence, with the rate structure tiered according to a size threshold as a larger space will likely involve a larger potential audience.

Given the relatively limited use of music video screens in the retail and service provider sector, OneMusic Australia considered a flat fee was less burdensome for licensees than the former model for this sector, which required declaring the sizes and numbers of screens.

Rate:

The daily amounts were fixed by OneMusic Australia as follows:

- starting with the rate previously fixed by PPCA for the use of music videos in the retail and service sector (**PPCA MV Rates**);
- by making a conservative estimate as to the size and quantity of screens typically used in the retail and service sector (being 1 small screen); and
- by re-valuing the PPCA MV Rates to accommodate bands of retail area size to provide consistency with other licence categories in the scheme (noting that, as a result, for premises with areas under 2,000sqm being assessed at a more than 50% reduction in the PPCA MV Rates applicable to 1 small screen).

5. Website Use

The use of OneMusic Australia's music as background streams on websites is a licensing category that appears in a number of OneMusic Australia's schemes, including the *Retail and Service Providers* scheme.

More information about the rate and rate structure for **Website Use** is available [HERE](#).

6. Workplace Music and Telephone on Hold

The *Workplace Music and Telephone on Hold* licence category under the *Retail and Service Providers* scheme involves the same rates and rate structure as under the *Workplace Music and Telephone on Hold* scheme.

More information about the rate and rate structure for **Workplace Music and Telephone on Hold** is available [HERE](#).

RATE SETTING GUIDE

STATE AND FEDERAL GOVERNMENT

The *State and Federal Government* scheme (**SFG Scheme**) has been developed by OneMusic Australia for Australian state, territory, and federal government bodies. The scheme comprises the typical types of cover required by state and federal government bodies and uses the rates and structures as applies under each 'source' scheme. Links to each scheme are provided below.

This Rate Setting Guide describes how OneMusic Australia sets the rates under the *SFG Scheme*. For more information about how OneMusic Australia fixes rates and determines rate structures more generally, please see the **Rate Setting Guide - General Background** available [HERE](#).

This scheme provides coverage for the use of OneMusic's music in these licensing categories:

- | | | | |
|----|------------------|----|-----------------------------|
| 1. | Workplace Music | 5. | Exhibiting Music Videos |
| 2. | Background Music | 6. | Website Use |
| 3. | Car Parks | 7. | Telephone on Hold |
| 4. | Featured Music | 8. | Background Music for Dining |

1. Workplace Music

Workplace Music permits state and federal governments to:

- allow employees to play music while at work (including via radios, streaming services, and CDs), whether the music is played on speakers or via headsets and earphones;
- allow employees to use music in staff training or in other presentations;
- allow employees to play background music online via closed networks when working remotely, during staff meetings, staff training, and presentations to which the general public are not admitted; and
- perform music for the benefit of employees, their families, or corporate guests at free functions and private conferences put on by state and federal governments. If there is an entry fee at any function, or the gross expenditure on live artist performers is \$50,000 or more, a separate *Event* licence will need be to obtained.

Rate Structure:

The rate structure for *Workplace Music* under the *SFG Scheme* is a flat fee, with the rate depending on the number of full-time employees. Deductions are available where a state or federal government body either uses no PPCA recordings or no APRA and/or AMCOS works.

Rate:

The rate is less than but similar to the rate under the *Workplace Music* licence. More information about the rate and rate structure for *Workplace Music* is available [HERE](#).

2. Background Music

Background Music means music played that is not given prominence or used as a feature of the location. It includes music contained in television programs and films.

Background Music has been a feature of APRA's public performance music licensing since the 1930s and is typically recorded music that is delivered via a sound system at the location (including CDs and digital music services), but can also be from televisions, radios, and commercial background music suppliers.

Rate Structure:

The rate structure for *Background Music* under the *SFG Scheme* is a flat fee, with the rate depending on:

- the device and/or source of music used; and
- the size of the area of each location operated by the government body where music is audible, in m².

The **device or source** of music indicates the value of the music to the licensee. The less sophisticated the device or source, such as radio, the lesser assumed value of the use. For instance, a licensee who chooses radio as the source for its *Background Music* is indicating less of an interest in the selection of musical works and the value to its business, compared to a licensee that uses a customised or even professionally curated digital playlist.

As a result, there are three (3) options depending on the device and/or source of the music played – *Gold*, *Silver* and *Bronze*. *Bronze*, at the lowest rate, is limited to a terrestrial or digital broadcast through television and/or radio, and *Gold*, at the highest rate, includes additional rights for playing music from a digital music service.¹

Each of *Gold*, *Silver* and *Bronze* are further divided into ‘**area size**’ tiers based on the dimensions of the area where the music is being played.

Deductions apply under the Gold and Silver tiers for each location where the playing of music either uses no PPCA recordings or no APRA and/or AMCOS works.

Rate:

The rate is the same as under the *Retail and Service Providers* licence. More information about the rate and rate structure for *Retail and Service Providers* is available [HERE](#).

3. Car Parks

Car Parks is for indoor or outdoor car parks where OneMusic Australia’s music is audible to those members of the public who use a government body’s services for parking.

Rate Structure:

The rate structure for *Car Parks* under the *SFG Scheme* is a flat fee that is able to be ‘added on’ to a *Background Music* licence.

Rate:

The rate is the same as under the *Retail and Service Providers* licence. More information about the rate and rate structure for *Retail and Service Providers* is available [HERE](#).

4. Featured Music

Under the *SFG Scheme*, the *Featured Music* licence category is for live or recorded music that is given prominence as a feature (for example, where music is played live and put together for a specific purpose or event like a gallery donors’ night), excluding performances where there is an entry fee or where gross expenditure on live artist performers for that performance is greater than \$4,000.

Rate Structure:

The *Featured Music* rate is a fixed amount for each day featured music is performed at the location, with two price tiers depending on location size in m². The rate for *Featured Music* is able to be ‘added on’ to a *Background Music* licence.

Deductions are available for each location for each day where the performance of music either uses no PPCA recordings or no APRA and/or AMCOS works.

Rate:

The rate is the same as under the *Retail and Service Providers* licence. More information about the rate and rate structure for *Retail and Service Providers* is available [HERE](#).

5. Exhibiting Music Videos

Exhibiting Music Videos means to play music videos via a source such as a TV network channel (MTV or ABC Rage), online platforms such as Vevo, digital services such as YouTube, or from a DVD.

Rate Structure:

The fixed annual rate for *Exhibiting Music Videos* is able to be ‘added on’ to a *Background Music* licence, with the rate structure tiered according to location size in m².

Rate:

The rate is the same as under the *Retail and Service Providers* licence. More information about the rate and rate structure for *Retail and Service Providers* is available [HERE](#).

¹ The right to reproduce (copy) and publicly perform music from a digital music service in a business setting (**Digital Copy/Delivery**). More information about Digital Copy/Delivery is available [HERE](#).

6. Website Use

The use of OneMusic Australia's music as background streams on websites is a licensing category that appears in a number of OneMusic Australia's schemes, including the *SFG Scheme*.

More information about the rate and rate structure for **Website Use** is available [HERE](#).

7. Telephone on Hold

Telephone on Hold involves the communication of music across telecommunication lines to listeners placed on hold by a government body. The right to reproduce or copy music for the purposes of placing that music on the telephone on hold system is also available under this licence category.

Rate Structure:

The rate structure for *Telephone on Hold* is a flat annual fee, with the rate depending on:

- the caller capacity of the telephone system;
- whether the licensee is a single location or a multiple location licensee; and
- whether the licensee requires copying as well as communication.

A deduction is available for a state, territory or federal government body that does not use PPCA recordings or APRA and/or AMCOS works in its telephone on hold music.

More information about the rate and rate structure for **Workplace Music and Telephone on Hold** is available [HERE](#).

Rate:

The rate is the same as under the *Workplace Music* licence. More information about the rate and rate structure for *Workplace Music* is available [HERE](#).

8. Background Music for Dining

Background Music for Dining means music (recorded or otherwise) used in dining areas, including music videos, at the government operated location, which is primarily intended to be passively listened to, not intended to be the main focus, and is not featured music.

Rate Structure:

The rate structure for *Background Music for Dining* under the *SFG Scheme* comprises three (3) tier options based on the device and/or source of the music used at the location – *Gold*, *Silver* and *Bronze*. *Bronze*, at the lowest rate, is limited to music played from a terrestrial or digital broadcast through television and/or radio. *Gold*, at the highest rate, includes music played from an online stream or from a music download via a consumer digital music service or other online source.

The rate structure for each tier is a flat fee, with the rate depending on the Dining Area Capacity.

Deductions apply for each location where the playing of music either uses no PPCA recordings or no APRA and/or AMCOS works.

Dining Area Capacity means the seating capacity of the restaurant (in other words the number of seats generally placed for customers in the dining premises, both inside and outside, where the music can be heard).

Rate:

The rate is the same as under the *Dining* licence. More information about the rate and rate structure for *Dining* is available [HERE](#).

RATE SETTING GUIDE

VEHICLES

The *Vehicles* scheme has been developed by OneMusic Australia (**OneMusic**) for businesses that run a fleet of vehicles for hire, such as buses, trains, limousines or party boats.

This Rate Setting Guide describes how OneMusic sets the rates under the *Vehicles* Scheme. For more information about how OneMusic fixes rates and determines rate structures more generally, please see the **Rate Setting Guide - General Background** available [HERE](#).

This scheme provides coverage for the use of OneMusic's music in these licensing categories:

- | | | | |
|----|--|----|---------------------------------------|
| 1. | Background Music for Vehicles | 5. | Featured Recorded Music |
| 2. | Exhibiting Music Videos in Vehicles | 6. | Recorded Music for Dance Use |
| 3. | In-Seat Personal Entertainment in Vehicles | 7. | Live Music Performance |
| 4. | Website Use | 8. | Workplace Music and Telephone on Hold |

1. Background Music for Vehicles

Background Music for Vehicles means music played from radios, CD players, smartphones, tablets, televisions, and other devices that is not used as a prominent feature of the entertainment on the vehicle.

Rate Structure:

The rate structure for *Background Music for Vehicles* under the *Vehicles* Scheme is a flat fee, with the rate depending on:

- the device and/or source of music used; and
- the vehicle capacity.

The **device or source** of music indicates the value of the music to the licensee. The less sophisticated the device or source, such as radio, the lesser assumed value of the use. For instance, it can be assumed that a licensee who chooses radio as the source for its background music is indicating less of an interest in the selection of musical works and the value to their business, compared to a licensee who uses a customised or even professionally curated digital playlist.

There are three (3) options depending on the device and/or source of the music played – *Gold*, *Silver* and *Bronze*. *Bronze*, at the lowest rate, is limited to a terrestrial or digital broadcast through television and/or radio. *Gold*, at the highest rate, includes additional rights for publicly performing music from a digital music service.¹

Each of *Gold*, *Silver* and *Bronze* are further divided into '**Vehicle Capacity (Seats)**' tiers based on the number of passengers that the vehicle is authorised to carry.

Rate:

The APRA AMCOS rates are benchmarked against the equivalent rates for *Background Music for Retail and Service Providers*, which were themselves derived from the 2006 retail background music decision of the Copyright Tribunal.

A deduction applies for the *Gold* and *Silver* tiers where either none of our PPCA recordings or none of our songs are used. A separate deduction applies to all tiers for each vehicle that operates fewer than 150 days per year.

2. Exhibiting Music Videos in Vehicles

Exhibiting Music Videos in Vehicles means to play music videos via a source such as a television network channel (MTV or ABC Rage), online platforms such as Vevo, digital services such as YouTube, or from a DVD.

Rate Structure:

The fixed rate for *Exhibiting Music Videos in Vehicles* is divided into '**Vehicle Capacity (Seats)**' tiers based on the number of passengers that the vehicle is authorised to carry. *Exhibiting Music Videos* is able to be 'added on' to a *Background Music for Vehicles* licence.

Rate:

¹ The right to reproduce (copy) and publicly perform music from a digital music service in a business setting (**Digital Copy/Delivery**). More information about Digital Copy/Delivery is available [HERE](#).

The rates and structure were benchmarked against the rates for *Exhibiting Music Videos* under the *Retail and Service Providers* licence. More information about the rate and rate structure for *Exhibiting Music Videos* under the *Retail and Service Providers* licence is available [HERE](#).

3. In-Seat Personal Entertainment in Vehicles

In-Seat Personal Entertainment means on-demand access to music, films, and television shows (shown to passengers on a vehicle's screens or via Wi-Fi).

Rate Structure:

The rate structure for *In-Seat Personal Entertainment* under the *Vehicles* Scheme is a flat fee, with the fee depending on the number of passengers per year. The annual rate for *In-Seat Personal Entertainment* is able to be 'added on' to a *Background Music for Vehicles* licence.

Rate:

These rates and structure were benchmarked against the rates payable by airlines, which were negotiated by APRA AMCOS and airlines (Qantas and Virgin) in 2011/2.

4. Website Use

The use of OneMusic's music as background streams on websites is a licence category that appears in a number of OneMusic's schemes, including the *Vehicles* Scheme.

More information about the rate and rate structure for **Website Use** is available [HERE](#).

5. Featured Recorded Music

Featured Recorded Music means recorded music used in a vehicle that is given prominence as a feature of that vehicle, but does not include live music performances or recorded music for dance use. It includes performances by DJs, including those advertised as part of a specific event or series of events, Karaoke, and nights of operation where the music has been compiled with a particular or recognisable theme such as 'Retro Night', 'Friday Night Beats', or 'Sunday Jazz'.

Rate Structure:

The *Featured Recorded Music* rate is an amount per passenger per day of operation. An amount per passenger was considered as the most appropriate rate structure, given that there is unlikely to be a box office (entry will typically be free) but reporting of passenger numbers would be simple because for operational reasons those numbers would be recorded anyway.

Rate:

The rates were benchmarked against the *Featured Recorded Music* rates under the *Hotels, Pubs, Taverns, Bars and Casinos Scheme*. More information about the rate and rate structure for *Featured Recorded Music* under the *Hotels, Pubs, Taverns, Bars and Casinos Scheme* is available [HERE](#).

6. Recorded Music for Dance Use

Recorded Music for Dance Use is recorded music used for the purpose of dancing (for example, when a boat or vehicle is essentially operating as a nightclub).

Rate Structure:

The *Recorded Music for Dance Use* rate is a fixed amount for each day Recorded Music for Dance Use is played in the vehicle, per passenger.

Rate:

The rate is the same as under the *Recorded Music for Dance Use* licence. More information about the rate and rate structure for *Recorded Music for Dance Use* is available [HERE](#).

7. Live Music Performance

Live Music Performance means music that is performed by a Live Artist Performer and includes, but is not limited to, the use of music during trips or cruises where the music is compiled, presented, or performed by a Live Artist Performer (who is engaged for the principal purpose of compiling, presenting, or performing music to patrons/passengers).

Live Artist Performer means any performer participating in the performance of music including featured and associated singers, musicians, DJs, dancers, models, and conductors.

Rate Structure:

The *Live Music Performance* rate is an amount per passenger per day of operation. An amount per passenger was considered as the most appropriate rate structure, given that there is unlikely to be a box office (entry will typically be free) but reporting of passenger numbers would be simple because for operational reasons those numbers would be recorded anyway.

Rate:

The rates were benchmarked against the *Live Music Performance* rates under the *Hotels, Pubs, Taverns, Bars and Casinos Scheme*. More information about the rate and rate structure for *Live Music Performance* under the *Hotels, Pubs, Taverns, Bars and Casinos Scheme* is available [HERE](#).

8. **Workplace Music and Telephone on Hold**

The use of OneMusic's music as *Workplace Music* and *Telephone on Hold* under the *Vehicles* scheme involves the same rates and rate structures as under the *Workplace Music and Telephone on Hold* scheme.

More information about the rate and rate structure for **Workplace Music and Telephone on Hold** is available [HERE](#).

RATE SETTING GUIDE

WORKPLACE MUSIC AND TELEPHONE ON HOLD SCHEME

The *Workplace Music and Telephone on Hold* scheme has been developed by OneMusic Australia for general workplaces and those businesses using music on their telephone on hold systems. The scheme is available as a standalone licence, or as part of other OneMusic Australia schemes, such as the *Retail and Service Providers*, *Places of Interest*, *Activity and Amusement*, and *Dining* schemes.

This Rate Setting Guide describes how OneMusic Australia sets the rates under the *Workplace Music and Telephone on Hold* scheme. For more information about how OneMusic Australia fixes rates and determines rate structures more generally, please see the **Rate Setting Guide - General Background** available [HERE](#).

Licensees under this scheme range from small, single-location premises to large, multi-location businesses.

This licence provides coverage for the use of OneMusic Australia's music in these licensing categories:

1. Workplace Music
2. Telephone on Hold

1. Workplace Music

Workplace Music involves a bundle of different music uses and rights that have been packaged together by OneMusic Australia so that a business can be covered for the majority of ways music is typically used in a workplace.

The *Workplace Music* licence category comprises the following rights:

- to perform music (typically, recorded music) and music videos to employees in the office, including employees playing music at their workstations;
- to perform music at company events including office/Christmas parties;
- to perform music and music videos to the public in front reception areas;
- to communicate music to employees during online meetings or staff training; and
- reproducing (or copying) music for the purposes described above.

Rate Structure:

The rate structure for *Workplace Music* is an amount per FTE Employee of the business, subject to a minimum fee.

FTE Employee means full time employees or full time equivalents of the business.

The per-FTE Employee rate structure acts as a simple approximation of audience size to ensure small businesses do not pay the same amounts as businesses with a large number of employees.

Rate:

The APRA rates for music in the workplace were formulated in around 2005 by reference to international benchmarks. The OneMusic Australia rates are higher than the original rates because of the inclusion of sound recording and reproduction rights.

The *Workplace Music* licence category includes a minimum fee, which has been formulated with regard to the following:

- to act as a floor to protect the value of the underlying rights;
- to ensure the financial burden of administration does not outweigh the revenue collected; and
- to account for the rights included that are not dependent on audience size, being Digital Copy/Delivery. More information about the rate and rate structure for **Digital Copy/Delivery** is available [HERE](#).

2. Telephone on Hold

Telephone on Hold involves the communication of music across telecommunication lines to listeners being placed on hold by a business. The right to reproduce or copy music for the purposes of placing that music on the telephone on hold system is also available under this licensing category.

Rate Structure:

The rate structure for *Telephone on Hold* is an amount that is calculated by reference to the following factors:

- the caller capacity of the telephone system;

- whether the licensee is a single location or has multiple locations; and
- whether the licensee requires copying as well as communication.

Caller Capacity means how many lines (playing music) the business can place on hold at any one time. Where a business uses VOIP or a Cloud based telephone system, caller capacity is the number of maximum simultaneous users across all locations.

The use of these three factors provides for a licence fee that is consistent with the size of their telephone system, the size of their business, and the number of rights used.

Rate:

The APRA rates for music on hold were formulated in the early 2000s, by reference to international benchmarks and based on the number of PABX lines. PPCA introduced rates that were essentially the same as APRA's rates shortly thereafter. With OneMusic, PABX lines was replaced as a concept with caller capacity to reflect technological changes that had occurred in the interim. The OneMusic Australia rates added the PPCA rates, and were then reduced to ensure businesses with multiple locations did not pay an inflated amount.

The rates for *Telephone on Hold* are able to be reduced by 48% in the event that the licensee does not need a licence for either APRA AMCOS works or PPCA sound recordings, whether because it does not use PPCA recordings, only uses public domain works or has sought and obtained a licence for those sound recordings or musical works directly from the copyright holder (such as a record company or composer).

RATE SETTING GUIDE

WEBSITE USE

Music cover for *Website Use* has been developed by OneMusic Australia to enable businesses to use music in the background of their business websites. It is available as an additional option in a number of OneMusic Australia schemes, such as the *Clubs, Dining, Fitness, Exercise and Wellbeing*, and *Retail and Service Providers* schemes.

This Rate Setting Guide describes how OneMusic Australia sets the rates under the *Website Use* scheme. For more information about how OneMusic Australia fixes rates and determines rate structures more generally, please see the **Rate Setting Guide - General Background** available [HERE](#).

Website Use

The *Website Use* music cover allows a licensee to communicate to the general public recorded music (being both the musical works and the associated sound recordings of those works) in OneMusic Australia's repertoire as a background stream on the licensee's business website.

The use of recordings for website use is subject to stringent restrictions such that the rights are only granted as long as the music:

- (a) does not directly generate revenue as a result of the streamed music;
- (b) comprises at least 10, but no more than 15, PPCA Sound Recordings;
- (c) comprises no more than one PPCA Sound Recording by a particular artist or group;
- (d) does not include infringing copies of PPCA Sound Recordings; and
- (e) is only used on the website in a manner that:
 - i. is independent of the user's progress;
 - ii. is not associated with any particular part of the website, including without limitation, the homepage;
 - iii. does not act to synchronise PPCA Sound Recordings with any image or video on the website; and
 - iv. does not allow a user to choose which PPCA Sound Recordings they hear, or the times at which they hear them, or be otherwise able to control the nature and timing of the PPCA Sound Recordings played on the website.

Rate Structure:

The rate structure for the use of *Website Use* is a fixed amount per business.

Rate:

The rates are based on the existing licence fees for the use of APRA AMCOS music prior to 2019, noting that prior to then PPCA did not have an equivalent rate.

APRA AMCOS developed its *Online Mini* licence scheme in the 2000s. That scheme provided for various different uses, for example podcasting, backing tracks, and on-demand streaming. Each use had three tiers and was priced at \$275 for the lowest tier, \$550 for the middle tier, and \$1,100 for the top tier according to the relevant metric. For Looped Background Music, the closest type of use to the OneMusic *Website Use*, the lowest tier permitted up to 10,000 unique users a year, the middle tier up to 80,000 unique users a year, and the top tier over 80,000 unique users a year. In implementing the *Online Mini* licence scheme, APRA AMCOS consulted on the rates and tiers with existing users at the time.

Using that benchmark, OneMusic's *Website Use* cover was priced, irrespective of unique annual users, at the lowest tier from the *Online Mini* licence scheme, but then doubled to \$550 to account for the additional PPCA rights.

DEALING DIRECT

Licensing Enquiries 1300 852 388 licence@apra.com.au www.apraamcos.com.au

DEALING DIRECTLY WITH SONGWRITERS AND MUSIC PUBLISHERS

You don't have to go through APRA to legally play music - you can also deal directly with the APRA songwriters or publishers of the songs you wish to use.

Usually it's easier to go through us - we control performing rights in all songs written or published by our members and can grant you a blanket licence to perform or play all the songs we control.

But sometimes it can be easier to deal direct - for example:

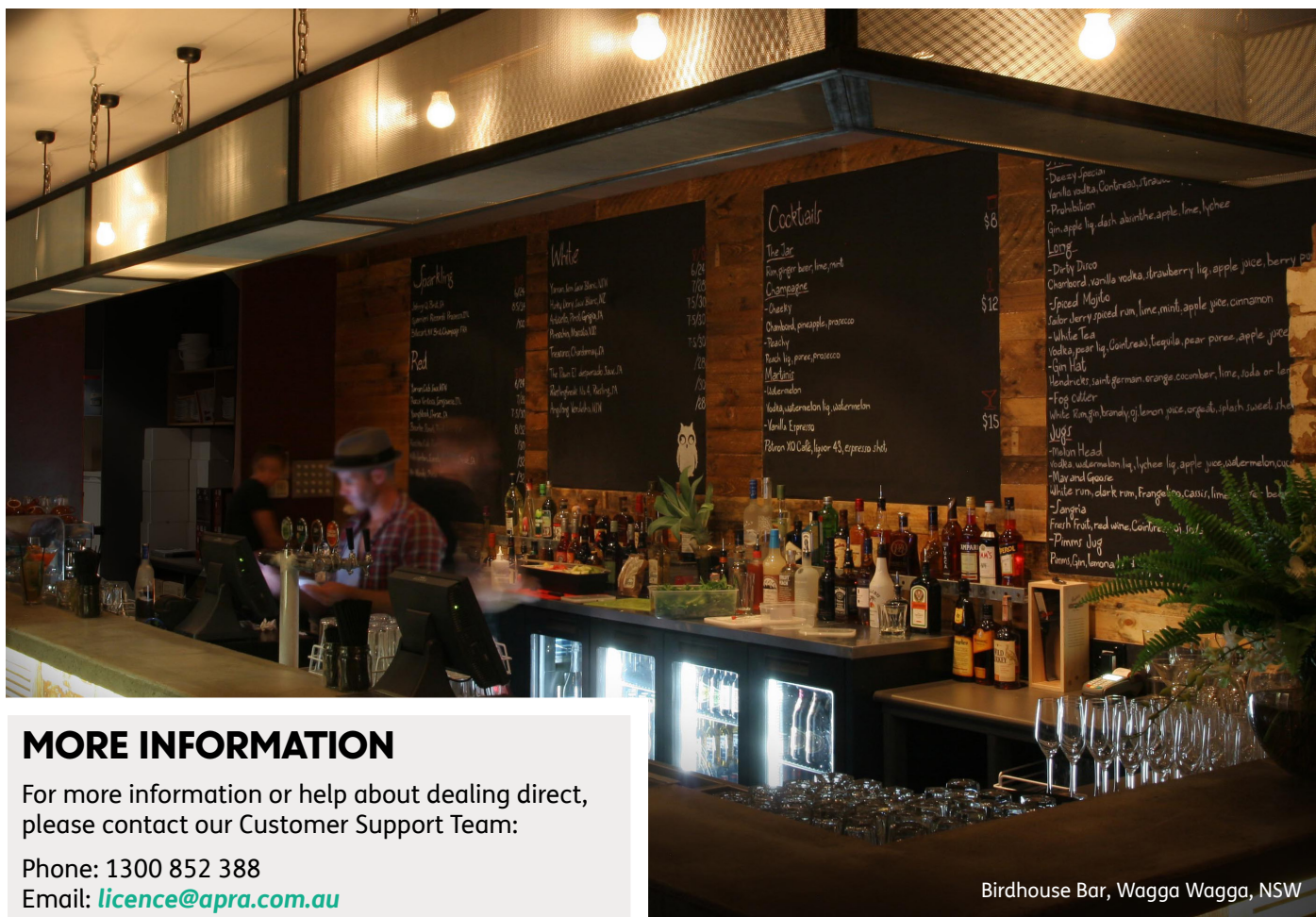
- if you want to use a particular song as music on hold or on your website
- if you have booked a band for your venue and it will play only its own material (no covers)
- if you organise an event where only a few works will be performed and the songwriters have a connection with the event (for example, a charity concert)

If you want to deal directly with particular APRA members, you can ask them to contact APRA to discuss our Licence Back or Opt Out schemes. These are explained in the Music Creators section of this website under [Managing your Rights](#).

Obtaining an Opt Out or Licence Back is simple, but APRA members applying for them must make sure that all parties with an interest in the song (any other writers or publishers) agree to the arrangement.

If you choose to deal directly, you may not require a licence from APRA at all. Alternatively you may qualify for a reduction in your APRA blanket licence fees.

Contact your Licensing Representative to discuss this and any other questions you may have about dealing directly with songwriters and music publishers.



MORE INFORMATION

For more information or help about dealing direct, please contact our Customer Support Team:

Phone: 1300 852 388

Email: licence@apra.com.au

Birdhouse Bar, Wagga Wagga, NSW

Summary of Adjustments to OneMusic Licence Fees

Partial Rights Deduction

On many of the joint musical work/sound recording tariffs that OneMusic offers to music customers, it provides a “partial rights deduction”, commonly referred to as a PRD. The PRD, which provides a deduction of 48.25% from the full rate, applies when the any business’ use of music only exercises APRA AMCOS’ rights or only exercises PPCA’s rights. Examples of where the PRD applies include:

- i) *Fitness, Exercise and Wellbeing, and Dance and Performance Instructors and Dance Schools* schemes, music in classes tariff;
- ii) *Retail and Service Providers, Dining, and Places of Interest, Activity and Amusement* schemes, Gold and Silver tariffs; and
- iii) *Recorded Music for Dance Use* scheme tariff.

A PRD may be applicable for a number of reasons including that a licensee may have direct licences to cover the business’ use of sound recordings or musical works, or that the sound recordings used by the business are cover versions (or re-recordings) that are not represented by PPCA.

Direct Licence Deduction

OneMusic has also implemented, via consultation with individual businesses, rate deductions that reflect the unique nature of that business’ use of music. By way of example, a provider of audiovisual entertainment to a particular service sector has secured direct licences with APRA members for the use of their music on the service, but these arrangements do not cover all the music on the service. In these circumstances a deduction from the standard rate was agreed that reflects the relative proportion of directly-licensed APRA music.