

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.