

PLACES OF INTEREST, ACTIVITY AND AMUSEMENT

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 place of interest, activity and amusement, you're likely to be paying a licence fee to organisations like APRA AMCOS and PPCA, the caretakers of the copyright in the music you use. Your music licences support artists and ensure you're abiding by the law when using music to attract and retain business. However, we realise it can be confusing to have to pay music licence fees to two organisations. In the first half of 2019 this will change and OneMusic Australia will be the one organisation for all your music licensing needs, and you'll be able to pay for your licence online.

Places of interest, activity and amusement include, but are not limited to, bowling alleys, fun parks, zoos, museums, aquariums, leisure centres, skating rinks, games arcades, exhibition spaces, libraries (non-council run), theme parks, wineries and other businesses which provide amusement facilities or would be considered places of interest to the public.

Because APRA AMCOS and PPCA 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** (with Gold, Silver and Bronze packages) linked to the different ways you may use music in your business.
- **For background music** - we propose to remove the requirement to report the number of devices and different spaces using background music as exists under your current APRA AMCOS and PPCA licences.
- **For music videos** - there will be a flat annual fee of \$700, which we believe offers savings and simplicity over the current fee that is linked to the number of screens.
- **For featured music** - a separate rate of \$12 to \$24 per day will apply where featured music is used and where, for any performance, expenditure on performing artists is less than \$4,000.
- We're introducing **discounts** for background music used in carparks.
- **For copying music to use as background music** – whether from CDs, download services or the use of streaming services – they are now included in the Gold background music package for ease of compliance.
- **For website use** - a flat annual fee of \$550 will apply to places of interest, activity and amusement that use music on their websites within specific limitations.

After feedback has been received, OneMusic Australia intends to develop and then launch its new licence schemes in the first half of 2019.

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

- The size of your premises where music is audible and the type of devices used to play the music;
- The number of days you provide featured music for patrons;
- If you show music videos and/or use music on your website; and
- Which licences you currently have for your premises – cost comparisons will only be valid if you currently 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 by 22 June 2018.

YOUR PROPOSED NEW ONEMUSIC LICENCE FEES

The proposed annual fee structure for the use of background music, music videos, and featured music per annum (inclusive of GST) is illustrated in the table below. The rest of this consultation paper contains information about why and how we developed these proposed fees, and lets you know how to take part in the consultation process.

Table 1:

		GOLD (PER ANNUM)	SILVER (PER ANNUM)	BRONZE (PER ANNUM)
TIER	SIZE OF LOCATION WHERE MUSIC IS AUDIBLE	All TVs plus Digital Music Service including Streaming Services, Internet Radio, iPods, Smartphones, Tablets, PCs etc	All TVs (including from recorded source and internet) plus CD/Vinyl Player, or Background Music System (where music content is supplied by a Background Music Supplier only)	Traditional terrestrial radio or television stations (received via a broadcast signal)
Tier 1	0 - 150m ²	\$650	\$250	\$144
Tier 2	151 - 500m ²	\$800	\$400	\$230
Tier 3	501 - 1,000m ²	\$1,050	\$650	\$374
Tier 4	1,001 - 2,000m ²	\$1,400	\$1,000	\$374
Tier 5	2,001 - 5,000m ²	\$1,850	\$1,450	\$374
Tier 6	5,001m ² - 10,000m ²	\$2,400	\$2,000	\$374
Tier 7	10,000m ² +	\$2,400 + \$400 per additional 1000m ² or part thereof	\$2,000 + \$350 per additional 1000m ² or part thereof	\$374

Table 2 Plus the following separate extras, as required:

Music Videos	Any number of screens	\$700 per annum	\$700 per annum	n/a (you need at least a Silver package)
Website	Incidental, audio only	\$550 per annum	\$550 per annum	\$550 per annum
Featured Music	Per day/night of use	Tiers 1-5: \$12 per day/night Tiers 6-7: \$24 per day/night		

You may also require coverage for other uses of music – for example, music on hold, and corporate and workplace. These proposed rates are detailed in separate consultation papers available [here](#), but your single OneMusic licence when issued will provide coverage for these additional rates.

DATE: 16 May 2018

PLACES OF INTEREST, ACTIVITY AND AMUSEMENT SCHEME CONSULTATION

OneMusic Australia is an alliance between 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 first half of 2019, APRA AMCOS and PPCA intend to launch the OneMusic Australia partnership to provide a one-stop shop for the music licence needs of businesses which are considered places of interest, activity and amusement and remove the requirement for such businesses to obtain multiple licences separately from APRA AMCOS and PPCA.

OneMusic Australia aims to harmonise existing rates for the use of music, 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 coverage, allowing easy account management with OneMusic Australia.

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 our customers and their industry associations 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 places of interest, activity and amusement are licensed to use music with a view to implementing a new, wide-ranging and simplified music licensing scheme. For the purpose of clarity, this paper is not applicable to retailers and service providers, dining businesses or any other business which does not have a primary purpose as a place of interest or amusement. OneMusic Australia has released or will release consultation papers for other business types separately [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 the Boards of those respective organisations.

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

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

Places of interest, activity and amusement currently require multiple licences from both APRA AMCOS and PPCA for their use of music in their business. In some cases, places of interest, activity and amusement could require up to 10 different licences from both APRA AMCOS and PPCA for the use of music across their premises. The goals of the proposed OneMusic Australia scheme and the joint venture in general are:

- a) to make it easier for you to support the artists you play in your business in a legally compliant way;
- b) to simplify licensees' initial and ongoing reporting and administration requirements (in particular through the development of an eCommerce platform);
- c) to develop future-proofed schemes in preparation for the evolution of audio and audio-visual delivery platforms; and
- d) to develop simple and industry-relevant structures that are fair and equitable across business types and locations.

CONSIDERATIONS

OneMusic Australia believes that the importance of music, particularly the correct selection of music, is fundamentally important to the bottom line of businesses including those operating in the places of interest, activity and amusement space. The link between music and consumer behaviour has been the subject of many local and international research papers. For example, in Canada a recent research paper concluded that: 50% of businesses would never stop playing music; 72% say it's more important than decor to customers; and 74% of businesses believe music is important to customer experience¹. Research has also suggested that commercial environments could alter their 'musical atmosphere' to deliberately attract a customer profile, one that readily 'buys into' your image, to increase patronage and per capita spend, brand loyalty, responsiveness to promotions and reduced sensitivity to price, all because of the music cues you've implemented². In summary, it is OneMusic Australia's view that businesses are increasingly seeking to deliver a particular atmosphere through the more sophisticated use of music, and align it to their branding

When developing the proposed scheme for background music OneMusic Australia considered the current metrics used by APRA AMCOS and PPCA to license the use of music in places of interest, activity and amusement and noted that while they are fundamentally similar, they do have some differences. Both involve a tiered rate structure based on the physical size of the premises or area where music is audible, although the tiers in the APRA AMCOS licence are slightly different to those in the PPCA licence. The PPCA rates apply to each separate area in which music is used, while the APRA AMCOS size metric encompasses the entire area. The existing PPCA licence is device-neutral while the APRA AMCOS licence is further tiered, based on the kind of devices used to play music in the business.

1 www.socan.ca/news/research-confirms-music-builds-business

2 North, A. C., Hargreaves, D. J., & McKendrick, J. (2000). The effects of music on atmosphere in a bank and a bar. *Journal of Applied Social Psychology*, 30, 1504–1522.

APRA and PPCA Existing Structures

Fig. 1: APRA AMCOS (rates inclusive of GST):

TYPE OF DEVICES	SIZE OF PREMISES					
	0-150m ²	150-499m ²	500-999m ²	1,000-1,999m ²	2,000-4,999m ²	+1000m ²
One device - radio or TV only	\$79.46	\$92.70	\$132.43	\$198.62	\$370.73	\$132.43
One device incl: CD or DVD player, PC, tablet or MP3 player, background music service or digital music service	\$132.43	\$158.88	\$238.35	\$397.23	\$662.05	\$158.88
Two to four devices and/or a multi-channel device of up to four streams and/or a jukebox	\$211.85	\$304.54	\$450.20	\$688.51	\$1,125.44	\$211.85
Five or more devices and/or multi-channel device of five or more streams and/or jukebox	\$397.23	\$595.85	\$873.86	\$1,324.04	\$2,118.50	\$397.23

Fig. 2: PPCA (Tariff M – applicable to all commercial & professional premises, including zoos, galleries and museums³ - inclusive of GST)

SIZE OF EACH AREA IN WHICH SOUND RECORDINGS ARE PLAYED	LICENCE FEE
Up to 140 m ²	\$79.12
141 m ² to 465 m ²	\$106.63
466m ² to 930m ²	\$145.28
Over 930 m ²	\$183.68

On face value from these tables it appears that the licence fee payable under the current PPCA scheme is notably lower than the equivalent APRA AMCOS licence fee. Note, however, that the PPCA fee is assessed per room, level or area, whereas the APRA AMCOS fee is not. For example an amusement venue that is on two levels (each level 950m²) playing the same music on both floors, and with two small screens exhibiting music videos – subject to an additional PPCA tariff W – on the lower floor would currently pay PPCA fees of \$1,421.22 against an APRA AMCOS fee of \$688.51.

Devices

OneMusic Australia notes that some businesses will play music from ‘recorded music devices’ such as background music systems, tablets and smartphones where both APRA AMCOS and PPCA rights are used, and from ‘broadcast devices’ such as radios where only the APRA AMCOS licence is required. TV screens may show recorded or streamed content and some may show broadcast content.

3 Note that, in some instances PPCA tariffs “K” (for Amusement centres, pool rooms, swimming pools and bowling centres), “U” (for Skating Rinks), or “E3” (applicable to bars) may also have applied.

The New Scheme

In developing the proposed scheme, OneMusic Australia considered alternative metrics that are not part of the current APRA AMCOS and PPCA licensing structures. These included rates based on the type of business (i.e. a scheme for bowling alleys, a scheme for wineries, a scheme for bounce centres, etc.), rates calculated based on the average ticket price charged to the public by the business, and rates based on gross annual turnover derived from ticket sales.

By undertaking such detailed analysis and testing different potential metrics, OneMusic Australia found that moving too far from the existing licensing structures resulted in significant fluctuations in fees, especially at the lower end of the market. The alternative structures also may have resulted in increased difficulty for clients to calculate and budget future licence fees, especially based on a metric of annual gross turnover. These metrics would have resulted in more onerous reporting obligations for licensees and compliance measures for OneMusic Australia.

For these reasons, OneMusic Australia proposes a licence scheme:

- that acknowledges most businesses use a mix of recorded and broadcast devices and has a pricing structure that reflects this;
- with a low fee tier for businesses that only use traditional terrestrial radio or television stations (received via a broadcast signal on a radio or television set) and use no other music source to play background music;
- calculated using tiered rates based only on premises size;
- 'device-number neutral', meaning that the more complex current APRA AMCOS metric that employs different rates based on the premises size and number of devices used will no longer apply; and
- easy to administer, budget and report using our eCommerce system.

The Scheme will also provide the option to include most featured music performances needed by places of interest, activity and amusement, and separate extras as required, for Music Videos and Website use.

RIGHTS ⁴

The rates proposed in this licence scheme are for background music use, featured music use, copying music for the purpose of playing it as background music, screening music videos and using incidental music used on websites.

In this consultation paper, background music refers to the playing of audio or audio-visual material that is music, or contains music. This includes the use of digital music services, background music services, CDs, traditional radio and television services, music videos, internet services (including YouTube) and jukeboxes. Music Videos refers to promotional videos often made by record labels irrespective of the source of the performance (for example it includes the performance of a YouTube video, or music video programming provided by a background music supplier).

Featured music performances include, but are not limited to, recorded and/or live music used at a place of interest, activity and amusement that is given prominence as a feature of the premises, or of any part of the premises. For the purpose of clarity, music that is used in a featured context includes but is not limited to music that is performed live, including where it is:

- advertised as a feature of that business, such as a DJ or live band every Saturday;
- an intrinsic part of an exhibition at a museum, art gallery or similar building; or
- used as part of a special event, such as a band or DJ playing at an exhibition opening.

OneMusic Australia considers that featured music performances are a premium use of music and have been priced accordingly.

4 Coverage for other uses commonly accessed by businesses, for example music on hold, will be available under a single application process.

STRUCTURE

All rates detailed in Tables 1 and 2 above are inclusive of GST and all fees under this scheme will, where applicable, increase annually in line with the weighted average of eight capital cities Consumer Price Index. The various components of the scheme will be calculated as outlined below.

Background music

The proposed scheme will cover background music where it is available in publicly accessible areas. OneMusic Australia proposes a significantly simpler structure for licensing background music. Businesses will no longer be required to count the number of devices used across the premises – as they do currently for their APRA AMCOS licence – and will no longer have to report to PPCA the number and size of separate areas within the business.

The proposed background music fees are set out in Table 1. This structure is a hybrid of the two existing metrics in that it employs the device-neutrality of the current PPCA scheme, coupled with the existing size metrics – including a rate per additional 1,000m² beyond tier six⁵ – from the APRA AMCOS licence. The size of premises is measured ‘wall to wall’ and includes all areas occupied by shelving, displays, tills and service areas.

In a further beneficial variation from the current PPCA and APRA AMCOS licence approach, OneMusic Australia proposes that under this licensing scheme background music played in car parks will attract a discount of 50% of the rates detailed in Table 1. It is our view that car parks are generally the first area encountered by patrons, and when music is used in this context, it can attract more customers to the business (albeit that the car park acts as a transient rather than end location for patrons). For that reason, OneMusic Australia seeks to encourage the use of background music in car parks by way of this discount.

Music on devices (Gold Tier)

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 still do not offer the demographically targeted and individually curated (and often ‘week long’) playlists designed for their clients by professional background music service providers. Businesses creating their own playlists, rather than those provided by professional music programmers, may not be maximising the full power of music to drive bottom-line success.

As it currently stands in Australia, almost all publicly available digital music streaming and download services limit their service to personal and domestic use. Furthermore, while the making of copies of recordings (for example of a CD, a digital download or music service) is permitted under the Copyright Act for domestic listening purposes, this does not extend to public performances (i.e. the type of performance that occurs in a place of interest, activity and amusement). So, in the absence of appropriate licensing, any public performances and reproductions (including by the operation of the service itself, such as caching or storing for offline use) require licensing. Licences for reproduction have 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 this proposed scheme, 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 ease of licensing compliance is a priority for businesses, and to that end OneMusic Australia intends to ‘bundle’ the fee for copying music into the background music fee for places of interest, activity and amusement under the Gold package. The inclusion of the copying fee allows businesses to keep up to 2,000 copied tracks at any one time and within that limit are able to remove and add tracks to keep their music fresh, so long as they keep within the 2,000 cap.

5 OneMusic Australia tested the impact of removing the rate per additional 1,000m² but found that to remove this, and remain relatively licence fee neutral meant a huge licence fee increase at the smaller end of the market. OneMusic Australia is of the view that these kinds of ‘swings and roundabouts’ to achieve an overall licence fee neutral position are not appropriate. 7

This reproduction licence is available only to licensees in conjunction with their public performance licence at the specific location covered by that licence, and does not cover reproductions for any other location that the business may operate. The reproduction of music videos for any purpose, including copying sound recordings or music videos on to jukeboxes, is excluded. The proposed scheme also does not cover the reproduction of music for the purpose of incorporating with video footage or with other material including exhibits at museums or art galleries.

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.

Music videos

The background music component of this scheme will not extend to the screening of music videos by places of interest, activity and amusement. Music videos require an additional fee. This fee will be a flat annual amount of \$700 rather than an amount per screen. Under this scheme, places of interest, activity and amusement must obtain a music video licence in conjunction with a background music licence.

Website music use

OneMusic Australia recognises that many places of interest, activity and amusement operate websites to provide an online presence for their business. OneMusic Australia also understands that many of those businesses use their website to provide a specific online environment and seek to create an offering that is aligned to the in-venue experience. One way to do that is to provide a similar music atmosphere as exists in the business's bricks and mortar locations.

Accordingly OneMusic Australia proposes to introduce an additional licence option (subject to certain limitations) for businesses that want to play music on their website at \$550 per year, including GST.

OneMusic Australia is able to offer limited online uses. The website music under this scheme includes:

- audio-only music content (ie no music videos);
- music incidental to the primary purpose of the website (ie not streaming or sharing musical content); and
- use of between 5 and 15 tracks played in a random linear, non-interactive loop.

The business may not derive any revenue from the playing of music on the website. Any additional uses (such as Facebook, YouTube, Instagram or other social media platform) will require separate licence arrangements.

Featured music

For those places of interest, activity and amusement that provide featured music, there is a per day/night fee of payable for this use. The per day/night fee is \$12 for premises up to 5,000m² in size, and \$24 for larger premises. The fee applies for any days of operation that include featured music where the highest ticket price or additional charge to the patron for featured music is less than \$40⁶ and the expenditure on performing artists is less than \$4,000. In other circumstances, you will need to obtain an additional licence for that event.

Background music not played in public areas

OneMusic Australia has already released a consultation paper covering the corporate and workplace use of music [here](#). A licence is required, for example, to authorise the performance of music in non-public areas such as in a head office or warehouse, where it is played for the benefit of employees. In order to further simplify music licensing and provide peace of mind to smaller businesses that all of their music use is licensed, OneMusic Australia proposes to include this suite of rights under the scheme set out above for no extra cost where the business has **no more than** five branches. Larger places of interest, activity and amusement using music in the workplace will continue to be required to obtain separate coverage.

⁶ The proposed \$40 ticket, admission or cover fee threshold includes GST and booking or handling fees.

PARTIAL RIGHTS

OneMusic Australia is aware that some businesses use alternative sources of music that do not require all of the rights that would be granted by an OneMusic Australia licence. In the context of places of interest, activity and amusement, it is our experience this is relatively rare and occurs where a business is using content that claims to be “PPCA-Free” or has obtained a direct licence to just use recordings from a limited repertoire. Such libraries of music tend to be smaller in size and represent a mere fraction of the recordings available under the proposed OneMusic Australia licence. OneMusic Australia’s proposed scheme offers greater value for money as original and recognisable recordings specifically tuned to the demographics of your patron base can create a better atmosphere to attract and keep patrons, and increase sales. Nonetheless, for businesses that do choose such an alternative music source and have no requirement to access sound recordings under OneMusic Australia’s licence – and can provide evidence of this – a discount of 48.25% will be applied where relevant.

REPORTING

It is proposed that music use coverage under this scheme will be reviewed annually as is the current procedure for most APRA AMCOS customers. Businesses will be able to confirm and declare their usage and obtain the correct coverage easily through our eCommerce facility. Those businesses that enter into direct debit arrangements will be able to select annual, quarterly or monthly payment options.

Businesses will no longer be required to provide information on:

- The number of devices used to play background music; and
- The number of separate areas using background music across the venue.

All that will be required is that businesses select the appropriate package based on how they source their background music, report their aggregated premises size where the music is audible, whether they use featured music (and if so the number of days it was used) and whether they use music videos. Businesses will also have the option of obtaining coverage for website music.

OneMusic Australia believes the simplified structure and associated reporting requirements will reduce administrative burden on businesses, make obtaining the correct licensing easier and encourage higher levels of compliance across the industry.

IMPACT

OneMusic Australia has undertaken detailed analysis and testing across the data collected from existing APRA AMCOS and PPCA licensees in order to develop the proposed licensing structure and fees. That modelling shows that across the sector – where businesses already have existing APRA AMCOS and PPCA licences in place – the impact is licence fee neutral, but we note that individually some businesses will experience decreases and others, increases. OneMusic Australia also notes that within the proposed fee structure, the device-neutral model means that most businesses will be able to broaden and add more sophistication to their background music without a further increase in their music licensing fees. Given the proven importance of music to businesses, OneMusic Australia considers this is an important value-add.

TRANSITIONAL ARRANGEMENTS

Our analysis shows that there are a number of businesses that are currently licensed only by APRA AMCOS or PPCA but actually require licences for both organisations’ rights. APRA AMCOS and PPCA recommend that businesses 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

We believe that this proposed scheme for music use by places of interest, activity and amusement offers value for money and simplicity and we welcome your feedback.

Your comments allow us to ensure that the licence schemes we develop are not only theoretically sound, but are 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 22 June 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 as soon as possible.