

PLACES OF INTEREST, ACTIVITY AND AMUSEMENT OUR CONSULTATION PROCESS WITH YOU

OneMusic Australia is continuing its consultation with places of interest, activity and amusement and would like to hear your views.

This is the second consultation paper we've released on the proposed OneMusic Australia scheme for places of interest, activity and amusement. Whilst we have not received any substantial feedback from industry associations or stakeholders, we've made some adjustments to our original proposal based on the relevant feedback we've received.

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 business, and with your support music creators are paid for their contribution to your business.

If you have already provided us with comments, 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 addressed concerns that have been raised about the impact on larger-sized businesses by removing the open-ended "per additional 1,000m²" structure for background music and provided an absolute cap on licence fees. In making this amendment we have also introduced additional tiers and made marginal changes to the initially proposed rates.
- We have also reintroduced – consistent with the current APRA structure – further scaling of the rate where businesses only play traditional terrestrial radio or television stations (received via a broadcast signal).
- For featured music (such as music performed by live artists, DJs and/or karaoke), in order to ensure consistency across a range of schemes, additional licences will apply to events where (a) expenditure on artists is \$4,000 or greater for a single event, or (b) there is an entry fee for the featured performance.
- Businesses will see a saving in licence fees for music videos from our proposed introduction of a two-tiered flat annual rate – replacing the originally proposed single tier rate of \$700 - for the use of music videos, where locations in Tier 6 and above will pay \$680, and smaller locations will pay \$340.

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

- The size of your premises where music is audible and the type of devices used to play the music
- How many days you provide featured music for patrons (featured meaning live performance, DJs and/or Karaoke)
- If you show music videos and/or use music on your website
- Which licences you currently have for your premises – remember that 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 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 music in places of interest, activity and amusement 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.

Table 1: Background music

		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	\$775	\$375	\$230
Tier 3	501 - 1,000m ²	\$1,150	\$750	\$374
Tier 4	1,001 - 2,000m ²	\$1,400	\$1,000	\$374
Tier 5	2,001 - 5,000m ²	\$2,150	\$1,750	\$374
Tier 6	5,001 – 7,500m ²	\$2,650	\$2,250	Radio only: \$374 TV (inc radio): \$600
Tier 7	7,501 – 10,000m ²	\$2,900	\$2,500	Radio only: \$374 TV (inc radio): \$800
Tier 8	10,001 – 15,000m ²	\$3,400	\$3,000	Radio only: \$374 TV (inc radio): \$1,000
Tier 9	15,001 – 20,000m ²	\$3,900	\$3,500	Radio only: \$374 TV (inc radio): \$1,200
Tier 10	20,000m ² +	\$5,400	\$5,000	Radio only: \$374 TV (inc radio): \$1,400

OneMusic Australia proposes a phase-in over three years to assist businesses with the transition to the revaluation of PPCA's background music rights under OneMusic. The Gold and Silver rates above are discounted by 15% in year one and 7.5% in year two of the scheme.

The rate for Background Music played in car parks is discounted by 50% from the figures above

Table 2: Music videos, website, and featured music

Music Videos	Any number of screens	Relevant Silver or Gold package PLUS Tiers 1-5: \$340 per annum Tiers 6-10: \$680 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 6-10: \$24 per day/night (subject to no entry fee and/or artist expenditure cap of \$4,000 per event)		

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.

EXAMPLES

Note that in each of these examples below we are comparing the proposed OneMusic rates with the current PPCA and APRA rates, which would normally be subject to CPI adjustment prior to 1 July 2019.

Example 1

- Scenario: An amusement arcade with a floor space of 450m² plays music videos on one large screen every day, with no other music source.
- Current: APRA AMCOS annual licence fee at \$158.88 and PPCA annual fee at \$1,432.37.
Total \$1591.25.
- Proposed: The proposed phase-in of the Silver package provides for the following annual licence fees under OneMusic: year one at \$658.75; year two at \$686.88; and year three at \$715.

Example 2

- Scenario: An art gallery has two floors and plays music from a digital music service. The lower floor is 300m², and the upper floor 220m².
- Current: APRA AMCOS annual licence fee at \$397.23 and PPCA annual fee at \$361.89
Total \$759.12.
- Proposed: The proposed phase-in of the Gold package provides for the following annual licence fees under One Music: year one at \$977.50; year two at \$1,063.75; and year three at \$1,150

Example 3

- Scenario: An outdoor theme park of 14,000m² with a patron capacity of 4,000 plays music which is supplied and curated for its patron demographic by a background music supplier. In the five days leading up to Christmas, the park has a band and singer (the performers are paid a total of \$800 for each day) playing a mix of contemporary and traditional Christmas carols near the park entrance every day.
- Current: APRA AMCOS annual licence fee at \$2,298.85 (including for the band's featured music), and PPCA annual fee at \$106.68.
Total \$2405.53.
- Proposed: The proposed phase-in of the Silver package (which does not apply to the Featured Music) provides for the following annual licence fees under OneMusic: year one at \$2,670; year two at \$2,895; and year three at \$3,120

DATE: 10 September 2018

PLACES OF INTEREST, ACTIVITY AND AMUSEMENT SECOND CONSULTATION PAPER

OneMusic Australia is an initiative of APRA AMCOS and PPCA. On 2 May 2018, OneMusic Australia released a consultation paper seeking feedback on a proposed music licensing scheme for places of interest, activity and amusement. That paper can be found [here](#).

OneMusic Australia received welcome feedback on that paper from places of interest, activity and amusement and their representative associations 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 places of interest, activity and amusement 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 places of interest, activity and amusement to migrate their existing licences where relevant.

FEEDBACK RECEIVED

The feedback received by OneMusic Australia was straightforward and the main points raised are addressed below.

THE VALUE OF MUSIC

More than one submission received by OneMusic Australia questioned the benefit of music to business, downplayed its role in enhancing customer experience, or stated that while music use in places of interest, activity and amusement was useful, it did not generate revenue. As detailed in the first consultation paper, studies have shown that music can influence consumer behaviour, customer satisfaction, the amount of time a customer spends in a store and their loyalty to brands. There is clear evidence that music has value in businesses. Places of interest, activity and amusement pay for many resources and tools that enhance their business and make their premises more appealing or comfortable for customers, and music is no exception.

That said, for those that believe that the use of music has little or no value or benefit in their business, the option is there to cease playing music.

RATES FOR BUSINESSES WITH LARGE PREMISES

Valuable feedback from businesses with premises over 5,000m² claimed that the fees proposed for background music in Tier 6 became unreasonably expensive for very large premises. While we do not agree with those assertions, in order to make the proposal more generally acceptable we have amended the background music rates to include four additional tiers to cater for these larger businesses. For example, in the first consultation paper the background rates for a business with a premises size of 10,000m² licensed under the Gold package would have been \$3,850. With the adjusted proposed rates in this second paper, the same business would pay \$2,900.

As a result of these proposed changes some other amendments have also been proposed, including that rates under the Bronze package will now scale in the newly introduced upper tiers, and some changes to other categories. For example the Gold package for up to 500m² decreases by \$25 and the Silver package for up to 1,000m² increases by \$100. We recommend you review the fee tables to determine the fee proposed for your location.

FEATURED MUSIC

The first paper required that featured music events where artist expenditure was \$4,000 or greater would require a separate licence. In order to ensure consistency across different schemes OneMusic now proposes to exclude events where there is an entry fee** and events where artist expenditure for a single event is \$4,000 or greater. For any events falling outside one or both of these criteria you

will need to apply and obtain a separate licence. By applying these criteria we can ensure that larger events are suitably segregated while still providing streamlined access to featured music for smaller events, where you wish to use music as a point of difference for your business. OneMusic notes that this is the current arrangement for APRA AMCOS.

** “Entry Fee” means a fee (even if the fee is not charged to all patrons) including but not limited to a ticket price or cover charge, that is charged in addition to any standard fees charged for admission when there is no featured music performance

MUSIC LICENSING RATES IN OTHER TERRITORIES

Across many of the industries OneMusic Australia has been consulting with, comparisons have been made between the proposed rates and music licensing fees payable for comparable businesses in overseas territories. Routinely these comparisons have only mentioned territories where music licensing rates are lower for businesses in the relevant industry sectors. Although not mentioned in feedback received by OneMusic Australia, there is also ample evidence available of music licensing fees in other territories that are considerably higher than those proposed by OneMusic. In the UK for example, a skating rink of 1,000m² licensed for the use of background music by PPL PRS pays around double the proposed OneMusic Australia rates.

The fees and licensing schemes in different territories have been developed from different historical bases, are not linked, and most have varied between territories since their inception. Licensing schemes and rates can differ greatly across numerous international territories and markets due to historical, structural, and developmental variables, and a comparison of any two will reveal disparities for those reasons.

MUSIC VIDEOS

A feedback submission from Master Grocers Australia contained a question regarding why the use of music videos attracts a higher proposed fee than the use of other forms of background music. In an audio track OneMusic represents two copyrights: the song and the recording. However in a music video OneMusic represents three copyrights: the song, the recording and the film. Further, the often very substantial amounts involved in creating such audio visual content, above and beyond the production of the underlying sound recording, represents significant additional investment for the rights holders. For these reasons under this scheme we consider that it is appropriate that a separate rate applies to the performance of music videos for those venues that wish to utilise them.

Additionally, previously the flat rate for music videos (paid in addition to the background music rate) was \$700 per annum, which we have amended to a two-tiered rate depending on location size. All locations will see a benefit from this proposed change: smaller locations will pay a flat rate of \$340, and larger locations (tier 6 and above) will pay \$680.

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 venues 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.

Once launched, OneMusic Australia proposes to phase-in the Silver and Gold background music packages over three years to assist businesses with the transition to the revaluation of PPCA’s background music rights under OneMusic. The Gold and Silver rates above are discounted by 15% in year one and 7.5% in year two of the scheme. To be clear, there is no phase-in for the Bronze background music, music video, featured music and website rates.



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 8 October 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.