

**DATE:** 14 December 2018

## PLACES OF INTEREST, ACTIVITY AND AMUSEMENT FINAL POSITION PAPER

OneMusic Australia is an initiative of APRA AMCOS and PPCA. On 16 May 2018 OneMusic Australia released a consultation paper seeking feedback on a proposed music licensing scheme for places of interest, activity and amusement. Feedback from industry associations and stakeholders was received, leading to a second consultation paper being released on 10 September 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 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.

### YOUR NEW ONEMUSIC LICENCE FEES

The fee structure for the use of music by places of interest, activity and amusement (inclusive of GST) is illustrated in the table below. The rest of this paper contains relevant definitions, notes about the most recent amendments to the scheme, and information aiming to clarify certain aspects of the scheme.

Table 1: Background music

		<b>GOLD (PER ANNUM)</b>	<b>SILVER (PER ANNUM)</b>	<b>BRONZE (PER ANNUM)</b>
<b>TIER</b>	<b>SIZE OF LOCATION WHERE MUSIC IS AUDIBLE</b>	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 and/or television stations only (received via a broadcast signal)
Tier 1	0 - 50m <sup>2</sup>	\$560	\$160	\$85
Tier 2	51 - 150m <sup>2</sup>	\$650	\$250	\$144
Tier 3	151 - 500m <sup>2</sup>	\$775	\$375	\$230
Tier 4	501 - 1,000m <sup>2</sup>	\$1,150	\$750	\$374
Tier 5	1,001 - 2,000m <sup>2</sup>	\$1,400	\$1,000	\$374
Tier 6	2,001 – 5,000m <sup>2</sup>	\$2,150	\$1,750	\$374
Tier 7	5,001 – 7,500m <sup>2</sup>	\$2,650	\$2,250	\$500
Tier 8	7,501 – 10,000m <sup>2</sup>	\$2,900	\$2,500	\$500
Tier 9	10,001 – 15,000m <sup>2</sup>	\$3,400	\$3,000	\$650
Tier 10	15,001 – 20,000m <sup>2</sup>	\$3,900	\$3,500	\$650
Tier 11	20,000m <sup>2</sup> +	\$5,400	\$5,000	\$650

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 6-11: \$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 6-11: \$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 uses. You may also need a separate OneMusic licence for featured music that does not meet the above criteria, ie events that have an entry fee or with artist expenditure exceeding \$4,000. A proposal for the licensing of these events will be available soon.

## DEFINITIONS

The following definitions are relevant to the OneMusic licensing scheme for Places of Interest, Activity and Amusement. 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.

### Featured Music

“Featured Music” means music (recorded or otherwise) used at the location that is given prominence as a feature of that location or any part of that location. 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
- Days of operation where the music has been compiled with a particular or recognisable theme such as ‘Retro Night’, ‘Friday Night Beats’ or ‘Sunday Jazz’.

“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 Video

“Music Video” means a cinematograph film that embodies: (i) a sound recording; or (ii) a sound-track that, if made separately from the cinematograph film, would be a sound recording; in which the copyright is owned or controlled by a Licensor listed [here](#), in any form including digital or other electronic machine-readable form. The term refers to promotional videos often made by record labels irrespective of the source of the performance (for example it would include the performance of a YouTube music video, or music video programming provided by a background music supplier).

### Traditional Terrestrial Radio and/or Television

“Traditional Terrestrial Radio and/or Television” means radio and/or television that only plays content received via services over the broadcast service bands or via cable or satellite delivery. This would exclude any internet delivered services.

## FEEDBACK RECEIVED

OneMusic Australia received welcome feedback to consultation papers for Places of Interest, Activity and Amusement and for Retailers and Service Providers (which proposes the same structure and rates), and has made adjustments and amendments to the scheme based on that feedback. Responses to the consultation papers have also helped identify where clarification of some aspects of the proposed scheme is needed.

The amendments made and clarifications needed as a result of the feedback are outlined below.

## EXTRA TIER FOR VERY SMALL LOCATIONS

Some respondents to the consultation papers for the OneMusic Retail and Service Provider licence scheme proposal, which has the same structure and rates as the Places of Interest, Activity and Amusement licence scheme proposal, expressed concern that businesses with very small location sizes or areas where music is played may see unreasonable price increases compared to their current licences. To help mitigate this concern, we have added an additional tier for locations sized up to 50m<sup>2</sup> with reduced rates.

## SIMPLER FEES FOR BROADCAST ONLY MUSIC SOURCES

Feedback received has included support for efforts to simplify the music licensing process for businesses. In order to further simplify the licensing scheme and rates proposed in the second consultation paper, we intend to offer a flat rate for Bronze package licences, tiered in bands according to location size. This simplifies the rate and reduces the reporting and compliance required for relevant licensees.

## MUSIC VIDEO

A question arose in the feedback received regarding why a separate rate for music video is payable, rather than the use of music video being included under the rate for 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.

## GOLD, SILVER AND BRONZE PACKAGES

As clarification for the difference in pricing between the Bronze, Silver, and Gold background music packages:

**Bronze** licences are for broadcast-only music sources. Where music is publicly performed via a terrestrial broadcast, no PPCA licence is required. The pricing of the Bronze licence represents fees for APRA rights only.

**Silver** licences cover both APRA and PPCA rights.

**Gold** licences include a fee for the copying of music. Businesses that use the digital music sources listed in the Gold package are required to pay a licence fee for both the public performance and the copying, or 'reproduction' of music. Reproduction occurs when music is downloaded or streamed, and also when a CD is copied. Please note that fees for the Gold package are simply the fees for the Silver package plus a flat fee of \$400 for copying. The \$400 copying fee is standard across a number of other OneMusic licences.

## PARTIAL RIGHTS

For those businesses which are not licensed under the Bronze package but can show they are not using both APRA AMCOS and PPCA rights – for example, businesses that use background music which does not include any PPCA recordings, or that have licensed either the underlying musical works or the sound recordings directly with copyright owners - a 48.25% 'partial rights' discount will be applied to the relevant background music package.

## CALCULATOR

To see how the proposed OneMusic Australia scheme will apply to your specific circumstances, you can use the calculator found here: <https://form.jotform.co/83438331497868>

## NEXT STEPS

Implementation of the new Places of Interest, Activity and Amusement 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. The timing of that publication will depend on the finalised start date for OneMusic Australia, but we will endeavour to provide at least six months' notice.

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](mailto:questions@onemusic.com.au) and we will be in touch as soon as possible.