

**DATE:** 12 April 2019

# PUBLIC VEHICLES AND VEHICLES FOR HIRE

## FINAL POSITION PAPER

OneMusic Australia is an initiative of APRA AMCOS and PPCA. On 9 January 2019 OneMusic Australia released a consultation paper seeking feedback on a proposed music licensing scheme for public vehicles and vehicles for hire. That paper can be found [here](#).

The Public Vehicles and Vehicles for Hire licence includes hire cars, buses, coaches, ferries, sightseeing vessels, trains, party boats and other vehicles or vessels, but does not include taxis and rideshare vehicles, which will continue to be licensed separately by APRA AMCOS and PPCA, or airplanes and cruise ships that offer multi-day pleasure cruises and provide sleeping berths and cabins, for which separate OneMusic licences will be available.

OneMusic Australia received minimal feedback on the proposed scheme's structure or rate, and our response to questions raised in that feedback is addressed in this paper. 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 Public Vehicles and Vehicles for Hire is expected to include the structure and rates described below.

### YOUR NEW ONEMUSIC LICENCE FEES

BACKGROUND MUSIC FOR VEHICLES		
MUSIC USE CATEGORY	VEHICLE CAPACITY (SEATS)	ANNUAL RATE
Unrestricted number of devices playing background music for vehicles	1-10	\$130
	11-20	\$160
	21-50	\$245
	51-120	\$370
	121 plus	\$555
<b>PLUS</b>		
Exhibiting music videos in vehicles	0-50	\$340
	51 plus	\$680
<b>PLUS</b>		
	Digital Copy/Delivery	\$400
	Website Use	\$550
	In-Seat Personal Entertainment	\$0.18 per passenger

MUSIC USE CATEGORY	VEHICLE CAPACITY (SEATS)
Featured Recorded Music	\$0.28
Live Music Performance	\$0.14
Recorded Music for Dance Use	\$2.52

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.

Where either PPCA sound recordings or licensed works are not used in background music, as featured music, recorded music for dance use or as in seat personal entertainment, a 48.25% 'partial rights' discount will be applied to the relevant rates where applicable.

## DEFINITIONS

The following definitions are relevant to the OneMusic licensing scheme for public vehicles and vehicles for hire. 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 Vehicles** means music played in a vehicle that is not used as a prominent feature and/or characteristic part of the entertainment provided or otherwise advertised to the general public or passengers as forming part of the entertainment provided.

**Digital Copy/Delivery** means to reproduce up to 2,000 tracks containing PPCA sound Recordings and/or licensed works:

- a) by copying from a licensed physical copy (e.g. a CD) to an electronic copy or another physical one;
- b) by copying from a licensed electronic copy (e.g. a legally acquired MP3 download) to another electronic copy or a physical one; or
- c) by downloading or accessing a stream from a personal digital music service for the purpose of performing music in public (that is, using a subscription, ad-funded or download music service that is limited in its terms of use to non-commercial listening).

**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. Featured Recorded Music includes:

- a) performances, including karaoke, which have been advertised to the public as having music as a feature such as 'Live Music Every Friday', or where music is advertised as part of a specific event, series of events or as part of the general entertainment provided within the Vehicle; or
- b) where music has been compiled with a particular or recognisable theme such as 'Retro Night', 'Friday Night Beats' or 'Sunday Jazz'.

**In Seat Personal Entertainment** means on-demand access to films, TV shows (shown to passengers in the Vehicle on the Vehicle's screens or access to the Vehicle's Wi-Fi).

**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 etc where the music 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.

**Music Video** means a Film in any form including digital or other electronic machine-readable form:

- a) that embodies:
  - i. a Sound Recording; or
  - ii. a sound-track that, if made separately from the Film, would be a Sound Recording; and
- b) in which the copyright is owned or controlled by a PPCA Licensor

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

**Vehicle Capacity** means the seating capacity of the Vehicle. For vehicles or vessels where the number of seats is not constant or fixed, the maximum passenger capacity should be used instead of seating capacity

## FEEDBACK RECEIVED

Feedback received by OneMusic Australia after the release of the consultation paper for this licence has helped identify where clarification of some aspects of the proposed scheme is needed, and these clarifications are below:

### USE OF RADIO IN VEHICLES

Where traditional broadcast radio is the only means of providing music for passengers in a vehicle, the vehicle would still require a licence, but at a reduced rate after a 'partial rights' discount of 48.25% is applied to the rates in the 'Background Music for Vehicles' table in this paper. Where the use of music is not audible to passengers but only to the driver or crew, this use can be licensed under our Workplace Music licence at \$2.00 per FTE employee.

### PERSONAL USE OF DEVICES BY PASSENGERS

In circumstances where no music is provided by the vehicle or vessel operators and passengers use their own personal devices, including headphones, to listen to music or watch videos, no OneMusic licence for background music is required.

## 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/90027377300853](https://form.jotform.co/90027377300853)

## NEXT STEPS

Implementation of the new Public Vehicles and Vehicles for Hire 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](mailto:questions@onemusic.com.au) and we will be in touch as soon as possible.