

## 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 function, convention or conference centre, you're likely to be paying a licence fee to organisations like APRA AMCOS and PPCA, who are the caretakers of the copyright of the music you use. That way, you know the correct legal permission has been granted to use that music in your venue.

We realise it can be confusing to have to pay music licence fees to two organisations. Late next year, OneMusic Australia will be the one organisation for all your music licensing needs, and you'll be able to pay for your licence online.

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 propose to charge a fee based on how many days a function, convention and conference centre operates and how many people it can accommodate (its capacity), starting from \$9.10 per 100 people (or part thereof).
- Centres will also have an annual base fee to pay once a year, starting from \$65.
- Centres will be able to report on the capacity of each space being used, to save money.
- The rates will be phased in over four years.
- All music use will be included except for nightclub or dance party events, functions which are held by an event promoter or the licensee, or those where expenditure on performing artists is greater than \$10,000, an increase on the current limit which is \$2,500.
- After feedback has been received, OneMusic Australia intends to develop and launch the new licence scheme in late 2018.

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

- The patron capacity of each separate hireable space in the centre.
- How many days the centre operates annually, on average.
- Which licences you currently have for your centre – cost comparisons will only be valid if you currently hold a licence with both APRA AMCOS and PPCA.

Note that many function centres will have other licences with APRA AMCOS or PPCA including for Music On Hold, Corporate & Workplace use or Dining areas. These are the subject of separate consultation papers available from the OneMusic website at [onemusic.com.au/consultations/](http://onemusic.com.au/consultations/).

If you have any questions about OneMusic Australia during this consultation, feel free to ask them at [questions@onemusic.com.au](mailto: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](mailto:consultations@onemusic.com.au).

**DATE:** 15 December 2017

## FUNCTION, CONVENTION AND CONFERENCE CENTRES CONSULTATION

OneMusic Australia is a joint venture initiative of 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 second half of 2018, APRA AMCOS and PPCA intend to launch the OneMusic Australia partnership to provide a one-stop shop to meet the music licence needs of venues and facilities which are made available for hire and remove the requirement to obtain multiple licences separately from APRA AMCOS and PPCA.

OneMusic Australia aims to harmonise tariffs, 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 venues have access to the correct licences, allowing easy account management with OneMusic Australia.

In association with Recorded Music New Zealand, APRA AMCOS has been operating OneMusic in New Zealand for more than three years, where it has been a huge success. It has simplified the process of music licensing in New Zealand, increased awareness of copyright and compliance but also ensured that music remains an important, valuable and legal input to businesses everywhere.

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 music users 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 function, convention and conference centres which are made available for hire are licensed to use music at functions with a view to implementing a new, wide-ranging and simplified music licensing scheme.

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 those organisations' respective Boards.

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

The proposed OneMusic Australia scheme detailed below, in conjunction with the development of an eCommerce portal enabling the tailoring of music licences according to each centre's needs and music use, is structured as far as possible to consolidate the existing APRA AMCOS and PPCA licences into one simple to administer scheme, which covers the majority of music use across the sector.

## CONSIDERATIONS

Function, convention and conference centres may require a range of licensing coverage from OneMusic Australia including but not limited to background music in its public areas and music on hold for its telephone systems. OneMusic Australia has released a consultation paper for music on hold [here](#) and will be releasing a consultation paper for Places of Interest, Activities and Amusement, which is the scheme that will cover background music in public areas. Your comments on these papers are also welcome.

This paper proposes a licence scheme that covers music use in spaces made available for hire by function, convention and conference centres, and other commercial operations (for example galleries, museums, wedding venues and sporting arenas).

OneMusic Australia notes that the schemes currently available through APRA AMCOS and PPCA could benefit from a degree of improved standardisation. That is, facilities may currently be licensed for their function rooms under a range of different licences and OneMusic Australia believes that the development of a single metric will provide licensees with multiple benefits including decreasing the cost of compliance across the industry. That said, there are elements from the existing licence schemes that assist with standardisation, most particularly with reference to the scope of the scheme.

OneMusic Australia has released a consultation paper for church, scout, town and other community halls (available [here](#)) which proposes a scheme under which halls pay a flat annual fee plus an amount per day of operation (where music is used) according to their capacity, which is phased in over a period of four years. Furthermore, if a hall has multiple rooms, the licence fee would be assessed per room. OneMusic Australia proposes that the same structure is used for function, convention and conference centres including fees calculated on a per 'day of operation' basis – a model that is used currently for community halls and is, we believe, more suitable for commercial premises also, including because of the user-pays structure.

Where applied, the existing APRA AMCOS Halls and Function Centre licence excludes music use at functions which:

- (i) are held by an event promoter;
- (ii) are held by the applicant of the licence (the licensee); or
- (iii) have a gross expenditure on live performing artists of more than \$2,500.

OneMusic Australia proposes to retain the first two limitations but to make the following changes and additions:

- to increase the gross expenditure limit on live performing artists to \$10,000; and
- to exclude nightclubs, hotels, pubs, bars, taverns, clubs, performing art centres, theatres and any other venue where the primary purpose of that venue is not the use by third parties for functions, conventions or conferences.

The types of venues that would be able to benefit from this scheme are those venues which are, or have spaces which are primarily let for hire for third party functions. That is, the primary purpose of the venue or the space is the use by third parties for functions.<sup>1</sup> These include, but are not limited to, function facilities, conference centres, convention centres, exhibition centres, wedding venues, wineries, galleries and museums, accommodation hotels, recreation centres, stadiums, showgrounds, sporting venues and arenas

1 It may be that in multi-function venues, spaces can be transformed for in-house events such as to provide overflow seating for the restaurant on Valentine's Day, but if the primary function of the venue or area is to be made available for third party functions, this scheme would be applicable.

which are available for hire by third parties. Third party events which may be considered 'private' in other locations, such as weddings or birthday parties, would fall within the scope of this licence where a commercial transaction takes place for the hire of the venue.

OneMusic Australia has formed the view that commercial enterprises will generally have in place more sophisticated audio and audio-visual systems than their community hall counterparts including for example:

- fixed and/or ceiling modern sound and audio systems;
- a higher number of screens and/or LCD panels;
- high speed NBN or fibre optic internet access; and
- dedicated audio-visual specialists to create optimum experiences for attendees and guests.

In addition, the hire charges for commercial enterprises will be higher in general than the hire charges for community halls. While OneMusic Australia does not propose a scheme that is directly linked to the hire fee, the long-held box-office principle (employed in current APRA AMCOS schemes and supported by the Copyright Tribunal in several cases) would suggest that any licence fee based on a proxy, such as days of operation, should reflect the relative box-office size.

Accordingly, OneMusic Australia believes it is therefore appropriate that the licence fee for commercial premises should be higher than the equivalent rates for community halls and proposes a relative increase of 30% upon the fees proposed for community halls.

## RIGHTS

The intention of the proposed scheme is to license the use of music which is used as part of a function held at a venue or in an area of a venue which is primarily let to third parties. Below are some examples of music used at functions which would fall within the scope of the proposed scheme. These examples may assist in determining what kinds of events would require further licensing from OneMusic Australia should this scheme be introduced.

- Music used in the background of conference presentations, seminars or talks;
- Live performers providing entertainment at a conference dinner;
- Live musicians or DJs playing music at a wedding, engagement party or birthday party;
- Music played during a gala dinner;
- Music playing in the background during a VIP night at a football stadium; or
- Music played in the background at showcases such as trade shows or industry events.

As noted above, functions not covered by this proposed scheme must be licensed separately through OneMusic Australia.

## STRUCTURE

OneMusic Australia proposes to adopt the structure it has put forward for Community Halls including:

- a licence fee calculated at the aggregate of a base annual fee plus a fee according to the total days of operation;
- a per-day of operation rate that phases in over four years; and
- the calculation of licence fees individually for each separate room/space so that licence fees are only assessed on the actual size of the relevant areas.

All rates in this paper are inclusive of GST. All fees under this scheme and from year five onwards will increase in line with the weighted average of eight capital cities Consumer Price Index annually.

The proposed fees, phased in over the course of four years, are as follows:

YEAR	MINIMUM ANNUAL FEE PER SPACE (FOR VENUES WITH MULTIPLE AREAS)	DAY RATE PER 100 PERSONS OR PART THEREOF OF THE CAPACITY OF THE VENUE
1	\$65.00	\$9.10
2	\$71.50	\$10.40
3	\$78.00	\$11.70
4	\$84.50	\$13.00

By way of example, in the first year of the licence scheme if a convention centre had two spaces available for hire or use, and hired the larger space 50 days of the year and the smaller space just 20 days, the centre would report and the licence fee would be calculated thus:

AREA NAME	(A) CAPACITY OF THE SPACE	(B) MINIMUM ANNUAL LICENCE FEE	(C) DAYS OF OPERATION*	(D) DAY RATE (ACCORDING TO CAPACITY)	(E) DAYS OF OPERATION LICENCE FEE (CXD)	(F) LICENCE FEE PER YEAR (B+E)
Main Hall	490	\$65	50	\$45.50 <sup>#</sup>	\$2,275.00	\$2,340
Second Hall	150	\$65	20	\$18.20 <sup>^</sup>	\$364.00	\$429
						<b>\$2,769</b>

\* where music is used and expenditure on artists is under \$10,000

<sup>#</sup> at a capacity of 490 = 5 x \$9.10

<sup>^</sup> at a capacity of 150 = 2 x \$9.10

Capacity in the context of this proposal is the number of patrons licensed by the local government, liquor licensing body or fire department as applicable to that venue. As is currently the case under APRA AMCOS and PPCA licences, using capacity as the basis of the proposed OneMusic licence fee is a way to provide a convenient and transparent indication of a function, convention or conference centre's size and use. Other indicators might be things such as revenue from hire fees, however capacity represents a much simpler, clearer metric on which to base fees. OneMusic Australia acknowledges that function, convention and conference centres are not always at capacity when they are hired, does not say that the rates have been established on a full capacity basis and has taken these factors into account when setting what we believe is a fair and equitable licence fee. Proposed fees for other industry sectors have also been based on metrics tailored to deliver the simplest and most accurate indicators of size and use, such as a metric based on the number of members of a gym, the size of a retail premises, or the number of seats in a restaurant.

## REPORTING

OneMusic Australia proposes that licensees would be invoiced through a provisional annual invoice in advance and then provide the necessary updated information through retrospective annual reporting to enable an adjustment that would reflect actual usage. Currently APRA AMCOS does not reassess usage annually unless requested by the licensee, which has the possibility to lead to instances of both under and over calculation of licence fees. OneMusic Australia is of the view that the proposed reporting structure, coupled with our easy to use eCommerce system, will ensure that clients are always properly licensed for their actual usage.

Function, convention and conference centres are not required to report certain events if those events are already licensed by OneMusic Australia (e.g. OneMusic Australia may have an annual licence with a business hiring a function room for their annual Christmas party), or if the hirer spends more than \$10,000 on artists at an event. OneMusic Australia recommends that function, convention and conference centres ask hirers whether they already have an applicable OneMusic Australia licence or whether their artist expenditure will be more than \$10,000 (and in the latter case direct them to OneMusic Australia for a licence).

## TRANSITIONAL ARRANGEMENTS

Our analysis shows that there are a number of function, conference and convention centres that are currently licensed only by APRA AMCOS or PPCA but they actually require licences for both organisations' rights. APRA AMCOS and PPCA recommend that these organisations 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 is committed to developing music licensing schemes that are fair, equitable and relevant to Australian industries. Your feedback on the above proposal is integral to this process.

Please provide your feedback in the form of a submission to [consultation@onemusic.com.au](mailto:consultation@onemusic.com.au) by close of business 26 January 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](mailto:questions@onemusic.com.au) and we will be in touch as soon as possible.