

DATE: 10 May 2017

WORKPLACE MUSIC USE

MUSIC USE LICENSING 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 over 89,000 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 a partnership called OneMusic Australia to provide a one-stop shop for your business's music licence needs and remove the requirement to obtain separate licences from APRA AMCOS and PPCA.

OneMusic Australia aims to simplify music licensing, reduce administrative burden and counter market confusion around the difference between APRA AMCOS and PPCA. A state-of-the-art eCommerce facility for the purchase and maintenance of music licences will ensure that music users have easy access to the correct music licences, allowing them to manage their accounts with OneMusic Australia. Further information about OneMusic Australia can be found at www.onemusic.com.au/faqs.

In association with Recorded Music New Zealand, APRA AMCOS has been operating OneMusic in New Zealand for more than three years. It has simplified the process of music licensing for businesses in New Zealand, increased awareness of copyright and compliance, and 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 businesses are licensed to use music with a view to implementing a new, wide-ranging and simplified music licensing scheme.

CONSULTATION TIMELINE

OneMusic Australia expects that the consultation on the proposed corporate and workplace scheme will progress as follows:

- a) Circulation of this first consultation paper for client response;
- b) Consolidation of client 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

OneMusic Australia is proposing a new licence scheme for businesses that will allow them to use music in their workplace for the benefit of their employees, as well as at company events and in certain public-facing spaces of the business. The scheme is designed to cover music used in corporate spaces and workplaces where the primary purpose of that music is to provide benefit to the employees of that business. The scheme will be available to businesses to cover their offices, factories, workshops, industrial premises and head offices. Surveys have found that 71% of employees would like to be able to listen to music while at work and that 75% of managers agreed that allowing staff to listen to music helps team working and bonding.¹

CONSIDERATIONS

In developing the proposed scheme, OneMusic Australia took into account the kinds of licences currently required by the sector from APRA AMCOS and PPCA, and the types of businesses licensed in this way. Through an analysis of these existing clients, OneMusic Australia found that many of those who hold an APRA AMCOS 'Music in the Workplace' or PPCA 'Factories, Industrial Premises and Offices' licence also tend to hold licences to cover the use of music in public-facing areas such as reception or waiting areas, as well as licences to cover the use of music at company events such as Christmas parties and team building sessions or presentations.

It is the view of OneMusic Australia in respect of these findings that the current structure for both APRA AMCOS and PPCA, which is a rate based on the number of full-time equivalent (FTE) employees, should continue.²

RIGHTS

The proposed corporate and workplace music use scheme will cover the following:

- Playing music in the workplace for the benefit of employees, such as in a warehouse, lunchroom, workshop or office;
- Playing music at on and off-site non-ticketed company events (including staff training sessions, presentations, company conference or staff-only functions) where less than \$50,000 is spent on musical entertainment³;
- Playing music in reception or front-of-office areas that are open to the public;
- Copying music from legally obtained sources for the purposes noted above; and
- Allowing employees to play music at their desks during their work day (including via radios, streaming services, CD players or headphones).

Music in this context includes all works and recordings represented by APRA AMCOS and PPCA respectively. The breadth of this repertoire is vast including the worldwide catalogues of hundreds of thousands of musicians and millions of recordings.

As is the case with the current APRA AMCOS and PPCA licences, the new OneMusic Australia scheme will not cover the use of telephone on hold music (on which a separate consultation paper can be found here), or the use of background music in areas other than reception or front-of-office spaces. This includes, but is not limited to publicly accessible cafés or restaurants, retail spaces or fitness areas. The proposed licence also does not extend to cover facilities when they are hired or made available to third parties, for example conference rooms. Further licensing is required from OneMusic Australia for this type of music use.

Additional licensing will be required should you wish to stream music on your website. The scheme also will not cover the synchronisation of music with video footage, for example in corporate videos or training videos. As applies currently, further permissions are required for such uses, which may need to be obtained directly from our members and licensors which are primarily music publishers and record companies.

As is the way the current APRA AMCOS and PPCA corporate and workplace music licences apply, this scheme will only apply to businesses playing music for the benefit of their employees. For those businesses using music primarily for the benefit of their customers, clients and other members of the public, a different OneMusic Australia licence will apply.

¹ According to surveys by VisionCritical in April 2012 and DJS Research in June 2013. Further information on these sources is available here:

www.musicworksforyou.com/research/business-sectors/32-the-workplace

² FTEs are calculated as the total number of hours per year worked by one employee on a full-time basis. If you require assistance calculating your FTE employees, the [Australian Public Services Commission guide](#) might help.

³ Limitations will apply. For example, events will be restricted to those events open only to the workplace community (i.e. staff, friends, family, clients or members) and do not include public facing or promotional activities. Events in this context may be held on- or off-site. Any ticketed events, whether more than \$50,000 is spent on musical entertainment or not, will require further licensing from OneMusic Australia. Ticketed events are not covered by the proposed agreement.

STRUCTURE

The existing APRA AMCOS and PPCA schemes for music use in the workplace are based on rates multiplied by the number of FTE employees, subject to minimum annual fees.

Since the schemes were last reviewed more than 10 years ago, we have observed that certain businesses, particularly larger corporates, will occasionally engage the services of established and commercially successful performers for company events and functions. We believe that such events are appropriately excised from the scheme to enable the proper valuation of the music used in this way as well as allow APRA AMCOS and PPCA to make discrete distributions back to the specific creators of the music performed at such events. Accordingly, the use of music at individual events where artist expenditure (on DJs or live artists/performers for example) is greater than \$50,000 will no longer be covered under the scheme and will require further event licensing from OneMusic Australia.⁴

Currently, clients are required to obtain licences for the use of music in the workplace separately to the use of music in reception or front-of-office areas open to the public. It is the view of OneMusic Australia that, based on our research and analysis, it is more beneficial to our clients for these rights to be offered in one simple licence agreement covering the complete grant of rights detailed above. The proposed scheme will be calculated on a rate multiplied by the number of FTE employees.

The proposed rate per FTE employee in the first licence year, inclusive of GST at 10% is \$2.00.

The minimum fee per annum for the proposed corporate and workplace music use scheme is \$55.00 (including GST). All fees under this scheme will increase annually in line with the weighted average of eight capital cities Consumer Price Index.

Under this scheme, businesses would be restricted to making no more than 500 copies (in aggregate) of recordings in any licence year.

REPORTING

OneMusic Australia corporate and workplace music use clients will be required to report annually, providing their total number of FTE employees as at 1 July each year to allow rate calculation and invoicing. Licensees will have the option to provide this information easily through the OneMusic Australia eCommerce facility before the anniversary of the licence. Where a business is planning a corporate event at which the artist expenditure will be greater than \$50,000, the business will need to contact OneMusic Australia prior to the event for a specific event licence.

IMPACT

In developing the scheme, OneMusic Australia tested the proposed metric across existing APRA AMCOS and PPCA licensees. While we recognise that there will be some impact for certain businesses, the advantages of the simple metric detailed above work to mitigate this. We have found that for those businesses which are properly licensed currently by APRA AMCOS and PPCA, the annual licence fees payable will remain relatively the same. Furthermore, OneMusic Australia has proposed a low minimum fee in relation to the proposed scheme to ensure that all small business owners are able to access and use music in their businesses at a very accessible price point.

OneMusic Australia is confident that the proposed scheme will be of huge benefit to businesses by providing a simple way for them to manage risk and remain compliant with the Copyright Act (1968).

Furthermore, the structure allows businesses to obtain a licence for music used within the workplace, at company events be it live performance or recorded music, in presentations and seminars, in lunchrooms, at desks, in certain public-facing areas and music copied for these purposes through one simple scheme. This is in contrast to the existing requirement for businesses to obtain these components of their licensing separately, through differing licensing metrics. We believe this will make the process of obtaining licensing simple and administratively easy for our clients.

⁴ One Music Australia will offer separate licences for such events on an individual event basis, the details of which will be published in a later consultation paper.

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. 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.