

**DATE:** 10 May 2017

## LIVE ADULT ENTERTAINMENT VENUES MUSIC 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) or music videos. PPCA then distributes the net licence fees collected to its licensors (generally record labels) and registered Australian recording artists.

In 2018, APRA AMCOS and PPCA intend to launch a partnership called OneMusic Australia to provide a one-stop shop for live adult entertainment venues' music licensing needs and remove the need to obtain separate licensing 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. Further information about OneMusic Australia can be found at [www.onemusic.com.au/faqs](http://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 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 live adult entertainment venues are licensed to use music with a view to implementing a new, wide-ranging and simplified music licensing scheme. A state-of-the-art eCommerce facility for the purchase and maintenance of music licences will further ensure that music users have easy access to the correct music licences, allowing them to easily manage their accounts with OneMusic Australia.

APRA AMCOS and PPCA expect to launch OneMusic Australia in the second half of 2018.

### CONSULTATION TIMELINE

OneMusic Australia expects that the consultation on the proposed live adult entertainment venues scheme will progress as follows:

- a) Circulation of this first consultation paper for client response;
- b) Consolidation of client responses;
- c) Submissions accepted and integrated where appropriate; and
- d) Written documentation provided to live adult entertainment venues serving as formal notification of the new scheme.

## PROPOSED LIVE ADULT ENTERTAINMENT VENUES SCHEME

OneMusic Australia is proposing a simplified licence scheme for live adult entertainment venues, including “gentlemen’s clubs”, that primarily offer to their patrons adult entertainment such as live striptease shows, erotic and lap dancing and burlesque shows.

### CONSIDERATIONS

In developing the scheme, OneMusic Australia has remained keenly aware of the issues facing live adult entertainment venues currently, including but not limited to liquor licensing restrictions and lock-out laws. OneMusic Australia has reviewed the existing APRA AMCOS and PPCA licences available in the market and developed a licensing metric that we believe is fair and reasonable for the sector, as well as for our members.

In analysing the existing APRA AMCOS and PPCA licences held by Australian live adult entertainment venues, OneMusic Australia found that there appears to be a disparity between the kinds of usage reported to APRA AMCOS and to PPCA. Accordingly, we think that one of the primary objectives of any new scheme should be simplicity including to ensure that those venues which are not licensed, under-licensed or incorrectly licensed are correctly licensed for their use of music by OneMusic Australia.

### RIGHTS

The grant of rights that this proposed scheme for live adult entertainment venues would cover are:

- a) Playing background music at the venue across normal trading hours; and
- b) Music used for the purpose of non-ticketed performances such as striptease shows, exotic or erotic dancing, burlesque shows, cabaret shows, and other similar performances.

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

The scheme does not cover the use of music at ticketed events held at the venue, the use of the venue, or a designated part of the venue, as a nightclub (i.e. where recorded music is provided for dance use for patrons), the use of music on the venue’s website or social media pages, or any other use not expressly noted above. Where such rights are represented by OneMusic Australia, separate licences will be available for these uses.

### STRUCTURE

The proposed scheme for live adult entertainment venues is based on a rate per day/night of operation, tiered according to a capacity threshold. The proposed rate is \$33.00 including GST per day/night of operation where the venue’s capacity is 150 or less and \$44.00 per day/night where capacity is greater than 150.

By way of comparison, we believe that two existing licences that APRA AMCOS and PPCA currently apply for similar uses of music, provide a guide as to the lower and upper value of music used at live adult entertainment venues. Those are the APRA AMCOS and PPCA rates for featured/foreground music used at a hotel and the ‘nightclub rate’. If these existing licences are applied to an adult entertainment venue with a capacity of 100 people, the approximate nightly fee would be \$21 and \$240 respectively. Against those comparators, the proposed fee of \$33 for a venue with a capacity of up to 150 people is very much at the lower end of the scale. Furthermore, the proposed licence would allow live adult entertainment venues to also play background music (including from music videos and televisions) across normal trading hours. Under the current APRA AMCOS and PPCA licence schemes, additional fees would be required for this use, which may be upwards of \$1,000 a year.

The licence fee under this scheme is subject to a minimum fee of \$110.00 (including GST) per venue, per quarter. All fees under this scheme will increase annually in line with the weighted average of eight capital cities Consumer Price Index annually.

### REPORTING

OneMusic Australia proposes that the invoicing/reporting structure under the scheme provides for quarterly invoicing in advance, subject to readjustment on the provision of the actual number of nights of operation in the quarter.

All reporting will be undertaken through the OneMusic Australia eCommerce facility before the anniversary of the licence.

## IMPACT

OneMusic Australia has tested the implementation of this scheme across a sample of current APRA AMCOS and PPCA licensees in this sector. The findings from these tests show that, as noted above, many live adult entertainment venues in Australia are not correctly licensed for their use of music.

Therefore, the implementation of the proposed scheme will work to rectify the lack of compliance with the Copyright Act (1968) across the industry by providing venues with a simple, easy to calculate and equitable licensing solution.



## 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 7 June 2017. 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.