

DATE: 19 October 2020

ONE MUSIC AUSTRALIA THIRD CONSULTATION PAPER RECORDED MUSIC FOR DANCE USE AND FEATURED RECORDED MUSIC

OUR CONSULTATION PROCESS WITH YOU

In the lead-up to the launch of OneMusic Australia, a joint initiative of APRA AMCOS and PPCA for licensing the public performance of our music, we consulted with many business sectors to propose harmonised music licences.

Our consultation with the nightclub and hotel industry commenced in October 2017 and produced a wealth of valuable feedback and robust debate. Although our aim was to finalise a harmonised rate for Recorded Music for Dance (RMFD) and Featured Recorded Music by July 2019, industry feedback made it clear that more work must be done to create a licence scheme that is both fair to music creators and licensees, and accepted by industry.

For that reason, rates for RMFD and Featured Recorded Music under OneMusic Australia are, for the time being, based on the current rates and metrics used under the respective previous pre-OneMusic APRA AMCOS and PPCA schemes.

Our intention was to consult again with industry stakeholders in the first half of 2020, however due to the disruption caused by COVID-19 and the resulting lockdown, the consultation process has been delayed.

This paper outlines our new proposal for OneMusic Australia RMFD and Featured Recorded Music rates, and the reasoning behind it.

Attendance-based rate

We now propose to calculate the OneMusic Australia RMFD and Featured Recorded Music licensing fees on a rate using annual attendance as a metric, not venue capacity. By 'attendance' we mean the maximum number of admissions during a single trading period, capped at capacity.

Previous proposals have included a rate based on capacity. Despite the current PPCA rates using capacity as a metric, we have listened to your feedback, and understand and acknowledge that capacity is unpopular as a basis for licensing RMFD. Additionally, the challenges to hospitality businesses like hotels, bars and nightclubs presented by COVID-19-related social distancing rules mean that most will not be operating at anywhere near their normal capacity.

A year of licensing under the OneMusic Australia brand has uncovered a number of inconsistencies between figures declared to APRA AMCOS and to PPCA, resulting in differences in the way tariffs are applied to businesses by the two companies. A single attendance-based metric will assist with making reporting declarations less complicated for businesses.

Additionally, while a flat fee or fixed amount per nightclub has been suggested as a fair way to license the nightclub sector, we feel that would disadvantage smaller venues, including limiting opportunities for entering the market. An attendance-based metric allows nightclubs to adjust their licence expense on nights where attendance is low.

This proposal aims to simplify licensing for RMFD and Featured Recorded Music and make it consistent using two single, attendance-based tariffs.

Background

We believe, based on your feedback, that a single rate based on attendance represents the simplest and fairest way to license nightclubs for the use of RMFD.

The application of this method, combined with accurate reporting by businesses, is expected to represent and respond to post-COVID attendance rates. In addition, it is expected to remove the potential for disputes around inconsistent data, improve the likelihood that more businesses will be licensed correctly for their music use, and be easier and simpler for licensees to report.

We note that attendance-based rates will require compliance work to be undertaken by OneMusic Australia representatives and would expect the industry to be supportive of this in order to allow OneMusic Australia to move away from capacity-based rates.

Proposed Rates

We note that there is a large difference between the rates for Featured Recorded Music and RMFD. We accept there is a view that the aggregate rate for RMFD is too high, but equally it is our view that the Featured Recorded Music rate undervalues music. We believe this can be appropriately addressed in part through a reduction in the rate for RMFD and an increase in the rate for Featured Recorded Music. Accordingly, the proposed rates are only offered on a package basis.

HOW THE PROPOSED RATES ARE CALCULATED.

RMFD

The different metric base notwithstanding, the current aggregate APRA AMCOS and PPCA rate is \$2.266 (\$1.354 for PPCA and \$0.912 for APRA AMCOS). The proposed OneMusic rate for RMFD is calculated at two times the existing rate for APRA rights. The existing APRA AMCOS cap on attendance at capacity would also continue under this proposal.

In circumstances where attendance would equal capacity, the new rate represents a 20% saving when compared with the existing rates. Where attendance is lower than capacity, the saving is higher.

The proposed rate for RMFD is \$1.824 per person admitted to the RMFD Area annually¹.

Featured Recorded Music

The different metric base notwithstanding, the current aggregate APRA AMCOS and PPCA rate is \$0.22 (\$0.163 for APRA AMCOS and \$0.057 for PPCA). As the existing attendance-based rate for APRA rights is significantly higher than the capacity-based PPCA rate for Featured Recorded Music, doubling the APRA rate as we have proposed above for RMFD would result in an increase to \$0.326 per attendee. While we believe there is merit in taking this logical approach, our proposal is instead to increase the combined current rates by 20% - the same percentage by which the RMFD rate has been reduced.

For the Featured Recorded Music rate only, we are prepared to ‘freeze’ any CPI increases for three years from its introduction. This would mean that CPI would be applied at CPI less 2%, or 0% - whichever is the higher fee.

We also propose to include Karaoke under the definition of ‘Featured Recorded Music’.

The proposed rate for Featured Recorded Music is \$0.264 per person admitted to the FRM Area annually².

We note that the aggregate annual APRA AMCOS and PPCA revenue from RMFD is generally significantly higher than that received for Featured Recorded Music. As a result, inconsistencies in reporting by venues aside, on face value the proposed changes to these two tariffs would produce a significant net reduction in licence fees.

¹ RMFD Area means a standalone dance venue or a specific area within a multi-function establishment that:

- a. provides Recorded Music for Dance Use to patrons; and
- b. has a dance floor or other area for dancing or charges an Entry Fee (even if the fee is not charged to all patrons); and
- c. is not being used for:
 - i. a non-ticketed private function;
 - ii. a dance or dance party;
 - iii. an event that features ballroom or similar traditional dancing
 - iv. an event promoted by a National Event Promoter; or
 - v. an event for under-aged persons (such as a ‘blue light’ disco).

² FRM Area means a specific area, either within a multi-function establishment or a standalone venue, where Featured Recorded Music performances are audible.

NEXT STEPS

We would like to provide surety to the market before most venues are able to again offer Recorded Music for Dance Use and Featured Recorded Music as they emerge from lockdowns. For that reason, we would like to introduce the proposed new rates and methodology as quickly as possible, keeping the consultation shorter than normal in order to bring the overall benefit quickly to market. For these reasons we seek your urgent feedback, to allow us to progress and finalise consultation on these schemes.

Please provide your feedback by 26 February 2021.

We intend to introduce the new rates for renewals and new business from 1 January 2021 at the latest.



SUBMITTING YOUR FEEDBACK

OneMusic Australia urges you to provide feedback, suggestions, and comments based on the above proposal, and is also open to meeting with interested parties for discussion upon request.

Please provide your feedback and/or meeting requests to consultations@onemusic.com.au on or before 26 February 2021 .

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.