

**DATE:** 18 February 2019

## HOTELS (INCLUDING ACCOMMODATION PROVIDERS, DEDICATED MUSIC VENUES AND CASINOS) AND NIGHTCLUBS

### Notification Regarding Live, Featured, and Recorded Music for Dance Use

OneMusic has heard the ongoing concerns expressed by a number of representative groups about the proposed rates for live, featured and dance use in hotels and nightclubs. OneMusic does not believe that either the current APRA AMCOS and PPCA rates, or the proposed OneMusic rates, are too high. We believe that the existing rates and the proposed rates provide fair valuation of music used by hotels and nightclubs. We are also firmly of the view that harmonised rates and licensing will be the most efficient form of music licensing for hotels and nightclubs. We do want to continue consultation on those licence schemes, but we do not want to delay the launch of OneMusic. Accordingly, the following interim position is to be adopted, until 30 June 2020.

- We will continue our consultations on proposed rates and other terms for live, featured and dance use in hotels and nightclubs until 30 June 2020. While those consultations are ongoing, **we will continue with essentially the existing APRA AMCOS and PPCA structure and rates for live/featured/dance use** (subject only to necessary changes – see below).
- OneMusic licence schemes that have been agreed, such as background music, and live/featured use in connection with Dining, will not be affected: the new OneMusic schemes will apply from 1 July 2019.
- **OneMusic is confident that new harmonised rates for live/featured/dance use in hotels and nightclubs will be able to be agreed and to start to come into effect from 1 July 2020.**
- Please note that OneMusic will be the licensing body from 1 July 2019: existing APRA AMCOS and PPCA licences will still be terminated effective from their next anniversary date immediately following 30 June 2019, and venues will be relicensed by OneMusic. Licensees will have to report all relevant updated information to OneMusic in order to calculate licence fees. If OneMusic identifies discrepancies in reported figures, it will discuss these with the relevant licensee.

#### Recorded Music For Dance Use

- Licensees will see two lines on their OneMusic invoices: one for the PPCA fee and one for the APRA AMCOS fee. Each licence fee will be calculated by reference to the respective current scheme - capacity/nights of operation for PPCA and attendance for APRA AMCOS.
- The definition of “Recorded Music For Dance Use” set out in the second consultation paper will apply.

#### Live Music

- The APRA AMCOS live rate will continue to apply.
- No PPCA licence is required for live music where protected sound recordings are not played.
- Licensees will be required to provide relevant capacity and nights of operation data, for compliance purposes only.
- APRA AMCOS's current policy with respect to licensing National Concert Promoters (NCP) for performances in hotels will continue.
- The NCP list will be reviewed prior to the launch of OneMusic on 1 July 2019.

### Featured Recorded Music

- APRA AMCOS has a rate for “featured recorded music”, and PPCA has a rate for “foreground music”. The APRA AMCOS rate is based on annual attendance and the PPCA rate is based on capacity multiplied by nights of operation.
- PPCA’s “foreground music” definition captures a wider use of music, some of which is now to be licensed under OneMusic’s proposed background music scheme. OneMusic had proposed a single rate for “featured music” based on the narrower APRA AMCOS definition. The background music rates are largely supported by industry.
- Using the narrower APRA definition, licensees will see two lines on their OneMusic invoices: one for the PPCA fee and one for the APRA AMCOS fee. Each licence fee will be calculated by reference to the respective current rates - capacity/nights of operation for PPCA and attendance for APRA AMCOS.
- OneMusic also proposes to remove from the calculation of the APRA rate the current “greater of” test against ticket revenue, and to calculate the rate only on attendance. This should reduce licence fees for a relatively small number of licensees.

OneMusic will be in contact with industry representatives shortly in order to establish a timetable for continued consultations on consolidated live/featured/dance use rates, for implementation in July 2020.

### 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.

## OUR CONSULTATION PROCESS WITH YOU

OneMusic Australia is consulting with nightclubs and other venues providing recorded music for dance use and would like to hear your views. If you have already provided us with comment, thank you – but as we've made a number of changes in this updated proposal your further feedback is welcome and encouraged.

If you operate a hotel, casino or similar multi-purpose venue that also provides recorded music for dance use, we suggest you read and reply to our separate consultation paper for hotels – [available here](#) – which covers the key range of rates often needed.

In your nightclub, you're likely to be paying licence fees to APRA AMCOS and PPCA, the caretakers of the copyright in the music you use. These fees ensure you're legally entitled to use music in your nightclub, and with your support music creators are paid for their contribution to your business.

This is the second consultation paper we've released on the proposed OneMusic Australia rate for Recorded Music For Dance Use. We've made some adjustments to our original proposal based on the feedback we've received so far – thank you.

We acknowledge that some submissions asserted that the existing APRA AMCOS, existing PPCA and/or proposed OneMusic rates are too high. However, these submissions did not include any underlying critical analysis - including relevant data, economic analysis or examination – necessary to give proper consideration or weight to these submissions. If the same assertions still apply to the revised fees in this paper, we invite submissions that include critical assessment and analysis. We'd like you to take a look, and let us know if you have any additional feedback. Remember, this is just a proposal, and may not become the final scheme.

### What's different in the second consultation paper:

- We've listened to your concerns about basing licensing fees on the exact capacity of nightclubs, and instead propose to base licensing fees on capacity tiers. This way we still get a good idea of the relative size of your business to ensure there's a link between use of music and price, but we won't be charging a 'per person' fee based on capacity.
- We've kept the previous structure whereby the more nights per year you open, the lower your nightly fee is, and added an extra discount for each capacity configuration so that when you open 56 or more nights a year you will receive four free nights.
- According to the capacity and attendance figures supplied by venues the original proposal described in the first consultation paper would have led to an overall reduction in licence fees of almost 4%. Our modelling now shows that this proposal will financially benefit 60% of nightclubs holding both an APRA and PPCA licence and lead to a reduction in total licence fees of around 8%.
- In addition, for those nightclubs where entry is by paid ticket only, the nightclub keeps accurate nightly attendance figures, and the nightclub can and agrees to provide an annual statement of attendance warranting the veracity of those figures, licence fees will be assessed on attendance.
- We've explained how we'd like you to report your capacity to us, and how to report a modified capacity depending on how the venue space is configured on different nights, such as reporting a reduced capacity on nights where only one level or room is open.
- The rate for background music now includes coverage for up to two concurrent lines for telephone hold music and use of music in corporate and workplace areas of your business, such as offices and staff areas, under the background music rate at no extra cost.
- We've answered some of your questions and addressed some of your concerns, based on the feedback we received on the first consultation paper.

To see how the proposed OneMusic Australia scheme will apply to your specific circumstances, you can use the calculator found here: [www.jotform.com/apraamcos/recordedmusicfordance](http://www.jotform.com/apraamcos/recordedmusicfordance). To use the calculator, review:

- The capacity of your nightclub each night of the week. If you use a different configuration on some nights, the capacity for those nights may be different to the overall venue capacity.
- How many nights the nightclub operates in each configuration per year.
- Using the above two pieces of information (capacity and nights of operation) you can determine what capacity tier(s) you fall into and what the annual fees for your venue would be under this proposal compared to your current total licence fees for APRA AMCOS and PPCA. Remember – these cost comparisons will only be valid if you currently hold a licence with both APRA AMCOS and PPCA.

### What should I do next?

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 and provide some feedback, we'd love to hear your thoughts at [consultations@onemusic.com.au](mailto:consultations@onemusic.com.au)

### YOUR PROPOSED NEW ONEMUSIC LICENCE FEES

The proposed fee structure for the use of recorded music for dance use (inclusive of GST) is illustrated in the table below. The rest of this consultation paper contains information about why and how we developed and amended these proposed fees in response to your feedback, and lets you know how to further take part in the consultation process.

NIGHTCLUB (RECORDED MUSIC FOR DANCE USE) PER NIGHT RATE					
CAPACITY	OFFERED UP TO 56 NIGHTS PER YEAR	OFFERED 57 TO 104 NIGHTS PER YEAR*	OFFERED 105 TO 156 NIGHTS PER YEAR*	OFFERED 157 TO 208 NIGHTS PER YEAR*	OFFERED 209 TO 365 NIGHTS PER YEAR*
1 to 25	\$44	\$43	\$42	\$39	\$37
26 to 50	\$87	\$85	\$83	\$79	\$75
51 to 75	\$131	\$128	\$125	\$118	\$112
76 to 100	\$174	\$170	\$166	\$158	\$149
101 to 200	\$349	\$340	\$332	\$315	\$299
201 to 350	\$610	\$596	\$581	\$552	\$523
351 to 500	\$872	\$851	\$830	\$789	\$747
501 to 750	\$1,307	\$1,276	\$1,245	\$1,183	\$1,121
751 to 1000	\$1,743	\$1,702	\$1,660	\$1,577	\$1,494
1001 +	\$1,917	\$1,872	\$1,826	\$1,735	\$1,643

### RECORDED MUSIC FOR DANCE USE (NIGHTCLUBS) - PER ATTENDEE RATE

\$2.52

We have included some examples of how the fee structures look when applied to actual nightclubs later in this document, in the 'Revised Fee Structure' section.

For the purposes of this scheme, a venue which provides recorded music for dance use means an establishment or a specific area within a multi-function establishment that:

- a) Provides recorded music for dance use by 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 underaged persons (such as a 'blue light' disco).

This definition covers venues which are stand-alone businesses providing recorded music for dance use, such as nightclubs, as well as venues which are operating as part of a multi-purpose venue, or within a multi-purpose premises in a physically separate area of that premises, where that separate area satisfies the above criteria.

The scheme does not cover other types of public performance that may occur at the venue – for example a live performance by a band, featured music performances where DJs perform and there is no dancing, or the use of background music across other areas in the venue or when the venue is not operating for the purpose of, or with an area for, dance use. These rights will be covered under separate schemes to be offered by OneMusic Australia.

**DATE:** 1 November 2018

## RECORDED MUSIC FOR DANCE USE SECOND CONSULTATION PAPER

OneMusic Australia is a joint initiative of APRA AMCOS and PPCA. On 13 October 2017, OneMusic Australia released a consultation paper seeking feedback on a proposed music licensing scheme for Recorded Music For Dance Use. That paper can be found [here](#).

OneMusic Australia received welcome feedback on that paper from nightclubs, hotels and industry stakeholders which has been very helpful and has led us to refine the original proposal.

This paper is not for the purpose of consultation on the individual distribution processes undertaken by APRA AMCOS and PPCA.

On current timings, the proposed scheme set out below will commence with the launch of OneMusic Australia in mid 2019. OneMusic Australia will provide notice to individual venues of the date of migration from their existing licences in due course. It is anticipated that each venue will be provided with at least six months' notice before being impacted by any changes arising from the introduction of the new joint licence scheme.

### FEEDBACK RECEIVED

The feedback received by OneMusic Australia was straightforward and covered in the most part similar issues and common themes, each of which are addressed individually below. The majority of responses from licensees contained a list of concerns, but only a few responses suggested alternatives, particularly when compared to the feedback received in response to other consultation papers. Some responses suggested that OneMusic Australia has not been sufficiently consultative or transparent, whereas others indicated that the complexity of the consultation documents warranted more time for respondents to make submissions. Such claims are not valid, given that the consultation paper was released on 13 October 2017 and in response to requests, the consultation period was extended to 12 January 2018, providing a total response period of 13 weeks.

We note that with other consultation papers we received some constructive feedback, including proposals for alternative approaches and structures that allowed us to conduct further modelling and testing, resulting in changes to the proposed licence schemes for those industry sectors. We strongly encourage suggestions and feedback from the nightclub sector on the content of this second round paper and the proposed licence scheme it outlines.

For the sake of convenience we have used the term 'nightclub' throughout this paper but note that the actual tariff covers the use of recorded music for dance use wherever it occurs.

### ONEMUSIC NEW ZEALAND

A number of respondents commented on the differences in the rates for nightclubs proposed by OneMusic Australia and those offered by OneMusic New Zealand under their licensing scheme for hospitality businesses. OneMusic Australia has sought to harmonise existing Australian APRA AMCOS and PPCA fees, neither of which are based on music licensing fees in New Zealand.

The fees and licensing schemes in both territories have been developed from a different historical basis and are not linked, indeed they have varied between the two countries for some considerable time. Licensing schemes and rates for nightclubs differ greatly across international territories and markets due to historical, structural, and developmental variables, and a comparison of any two will reveal disparities for those reasons.

Matching the fees offered by OneMusic New Zealand, which are lower, would also indicate that the value of music to nightclubs in Australia is lower than it was prior to the launch of OneMusic Australia. In our view, the value of music to nightclubs has not decreased.

## ATTENDANCE VS. CAPACITY

We received a substantial number of submissions concerned about the ‘move’ to a capacity-based scheme. It should be noted that PPCA has licensed nightclubs under a capacity-based scheme for ten years (and the APRA attendance-based rate is subject to a capacity threshold). It is our view when considering the options of attendance or capacity as the basis of the proposed OneMusic Australia licence fee, that capacity is the best means of providing a convenient and transparent indication of a nightclub’s size. Other indicators might be things such as revenue or floor area, however capacity represents a much simpler, clearer metric on which to base fees.

Understanding the size and potential revenue of each business licensed to use music is an important consideration to ensure fairness across the industry, but simplicity and accuracy of reporting is also a priority. The capacity of a nightclub is a good indicator of size, and far easier to report accurately than attendance. Furthermore capacity, unlike turnover, is not subject to commercial sensitivities about disclosure.

The Copyright Tribunal acknowledged that nightclubs do not always operate at capacity, and took this into account when setting what it considered to be fair and equitable licence fees. The OneMusic proposal is derived from the rates set by the Tribunal and therefore follows that logic. Indeed, whilst a nightclub may regularly operate below capacity, it is equally true that the number of customers that visit a nightclub throughout the night may often exceed its capacity. Proposed fees for other industry sectors have also been based on metrics tailored to deliver the simplest indicators of size and use, such as a metric based on the number of members of a gym, the premise size of a retail business, or the seating capacity of a restaurant. We note that not all members of gyms attend every day, retail shops have busy and quiet periods and restaurants may not be full all the time.

However, OneMusic Australia accepts the feedback received that a per person capacity fee applied per night of operation as described in the first consultation paper is unpopular. While OneMusic Australia still considers capacity to be an appropriate and practical measure of the relative size of a nightclub, we understand that a per-person fee based on capacity is problematic to some licensees.

Accordingly, we propose two significant changes to the original proposal.

For the majority of venues we have further simplified the structure of the proposed licence scheme, arranging capacity into tiers that indicate the relative size of the nightclub, rather than multiplying the per-night fee by the nightclub’s exact capacity. After extensive testing that modelled different tiers and fees based on capacity and number of nights open per week, we settled on the modelling that resulted in a fee reduction (from current APRA AMCOS and PPCA tariffs) for the highest number of venues – 60% of those with both licences. The modelling also indicates that across all those nightclubs, total licence fees will decrease in each of the capacity tiers and by approximately 8% overall.

Nightclubs are still able to adjust the capacity reported on nights where their capacity is reduced, for example when only one floor or room of the nightclub is open for business.

OneMusic has previously noted its compliance concerns about an attendance-based metric but note also the concern expressed in submissions about applying a capacity-based metric for both the APRA AMCOS and PPCA fees under the OneMusic licence. Seeking to find a balance between those two positions, OneMusic proposes to allow venues to use an attendance rate subject to certain provisions. Namely that:

- it only applies to nightclub venues where entry is by paid ticket or entry fee only;
- the venue keeps accurate nightly attendance figures;
- the OneMusic Australia licensee can and agrees to provide an annual statement of attendance and nights of operation with a written declaration by an authorised person warranting the veracity of those figures.

Under this option the four ‘free’ nights and the decreasing fee according to number of operating nights – both measures offered to address industry concerns about capacity-based reporting - are not available. This option is conditional upon the nightclub making the election<sup>1</sup> meeting the criteria outlined above, including the provision of the necessary declaration and information. If those conditions are not met the licence fees will be recalculated based on OneMusic’s reasonable assessment of relevant capacity and nights of operation.

<sup>1</sup>Election to use attendance subject to the provisions is fixed for the year and the fee is not subject to review against the capacity-based fee structure.

## MEASURING CAPACITY

Notwithstanding that PPCA has charged on capacity, many submissions queried how capacity would be established. Both current schemes use capacity (either as the metric or the cap) and OneMusic does not intend to change the current approach on measuring capacity. Below are examples of the kind of official sources licensees can use when determining the capacity of their venue:

- ACT: the occupancy loading for each relevant area from the venue's Licensed Premises Plan;
- NSW: the patron capacity from the venue's liquor licence, or capacity from the venue's Development Consent;
- NT: the maximum number of persons permitted to occupy the licensed premises as assessed by the Northern Territory Fire and Rescue Service;
- QLD: the occupancy limit from the venue's occupancy notice provided by the Office of the Commissioner of the QFES;
- SA: the total capacity from the venue's liquor licence, or capacity set by local council or a registered private certifier;
- TAS: from the venue's council Occupancy Permit;
- VIC: the maximum patron capacity from the venue's liquor licence or Council occupancy permit;
- WA: the maximum accommodation from the venue's Department of Health Certificate of Approval.

Where official sources are not available, or in cases where a nightclub operates at a lower capacity than the capacity stated on official sources, (for example where a nightclub area is partitioned to make it smaller during slow periods, or if areas of the nightclub are regularly closed to patrons on particular nights), OneMusic may agree to a variation to the reported capacity provided supporting documentation is supplied. Where a layout plan of the premises is supplied delineating the operating nightclub area, OneMusic Australia will calculate capacity at 1 person per 0.75 square metres of space accessible by patrons.

## "PHYSICALLY SEPARATE"

Questions have been raised regarding the meaning of the continued use of 'physically separate' when defining nightclub areas in multi-purpose premises. APRA AMCOS' current definition of a nightclub includes 'a venue operating as a licensed premises that:

- a) *is used for providing music for dancing; and*
- b) *uses recorded APRA AMCOS Works as the primary form of music for dancing; and*
- c) *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*
- d) *is not being used for: (i) a private function; (ii) a Dance or Dance Party; (iii) an event that features ballroom or similar traditional dancing; or (iv) an event for underage persons (such as a "blue light" disco).*

*The definition includes a Venue operating within a multi purpose premises in a physically separate area [emphasis added] of that premises, where that separate area satisfies the above criteria.*

While this element of the definition is not new, OneMusic understands that the release of the first consultation paper has rightly caused licensees to look more closely at relevant definitions. Generally speaking 'physically separate' means distinguishable from other areas of the venue. For example if there is a cover charge to enter that area, the area has its own entrance or it is a separate room, separate floor or other space within the venue that has a clearly defined perimeter or access rules. Our licensing reps will liaise with nightclub operators as required if a question arises and where agreement cannot be reached the licensee or potential licensee has recourse to Resolution Pathways (APRA AMCOS' independent ADR service that will be available to all OneMusic clients).

## LICENCE FEE 'INCREASES'

If a nightclub is adequately licensed with both APRA AMCOS and PPCA, and has reported accurate attendance and capacity to each society, then the proposed OneMusic Australia licence fee outlined in the first consultation paper is unlikely to represent a significant fee increase for most nightclubs. However, OneMusic Australia understands that for nightclubs that are not adequately licensed with both APRA AMCOS and PPCA and/or have not been reporting accurate attendance and capacity to each society, the proposed OneMusic Australia fees may then represent a fee increase greater than our modelling, but we note that any such increase is a factor of non-compliance, not the rate or tariff structure.

The modelling and fee comparisons conducted by OneMusic in the first and this consultation paper are based on attendance and capacity figures supplied by nightclubs to APRA AMCOS and PPCA respectively. While there have been claims that licence fees for some clubs will increase several-fold, we have not been presented with any figures to back up such claims. If there are nightclubs that believe they will see such increases, we urge them to contact us so we can discuss and if necessary further revise our proposal.

## AUSTRALIAN ARTISTS

Feedback has been received stating that the vast majority of music played in nightclubs is not Australian, but that Australian nightclubs pay some of the highest fees in the world. OneMusic Australia licences cover the overwhelming majority of electronic/dance music available worldwide, including that of individual songwriters and recording artists from the USA, UK, Germany, France and The Netherlands, in addition to our own local artists. This is of great benefit to nightclubs as it negates the need for them to obtain multiple licences for Australian and international dance music.

OneMusic Australia notes the difference in the equivalent rate between Australia and other countries but further notes that insofar as we are aware, Australia is currently the only country where the appropriate rate has been reviewed and considered by an independent authority in the form of the Copyright Tribunal.

## DISTRIBUTION OF LICENCE FEES

Questions have been raised regarding the potential difficulty of discovering how licensing fees are distributed to music creators under OneMusic Australia. OneMusic Australia is not involved in the distribution of licensing fees, and the responsibility for distribution will remain with both APRA AMCOS and PPCA. APRA AMCOS and PPCA have employed music recognition technology (MRT) in a number of nightclubs to assist with producing more accurate allocations back to rightholders and those practices have in part been informed by ongoing discussions with the Club Music Advisory Group<sup>2</sup>. Both societies will continue to set their own distribution policies and practices and relevant information regarding the distribution policies of both organisations is freely available from each organisation. Currently, both APRA AMCOS and PPCA distribute nightclub licence fees based on a mix of data including: MRT (45%), ARIA Club Chart (45%) and selected radio airplay logs (10%).

## ONEMUSIC AUSTRALIA AS A NEW ‘MONOPOLY’

Many respondents have claimed that OneMusic Australia creates a “new and unnecessary monopoly”, however the scope of rights represented by OneMusic Australia are exactly those currently represented by APRA AMCOS and PPCA. APRA AMCOS and PPCA are not in competition with each other as the two organisations represent completely separate rights. Accordingly in our view the venture does not lead to a further concentration of market power.

Moreover, the rights licensed by APRA AMCOS and PPCA are available from other sources, and the same current alternatives to licensing music through APRA AMCOS and PPCA will still exist under OneMusic Australia. For example, licensing the rights directly from the copyright owners, or using only music that APRA AMCOS and PPCA do not represent. If a nightclub is using APRA’s repertoire but not PPCA’s, then a reduced rate will apply. Furthermore, nightclubs will receive the added benefit that all their dealings with OneMusic Australia will be covered under APRA’s authorisation from the ACCC including its relatively new alternative dispute resolution procedures<sup>3</sup>.

<sup>2</sup>The Club Music Advisory Group (CMAG) is a diverse group of key industry stakeholders from the dance and electronic music sector. Their role is to inform and advise APRA AMCOS on issues related to the dance/electronic music industry and to also inform our distribution practices to ensure they are as fair and transparent as possible.

<sup>3</sup>APRA AMCOS’ has an independent alternative dispute resolution process, details of which are available at [www.resolutionpathways.com.au](http://www.resolutionpathways.com.au). The facility won the Australian Disputes Centre’s ADR Corporate Team of the Year Award in 2016.

## ONEMUSIC AUSTRALIA AS A ‘MERGER’

OneMusic Australia is not a merger, and APRA AMCOS and PPCA are not becoming one company. OneMusic Australia is a joint initiative of APRA AMCOS and PPCA to provide a combined public performance licensing capability. The two companies will remain separate entities with separate boards and membership, and will continue to make distributions back to copyright owners, serve their respective membership base and affiliated societies, and offer licences in areas other than public performance.

The trading name ‘OneMusic Australia’ is the vehicle through which joint licences covering both musical work and sound recording rights will be issued to music users. OneMusic Australia is not a new company or a merger, but a branded joint licensing arrangement.

## INDIVIDUALLY NEGOTIATED AGREEMENTS

Claims have been made by some respondents to the first paper that APRA AMCOS and PPCA representatives have individually negotiated confidential agreements with numerous licensees enabling those licensees to pay licensing fees significantly lower than those published by each organisation. APRA AMCOS and PPCA deny these claims, have not been provided with nor can see any evidence of these individually negotiated confidential agreements.

APRA AMCOS and PPCA are aware of individual arrangements with specific businesses in settlement of legal disputes, however these are not ongoing licensing arrangements.

## PRIVACY

Concerns regarding privacy have been expressed by some respondents, due to the personal information that is being shared between APRA AMCOS and PPCA for the purposes of establishing OneMusic Australia, including the data-matching and alignment of renewal cycles required to do so.

Both APRA AMCOS and PPCA are each committed to ensuring that personal information collected from licensees is handled strictly in accordance with each organisation’s privacy policy. In that regard, the personal information shared between APRA AMCOS and PPCA for the purposes of OneMusic Australia is done so on a confidential basis and limited to only such personal information necessary to allow for the continued and effective administration of music licensing in preparation for, and for the operation of, that joint licensing initiative. Such disclosure is consistent with the terms of the each organisation’s privacy policy, being limited to sharing only with associated collecting societies in Australia and for the purposes of administering the licensing and distribution of royalties.

## PASSING ON OF SAVINGS

Some submissions received assume that OneMusic Australia will result in a reduction in administrative costs for APRA AMCOS and PPCA, and have called for ‘savings’ to be passed on to licensees. Certainly for the foreseeable future, due to the work necessary to develop, test, adjust, implement and consult with industry regarding the new licensing schemes, no cost savings for APRA AMCOS and PPCA are predicted.

OneMusic also notes that licence fees have never been linked to either APRA AMCOS’ or PPCA’s cost of operations – that is, the licence fee isn’t a ‘fair and equitable’ rate for the use of music PLUS the costs of administering the licence. Those costs are borne by the members and licensors of APRA and PPCA respectively out of the payment of the licence fee.

That said, and as stated elsewhere in this paper our modelling of equivalent licence fee revenues under OneMusic – *based on the attendance and capacity figures supplied by matched nightclubs to APRA AMCOS and PPCA respectively under current licence agreements* – shows an overall decrease of 8%.

## PARTIAL RIGHTS

Some submissions queried why OneMusic Australia did not offer a partial rights adjustment as is the case in other proposed schemes. OneMusic Australia is not aware of any nightclub that operates without using both APRA-represented music and PPCA-represented recordings. Given this situation, it is arguable that there is simply no need for such an adjustment mechanism, nonetheless, OneMusic Australia will offer such an adjustment.

OneMusic notes that in general for a nightclub, the PPCA annual licence fee tends to be higher than the APRA AMCOS fee. Any adjustment for partial rights needs to reflect this so that licensees are not unfairly impacted. Accordingly, under OneMusic Australia, in the first year of operation of OneMusic any nightclub that only has need of the APRA rights will be eligible for a 60% discount from the licence fee and in future years the discount will be reduced to 48.25%. If a nightclub uses PPCA recordings but has no requirement of the APRA licence, the discount will be 35% in the first year of operation (moving then to 48.25%).

## REVISED FEE STRUCTURE

We have revised the proposed fee structure for the Recorded Music For Dance Use to address the feedback received. Under the revised fee structure:

### CAPACITY-BASED METRIC

- Nightclubs will not be required to multiply their per-night rate by exact capacity per person. Instead, OneMusic proposes to introduce a per-night rate based on broad capacity tiers. Capacity can thus be clearly seen as an indication only of the relative size of a business, not the number of people expected to attend at full capacity.
- We have, however, retained an important element of the previous structure whereby the more nights a nightclub opens per year, the lower the per-night rate will be.
- For nights when nightclubs open at a lower capacity, for example when only one level of a two-level venue is open, the per-night fee for the lower capacity tier will apply for those nights only.

A discount of four free nights will apply for each capacity configuration that operates for 56 or more nights per year. For example, if the venue operates at a single capacity and is open 200 nights a year, OneMusic would only charge for 196 nights. Nightclubs should report the total number of nights open.

Additionally, coverage for up to two concurrent lines for telephone hold music and use of music in corporate and workplace areas of your nightclub, such as offices and staff areas, has now been included under the background music rate at no extra cost.

Following are five examples of how the revised fees would be applied, based on the number of opening nights and capacities of actual nightclubs currently licensed by APRA AMCOS and PPCA (the identity of each nightclub has been removed for reasons of confidentiality).

### EXAMPLE 1

A nightclub in a hotel with a capacity of 170 is open 1 night per week (52 nights per year), and currently pays \$8,454.75 to APRA AMCOS under a GFN tariff, and \$11,580.40 to PPCA under its E1 tariff. Under the new proposal the nightclub would pay a per night licence fee of \$349 for 52 nights of operation.

CURRENT APRA AMCOS FEE	CURRENT PPCA FEE	TOTAL CURRENT FEE	ONEMUSIC FEE (\$349 X 52 NIGHTS)
\$8,454.75	\$11,580.40	\$20,035.15	\$18,148.00

### EXAMPLE 2

A multi-level pub operates two levels as a nightclub one night per week, or 52 nights per year. One area has a capacity of 200, and the other has a capacity of 400.

CURRENT APRA AMCOS FEE	CURRENT PPCA FEE	TOTAL CURRENT FEE	ONEMUSIC FEE AREA 1 (\$349 X 52 NIGHTS)	ONEMUSIC FEE AREA 2 (\$872 X 52 NIGHTS)	TOTAL ONEMUSIC FEE
\$43,912.00	\$40,872.00	\$84,784.00	\$18,148.00	\$45,344.00	\$63,492.00

### EXAMPLE 3

A stand-alone nightclub with a capacity of 150 opens 111 nights per year. The OneMusic fee will only be applied for 107 nights, as nightclubs that open 56 or more nights per year receive 4 nights at no charge.

CURRENT APRA AMCOS FEE	CURRENT PPCA FEE	TOTAL CURRENT FEE	ONEMUSIC FEE (\$332 X 107 NIGHTS)
\$13,458.59	\$21,811.50	\$35,270.09	\$35,524.00

#### **EXAMPLE 4**

A nightclub open three nights a week most weeks of the year (a total of 150 nights per year) has a capacity of 300. The OneMusic fee will only be applied for 146 nights, as nightclubs that open 56 or more nights per year receive 4 nights at no charge.

CURRENT APRA AMCOS FEE	CURRENT PPCA FEE	TOTAL CURRENT FEE	ONEMUSIC FEE (\$581 X 146 NIGHTS)
\$20,187.88	\$58,950.00	\$79,137.88	\$84,826.00

#### **EXAMPLE 5**

A cocktail bar with a capacity of 100 operates as a nightclub for 144 nights per year. The OneMusic fee will only be applied for 140 nights, as nightclubs that open 56 or more nights per year receive 4 nights at no charge.

CURRENT APRA AMCOS FEE	CURRENT PPCA FEE	TOTAL CURRENT FEE	ONEMUSIC FEE (\$166 X 140 NIGHTS)
\$7,764.57	\$18,864.00	\$26,628.57	\$23,240.00

#### **ATTENDANCE-BASED METRIC**

For those nightclubs that can meet the necessary minimum criteria (i.e. where entry is by paid ticket or cover charge only, the nightclub keeps accurate nightly attendance figures, and the nightclub can and agrees to provide an annual statement of attendance with a written declaration by an authorised person warranting the veracity of those figures) and elect to pay on attendance, the following are two further examples of how the revised fees would be applied, based on the number of opening nights and capacities as licensed by APRA AMCOS and PPCA.

#### **EXAMPLE 1**

A nightclub with a capacity of 140 open 3 nights a week for 52 weeks a year with attendance averages per night of 140, 115 and 100.

CURRENT APRA AMCOS FEE	CURRENT PPCA FEE	TOTAL CURRENT FEE	ONEMUSIC FEE (@ \$2.52 PER ATTENDEE)
\$16,702.40	\$28,610.40	\$45,312.80	\$47,829.60

#### **EXAMPLE 2**

A pub operating on two levels and using the upper floor as a nightclub two nights a week over the summer period only (20 weeks per year) with a capacity of 180 but with average attendance of 150 on one night and 120 on the other.

CURRENT APRA AMCOS FEE	CURRENT PPCA FEE	TOTAL CURRENT FEE	ONEMUSIC FEE (@ \$2.52 PER ATTENDEE)
\$4,752.00	\$9,432.00	\$14,184.00	\$13,608.00



#### **SUBMITTING YOUR FEEDBACK**

OneMusic Australia, having regard to the submissions it has received to the initial consultation paper, intend to implement the new Recorded Music for Dance Use Scheme as varied and set out above in mid 2019, subject to any new and substantive arguments that are received by 31 December 2018.

Please provide your feedback in the form of a submission to [consultations@onemusic.com.au](mailto:consultations@onemusic.com.au). Submissions are preferred 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.

# OUR CONSULTATION PROCESS WITH YOU

OneMusic Australia is consulting with nightclubs and other venues using recorded music for dancing and would like to hear what you think.

In your nightclub, you're likely to be paying licence fees to APRA AMCOS and PPCA, the caretakers of the copyright of the music you use. These fees ensure you're legally entitled to use music in your nightclub, and that music creators are paid for their contribution to your business.

We realise it can be confusing to have to pay music licence fees to two organisations. In late 2018, OneMusic Australia will be the one organisation for all your music licensing needs, and you'll be able to pay for your licence online.

It's not easy to build a single licence scheme that suits everyone, so we've come up with a proposal. We'd like you to take a look, and then provide us with your feedback. Remember, this is just a proposal, and may not become the final scheme.

## The basics of the proposal

- We propose to charge a fee based on the capacity of the nightclub and the number of nights your venue is open, with a tiered structure so that the more nights per week you operate, the lower the per-night fee is.
- The capacity-based fee has been calculated by taking into account that attendance figures and capacity figures can often be different.
- Nightclubs will have the opportunity to report a modified capacity depending on how the venue space is configured on different nights, such as reporting a reduced capacity on nights where only one level or room is open.
- Reporting and paying for your licence will be much easier using the OneMusic eCommerce facility, and you will no longer be required to report attendance figures.

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

- The capacity of your nightclub each night of the week. If you use a different configuration on some nights, the capacity for those nights may be different to the overall venue capacity.
- How many nights the nightclub operates in each configuration per year.
- Using the above two pieces of information (capacity and nights of operation) you can determine what the annual fees for your venue would be under this proposal compared to your current total licence fees for APRA AMCOS and PPCA. Remember – these cost comparisons will only be valid if you currently hold a licence with both APRA AMCOS and PPCA.

## What should I do next?

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:** 13 October 2017

## RECORDED MUSIC FOR DANCE USE 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 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 for the music licence needs of venues that use recorded music for the purpose of dancing and remove the requirement for these kinds of venues to obtain multiple licences separately from APRA AMCOS and PPCA.

OneMusic Australia aims to harmonise existing 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. We believe that this new licensing structure will be of great value to these kinds of venues.

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 for similar businesses 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 venues are licensed to use recorded music for the purpose of dancing with a view to implementing a new, wide-ranging and simplified music licensing scheme. For venues which use music in ways other than for the purpose of dancing, our proposed schemes for Hotels, Pubs, Taverns and Bars and for Clubs might be relevant to your music use and consultation documents for these schemes can be found on our website [here](#).

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

Nightclubs and other venues providing recorded music for dancing currently require multiple licences from both APRA AMCOS and PPCA for their varied use of musical works and sound recordings. The proposed OneMusic Australia scheme, which is detailed below, is structured to consolidate these licences into one simple to administer scheme, which covers the majority of music use across the industry.

The goals of the proposed scheme and the OneMusic Australia joint venture in general are:

- a) To simplify licensees' initial and ongoing reporting and administration requirements (in particular through the development of an eCommerce platform);
- b) To develop future-proofed schemes in preparation for the evolution of audio and audio-visual delivery platforms; and
- c) To develop simple and industry-relevant structures that are fair and equitable across venue types and locations and, insofar as possible, to be licence fee neutral when considered across the industry as a whole.

## CONSIDERATIONS

The Copyright Tribunal handed down its determination on the use of recorded music for dancing in 2007. APRA AMCOS and PPCA commenced the operation of new licences shortly thereafter on the basis of that determination. While these are often referred to as the 'nightclub schemes', the licences apply to any businesses that use music for the purpose of dancing, whether those businesses are dedicated nightclubs or multi-purpose venues such as hotels that have separated spaces for dancing.

Under existing licence arrangements, venues not only have to pay separate licence fees to APRA AMCOS and to PPCA, but the basis on which the respective fees are calculated is different. For APRA AMCOS the licensing metric is currently a rate per attendee (capped at capacity) and for PPCA it is a rate multiplied by capacity per night of operation. OneMusic Australia proposes to offer a joint licence scheme with a single rate determined by one simple metric, thereby reducing administration for licensees. In considering the structure of this new scheme, OneMusic Australia was keenly aware of the issues facing such venues currently, including but not limited to, liquor licensing restrictions and lock-out laws. Given this, we believe that we have developed a licensing metric that is fair and reasonable for the sector, as well as for our APRA AMCOS and PPCA members and licensors.

To develop the proposed structure, OneMusic Australia analysed the data that APRA AMCOS and PPCA receives from existing licensees. It was clear from this data that attendance figures provided to APRA AMCOS in recent years were, for the majority of clients, reported as constant. This differs from APRA AMCOS' expectations that attendance numbers would change from year to year to reflect actual variations in the popularity of the venue. This has not occurred. Indeed the static reporting of attendance numbers from year to year to APRA AMCOS rather suggests that the figure essentially acts as a proxy for capacity (i.e. PPCA's current metric).

In developing the proposed scheme, OneMusic Australia found that the sector is accustomed to also providing capacity information to government bodies for purposes such as liquor licensing. Given this, and noting that capacity is already used as a licensing metric by PPCA and is a more easily measurable metric to report and verify than attendance, we propose to use capacity as a basis for the new licence scheme.

We are aware that some licensees have concerns about the use of capacity where attendance numbers may be lower than the full capacity of a venue. We acknowledge those concerns – indeed our compliance checks of venues suggest that where a business has more than one night of operation per week, it is more likely that attendance (as a percentage of capacity) will be lower across the additional nights per week than for the first night. We also note that the Copyright Tribunal's original determination took these variances of attendance versus capacity into account when setting the metric and licence fee.<sup>1</sup>

Taking these factors into account, OneMusic Australia has developed the proposed scheme based on the total capacity of a venue, but tiered according to the number of days/nights a venue operates per year.

## RIGHTS

The proposed scheme will cover venues using recorded music for the purpose of dancing, for example by way of patrons dancing to a DJ performance. This scheme would apply to venues which have a dance floor or other area for dancing and in that way remains consistent with the current definitions used by both PPCA and APRA AMCOS which are as follows:

Current APRA AMCOS Definition	Current PPCA Definition
<p>Venue means a licensed premises that:</p> <ul style="list-style-type: none"> <li>a) is used for providing music for dancing; and</li> <li>b) uses recorded APRA AMCOS Works as the primary form of music for dancing; and</li> <li>c) 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</li> <li>d) is not being used for: (i) a private function; (ii) a Dance or Dance Party; (iii) an event that features ballroom or similar traditional dancing; or (iv) an event for underage persons (such as a “blue light” disco).</li> </ul> <p>The definition includes a Venue operating within a multi-purpose premises in a physically separate area of that premises, where that separate area satisfies the above criteria.</p>	<p>“Nightclub” means a licensed venue that:</p> <ul style="list-style-type: none"> <li>a) is used for providing music for dancing;</li> <li>b) uses sound recordings as the primary form of music for dancing;</li> <li>c) 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</li> <li>d) is not being used for: (i) a private function; (ii) a Dance or Dance Party; (iii) an event that features ballroom or similar traditional dancing; or (iv) a ticketed, multi-act music event.</li> </ul> <p>The above definition includes a nightclub operating within a multi-purpose venue in a physically separate area of that venue, where that separate area satisfies the above criteria.</p>

OneMusic Australia notes that these definitions are structurally very similar and therefore does not propose to make any material changes.<sup>2</sup> Instead, we propose to amalgamate these definitions so that a venue which uses music for the purpose of dancing is a licensed premises that:

- a) Provides music for the purpose of dancing by patrons;
- 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 private function;
  - ii. a dance or dance party;
  - iii. an event that features ballroom or similar traditional dancing; or
  - iv. a ticketed, multi-act music event.

This definition covers venues which are stand-alone businesses using music for the purpose of dancing, such as nightclubs, as well as venues which are operating as part of a multi-purpose venue, or within a multi-purpose premises in a physically separate area of that premises, where that separate area satisfies the above criteria.

The scheme does not cover other types of public performance that may occur at the venue – for example a live performance by a band, featured music performances where DJs perform and there is no dancing, or the use of background music across other areas in the venue or when the venue is not operating for the purpose of dancing. These rights will be covered under separate schemes to be offered by OneMusic Australia.

<sup>1</sup> See [Phonographic Performance Company of Australia Limited under section 154\(1\) of the Copyright Act 1968 \(Cth\) \[2007\] ACopyT\\_1](#) at [211] and [214].

<sup>2</sup> Please note that the actual OneMusic Australia licence terms and conditions may contain different defined terms, distinguished through capitalisation. For example the terms may use “Premises” rather than “Venue” or “Nightclub”.

## STRUCTURE

The proposed licensing metric is a fee per person, per night of operation, for each person of the venue's capacity. The rate applicable is tiered based on the number of days/nights that the venue operates at each specific capacity. The capacity in this context is the number of patrons licensed by the local government, liquor licensing body or fire department as applicable to that venue. OneMusic Australia will continue to provide PPCA's option to venues, which are multi-level or multi-space and open only a portion of their spaces on certain nights, to license the relevant operating space only for those nights. The OneMusic Australia eCommerce reporting mechanism will allow licensees to input their capacity per night to account for this.

OneMusic Australia proposes that the capacity rate is tiered according to the total number of nights of operation to take account of anecdotal evidence that suggests attendance numbers, when compared to capacity, are lower where a venue is open for multiple nights per week.

As at June 2017, the PPCA rate for recorded music used for the purpose of dancing was \$1.29 per person multiplied by capacity, per night and the APRA rate was \$0.86 per person multiplied by attendance, and capped at the venue's capacity. Applying estimated annual CPI<sup>3</sup> increases between now and when OneMusic Australia commences in 2018, and converting the APRA rate per attendee to a rate per capacity (using our analysis of licence information provided by venues holding both licences), the existing combined rate is \$2.20 per person. The proposed rates are set out below:

	NUMBER OF NIGHTS OPERATING PER YEAR PER DECLARED CAPACITY DANCING AREA	RATE PER HEAD PER NIGHT OF OPERATION TO BE MULTIPLIED BY CAPACITY (INC GST)
Tier 1	Up to 52 nights of operation per year	\$2.20
Tier 2	53 to 104 nights of operation per year	\$2.10
Tier 3	105 to 156 nights of operation per year	\$2.00
Tier 4	More than 156 nights of operation per year	\$1.90

Venues which restrict their premises to different capacities on different days will have the ability under this scheme to declare those variances. This ensures that venues are only paying for the capacities at which they are operating on any given night. Under this scheme, OneMusic Australia will separately assess licence fee calculations against the capacities reported.

By way of example, a venue is open three nights per week and on Friday and Saturday the whole venue is open at a capacity of 200 people (104 days of operation over the year) but on Thursday it only opens the ground floor bar, which has a capacity of 100 people (another 52 days of operation over the year). That venue would report these differing capacities as follows in order to take advantage of the tiered rate structure:

AREA NAME	NIGHTS PER YEAR	CAPACITY	APPLICABLE RATE	FEE PAYABLE (INC GST)
Full Venue	104	200	\$2.10	$104 \times 200 \times \$2.10 = \$43,680$
Ground Floor Bar Only	52	100	\$2.20	$52 \times 100 \times \$2.20 = \$11,440$
				<b>Total = \$55,120</b>

By way of comparison, under the current APRA AMCOS and PPCA schemes and assuming the same CPI adjustment, the estimated licence fee would be approximately \$56,000 – producing a saving of around \$1,250.

The proposed scheme is subject to a minimum fee of \$200 (including GST) per area, per year. All fees under this scheme will increase in line with the weighted average of eight capital cities Consumer Price Index annually.

<sup>3</sup> Assuming CPI at long term average of 2.5%.

Some venues enhance the atmosphere on their dance floor by exhibiting the music video associated with the track being performed. This is currently licensed by PPCA under their Tariff WE – Music Videos (Nightclubs) at \$1,405 per annum for a single 30 inch TV (higher fees apply for multiple screens). OneMusic proposes an additional tariff for such use at \$1,250 per annum for up to six screens. This provides venues with a saving of between \$155 and \$2,260 when compared to current licences.<sup>4</sup>

## REPORTING

OneMusic Australia proposes that venues will continue to report capacity and nights of operation information annually, but have the choice to pay either annually, quarterly or monthly. Accordingly venues would report:

- The number of days recorded music is used for the purpose of dancing within each tier each year;
- The name of the area within the venue where music was used for the purpose of dancing (for example ‘Whole Venue’ or ‘Basement Bar only’); and
- The capacity of the area within the venue where music was used in this way.

OneMusic Australia also intends to continue with the joint APRA AMCOS and PPCA implementation of Music Recognition Technology (currently using DJ Monitor and Kuvo) to obtain performance data from selected nightclubs and other venues. This data is used by both societies to make their separate ‘nightclub’ distributions based on a sample of music played in nightclubs and will continue to be used in this way. The terms and conditions of the OneMusic Australia licence will therefore continue to include reporting obligations to facilitate accurate distributions back to songwriters and recording artists.

## IMPACT

OneMusic Australia has tested the implementation of this scheme across a sample of current APRA AMCOS and PPCA licensees in this sector in order to deliver as close to a revenue-neutral result as possible. The average licence fee fluctuation for venues which currently hold both an APRA AMCOS and PPCA licence for the use of recorded music used for the purpose of dancing is a decrease of 3.8%.

OneMusic Australia is of the view that the proposed structure of this scheme will benefit the sector in that the fees account for the anecdotal evidence that some venues are not at capacity every night of opening. Furthermore, we believe that the proposed structure strikes a balance between the existing APRA AMCOS scheme which is based on attendance, and the existing PPCA scheme which is based on capacity.

## TRANSITIONAL ARRANGEMENTS

Our analysis shows that there are a number of venues that are currently licensed only by APRA AMCOS or PPCA but actually require licences for both organisations’ rights. AMCOS and PPCA recommend that venues revisit their licensing status now, rather than wait for OneMusic Australia to commence, in order to ensure they are fully covered and not unintentionally infringing.

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<sup>4</sup> When background music only is being used, rights will be covered under separate schemes to be offered by OneMusic Australia such as the scheme for hotels, pubs, taverns and bars. The consultation paper for that scheme can be found [here](#).



## 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 note that OneMusic Australia has not sought to review the overall value of recorded music when used for the purpose of dancing under its new combined licence scheme. OneMusic Australia's approach, consistent with our announcement of the venture, has been to create, so far as possible, a new licence scheme that provides increased simplicity for businesses, including the reduction in the number of music licences required. Accordingly, while comments on the general structure of this proposal and possible alternative approaches are welcome, OneMusic Australia's position is that submissions advocating a fundamental reappraisal of the overall value of recorded music used for the purpose of dancing are more appropriately the subject of separate discussions, which may include the use of Alternative Dispute Resolution or the involvement of the Copyright Tribunal of Australia, if required. Should the parties deem it necessary to enter into a separate and more fundamental revaluation negotiation of this nature, it may mean that in the meantime OneMusic Australia would be obliged to launch with the existing separate licence structures currently offered by APRA AMCOS and PPCA.

While we believe that the proposed scheme will be of great value to nightclubs, we welcome your feedback in general and in relation to the specific questions OneMusic Australia has raised.

Your comments allow us to ensure that the licence schemes we develop are not only theoretically sound, but are also practically applied in a simple and equitable way across the industry.

Please provide your feedback in the form of a submission to [consultation@onemusic.com.au](mailto:consultation@onemusic.com.au) by close of business 12 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.