

DATE: 13 October 2017

HOTELS, PUBS, TAVERNS AND BARS 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 hotels, pubs, taverns and bars and remove the requirement for these kinds of venues to obtain multiple licences separately from APRA AMCOS and PPCA. Currently, venues such as hotels, pubs, taverns, bars and other similar venues (hereafter 'Hotels') can require up to 10 different licences from each of the two organisations to cover their use of copyright music.

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 businesses have access to the correct licences, allowing easy account management with OneMusic Australia. Given that 93% of bars, pubs and clubs in a UK survey agreed that playing music creates a better atmosphere for customers and one in three hospitality business owners said that they would rather lose a day's trade than permanently cease playing music for customers and staff¹, 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 New Zealand for more than three years, and 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 Hotels are licensed to use music with a view to implementing a new, wide-ranging and simplified music licensing scheme. For venues which use music in ways other than those discussed in this paper, our proposed schemes for Dining and for Recorded Music For The Purpose Of Dancing 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](#).

¹ Research was conducted by VisionCritical in April 2012 among 1,000 UK businesses and Entertainment Media Research (EMR) in 2009 among 2,000 UK consumers. EMR also conducted the research in 2010 among 400 small retailers, hairdressers, offices and factories.
Source: <http://www.musicworksforyou.com/research/business-sectors/33-restaurants-and-cafes>

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

Hotels 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 with the Dining and the Recorded Music For The Purpose Of Dancing papers 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.

It is arguable that Hotels use music more diversely than other types of business. This consultation paper discusses OneMusic Australia's proposed licence fee arrangements for the playing of music in a Hotel as background and featured music, and through the incidental communication of music from the Hotel's website. OneMusic Australia has concurrently released two other consultation papers; (i) the playing of music within dining venues, and (ii) the playing of recorded music for dancing. OneMusic Australia encourages the industry to read and make submissions on these two papers also, if relevant [here](#).

Although there are separate consultation papers, businesses will, through the OneMusic Australia eCommerce portal, be able to cover their venue/s under a single licence application process for all their different music uses.

CONSIDERATIONS

At the outset, OneMusic Australia notes two key points. Firstly, consultations between APRA AMCOS and the Australian Hotels Association (AHA) occurred throughout 2014 to 2016 in an effort to develop a new 'hotels scheme' for APRA AMCOS' rights. OneMusic Australia understands that these consultations were considered largely successful but were ultimately discontinued pending the launch of OneMusic Australia which would additionally include PPCA's rights. Secondly, OneMusic Australia is keenly aware of the symbiotic relationship between Hotels and the music industry. Slim Dusty may have written about a pub with no beer, but it is almost as important to ask what a pub would be with no music.

When developing the proposed scheme, OneMusic Australia took into account the diverse ways in which music is used across Hotels. This includes general background music playing in the Hotel; featured music performances such as live performers, performers using recorded music and patron karaoke; and incidental music played on Hotel websites. OneMusic Australia is of the view that as the evolution of multi-purpose venues in Australia continues, the way in which music is used by these kinds of businesses will also evolve.

For this reason, OneMusic Australia explored multiple potential licensing metrics for the use of background music, including a rate tiered according to physical premises size similar to that which was implemented by OneMusic New Zealand in 2013. A benefit of this metric is that reporting is simple, licensees can easily budget for their annual fees as their physical premises size is unlikely to change and the scheme would be device-neutral, negating the need to count and report individual music sources. However, when testing this metric for potential use in Australia, OneMusic Australia found that it resulted in significant licence fee fluctuations for many existing APRA AMCOS and PPCA licensees. Due to these fluctuations OneMusic Australia does not believe that such a metric would be appropriate for the Australian market at this time.

OneMusic Australia also tested a metric developed by APRA AMCOS in conjunction with the AHA in 2016 (the ‘withdrawn APRA AMCOS scheme’)². That metric was based on tiered packages. Each package included a suite of rights; a basic package that covered radio and TV racing screens only and more comprehensive packages covering the use of background music systems, TV screens, jukeboxes, music on hold, website music and other uses. The consultation between APRA AMCOS and the AHA was thorough, and a significant amount of impact testing was undertaken. It was found that this kind of structure mitigated potential licence fee fluctuations to an extent, and encouraged equity across the diverse business models that would be covered by the withdrawn APRA AMCOS scheme, ensuring that businesses were only paying for their particular use of musical content.

Despite broad agreement from the industry on the overall approach of the metric that was proposed in 2016, certain aspects were not accepted by all the relevant industry bodies. In particular, there was a concern among some industry bodies that small, rural Hotels which only use radio or television would be unfairly subsidising those larger Hotels with broader music use. While OneMusic Australia has sought to address such feedback in this proposal, it notes the absolute inevitability that the migration of licensees from multiple licence schemes to a new single scheme based on a new metric will mean that the aggregate licence fee for some Hotels will increase, while for others it will decrease. Furthermore, OneMusic Australia found that the different rights licensed by PPCA and APRA AMCOS – including different rights and licensing mandates in respect of radio, television, music video and websites, as well as the PPCA’s dining licence structure – did not fit into the specific packages proposed in the withdrawn APRA AMCOS scheme.

For the above reasons OneMusic Australia proposes to use the broad structure of the withdrawn APRA AMCOS scheme as a foundation for the Hotels scheme now proposed, with some amendments to account for both the industry feedback received in 2016 and the inclusion of PPCA’s rights.

In respect of featured music – including live, musical comedy, cabaret, recorded and karaoke – OneMusic Australia considers that the structure agreed in the withdrawn APRA AMCOS scheme remains largely relevant and should be incorporated into the proposed OneMusic Australia scheme - adjusted as required for sound recording rights. Of particular note are the mutually beneficial merits of a single metric covering all three types of featured music performances – that is, live music performances, recorded music performances and karaoke. This will result in the licensing and reporting of the overwhelming majority of performances on a ‘per-day’ rate. OneMusic Australia is therefore proposing the implementation of that structure in this paper, but adapted to include the PPCA rights.

RIGHTS

As a preface to the proposed structure of the scheme, it is important that readers understand OneMusic Australia’s classification of music use as ‘background’ or ‘featured’. OneMusic Australia is of the view that in the context of licensing the public performance of music, the nature and way in which music is used in a featured or foreground context is fundamentally different to its use as background music. This is consistent with the view taken by APRA AMCOS during the aforementioned consultations with the AHA. For this reason OneMusic Australia maintains that different valuations and licensing structures should apply to background and featured music (also referred to as foreground music).

OneMusic Australia does not consider music to be background in nature if either recorded and/or live music used at the Hotel is given prominence as a feature of that Hotel (or indeed any part of that Hotel). The factors which can contribute to music use being given such prominence include but are not limited to:

- Events where the music is compiled, presented and/or performed by a live artist performer, DJ or similar performer who is engaged for the principal purpose of compiling, presenting or performing music to patrons;
- Performances, including patron karaoke performances, which have been advertised to the public as having music as a feature such as ‘Live Music Every Friday’, ‘Karaoke Thursday’, or where music is advertised as part of a specific event or series of events;
- Nights of operation where the music has been compiled with a particular or recognisable theme such as ‘Retro Night’; or
- Performances which are associated with a particular music-related theme, such as ‘Friday Night Beats’ or ‘Sunday Jazz’.

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 many hundreds of thousands of musicians, and millions of recordings.

As currently operates under licences issued by APRA AMCOS, any music that is used in a dramatic context will require separate licensing. More information on dramatic context licensing will be released on the OneMusic Australia website shortly.

The rights within this proposed agreement are split into two parts. Each of these parts is separately detailed in the paper below.

² These consultations also considered other metrics including bar takings, alcohol sales, capacity and liquor licensing fees. All were rejected for various reasons and given the short time period that has elapsed, OneMusic Australia did not reconsider these options. 3

PART 1: GENERAL MUSIC USED IN THE VENUE

- a) Playing background music in the Hotel in publicly accessible areas³, and employee-only areas such as kitchens and stockrooms;
- b) Copying tracks, by the licensee, for the purpose of playing them as background music in the Hotel (subject to certain restrictions);
- c) Screening free-to-air and subscription television, and music videos in the Hotel; and
- d) Streaming music on the Hotel's website (provided that it is incidental and that the primary purpose of the website is not the streaming or sharing of musical content).

PART 2: FEATURED PERFORMANCES AT THE VENUE

Organising or authorising performances and events that include:

- live performances (such as live bands, singers, open mic nights);
- the provision of featured recorded music;
- the provision of patron-based karaoke performances; and
- other performances (such as musical comedy shows or cabaret shows).

The scope of the proposed rights is significant and together with the *Dining and Recorded Music for Dancing* [consultation papers](#) (which have been released concurrently with this paper) cover what OneMusic Australia believes to be the majority of music uses across the industry.⁴ Please note, this scheme excludes the synchronisation of music with video footage. These rights are generally held by record companies and music publishers and require separate clearance and licensing.

STRUCTURE

The proposed scheme for Hotels has been developed as a user-pays structure which is split into two parts.

All rates referred to in this document are inclusive of GST. All fees (excluding any percentage-based rates) under this scheme will increase annually in line with the weighted average of eight capital cities Consumer Price Index. Where applicable, minimum and maximum fees have been noted in each part.

PART 1: GENERAL MUSIC USED IN THE VENUE

A. Background music and television screens

This part of the proposed scheme covers Hotels for their use of background music, music videos and television screens which are either audible and/or used to screen music videos. The format of the proposed licensing structure for these rights is similar to the structure proposed by APRA AMCOS to the sector in 2016. Currently, Hotels can require up to four different licences for their use of music in this context from APRA AMCOS and PPCA. In contrast, the proposed structure simply requires a Hotel to pick from one of five tiers according to their needs and therefore provides administrative efficiencies compared to the existing licensing landscape.

A licence is required from OneMusic Australia for businesses that use television screens to show free-to-air, pay or subscription television and downloaded programs (including catch-up television or similar) and/or to screen music videos in formats such as DVDs, recorded programs and direct from the internet (including YouTube and Vevo). Currently the use of screens is licensed differently by APRA AMCOS and PPCA at different rates depending on the size of the screen. PPCA also licenses the public screening of music videos separately. OneMusic Australia notes that fees which are dependent on screen size are a historical carryover from previous licensing policies and the commencement of new licence arrangements provides an opportunity to remove this distinction.

During discussions with AHA in respect of the withdrawn APRA AMCOS scheme, it was recognised that although the number of screens was relevant to the licence fee payable by a Hotel, there was a desire for this metric to be removed. In the end it was not possible to do this and a 'middle-ground' was reached whereby the number of televisions used was grouped into bands. OneMusic Australia proposes this same basic structure but modified to handle the differing rights administered by APRA AMCOS and PPCA.

³ Tariffs for restaurant areas in hotels, pubs, bars and taverns are covered in a separate consultation document available [here](#).

⁴ Please note that OneMusic Australia licences for featured music performances (involving live artists and DJs) will include a limitation relating to musical works and sound recordings performed at political events.

Accordingly, OneMusic Australia has adapted the withdrawn APRA AMCOS scheme to include the use of sound recordings and the public screening of music videos controlled by PPCA. The rates in this proposal however, are slightly different, with those in the Bronze Package in particular seeing a decrease from the originally proposed APRA AMCOS rate of \$250 to the OneMusic Australia rate of \$200 per premises. OneMusic Australia also notes that the increased tariff for the Silver, Gold, Platinum and Diamond Packages, which now include PPCA’s rights, are less than the current pricing for the same type of uses. By way of example, in the proposed Gold Package, the OneMusic Australia rate is \$450 more than the original APRA AMCOS Gold Package but this includes use of sound recordings in background music systems, audio jukeboxes and music videos, where the current PPCA price starts at \$913.52.

Fig. 1

Package	Racing TV Screens	Radio	TV Screens (receiving broadcasts only)	Background and Digital Music Systems** (including Audio Jukeboxes)	TV Screens Showing Music Videos (including Video Jukeboxes)	Total Licence Fee
Bronze	Any Number	Any Number	Single Screen Only	N/A	N/A	\$200
Silver	Any Number	Any Number	Single Screen Only	1 Only	N/A	\$525
Gold	Any Number	Any Number	2 – 6 Screens	Any Number	Any Number	\$1,200
Platinum	Any Number	Any Number	7 – 9 Screens	Any Number	Any Number	\$2,100
Diamond	Any Number	Any Number	10+ Screens	Any Number	Any Number	\$3,350

** Includes devices such as tablets, smartphones, computers and CD players.

Note that in Fig. 1 the boxes indicated as ‘N/A’ are not included in that package category. The Silver Package, for example, covers Hotels to use music on racing and TV screens, by way of traditional broadcast radio (i.e. not internet) and through one background or digital music system (including a tablet, smartphone or audio jukebox) only. It does not permit the use of multiple background music systems (including where different music is played in different areas of the hotel) or showing music videos. OneMusic Australia also notes that the flat fees within this structure will, in most cases, result in fees which are lower than they would be should licensees take out all those rights individually from APRA AMCOS and PPCA under the current schemes available. For example, a client using the devices available within the Silver Package under the OneMusic Australia scheme would, under the current schemes, be paying at least \$644.85⁵. Under the proposed scheme that same client would pay \$525 when OneMusic Australia launches in late 2018.

This structure minimises the need to count the type and total number of devices used across the premises – which is a requirement to calculate the current APRA AMCOS licence fees payable. Furthermore, the fee applies across the whole premises, not per room – the metric used in the current PPCA licence – meaning that venues will not have to report to OneMusic Australia their different areas and the size of each area, or update their licence when equipment is relocated within the venue.

OneMusic Australia notes that there are other differences between the packages in the proposed scheme and the withdrawn APRA scheme. Specifically the Gold, Platinum and Diamond packages included music use in restaurant/dining-areas, on hold, in the workplace and on the website. OneMusic Australia has formed the view that the average cost of the PPCA restaurant licence precludes such use from a bundled package structure and that because relatively few Hotels use music in the other three instances, it is more appropriate that these are charged on a straight user-pays basis.

OneMusic Australia believes that this proposed structure provides an administratively easy licensing solution for Hotels, will result in more limited licence fee fluctuations than other models and deliver a licence fee neutral position across the industry.

⁵ The rate would be higher depending on the size of the TV screen (APRA AMCOS) and the number of rooms (PPCA). Rate applicable at August 2017.

B. Copying music

The advent of smartphones and digital music services has increased the music options available to businesses. While new digital music services provide a degree of choice and control not available when using radio stations or CDs, they do not offer the demographically targeted and individually curated playlists designed for their clients by background music service providers. As it currently stands in Australia, almost all businesses that provide publicly available digital music streaming and download services limit their service to personal and domestic use. Furthermore, the making of copies of recordings (for example of a CD or a digital download) is permitted under the Copyright Act for domestic listening purposes, but this does not extend to public performances (i.e. the type of performance that occurs in a Hotel). Therefore any public performances and reproductions (including by the operation of the service itself, such as caching or storing for offline use) require licensing. Such a music licensing solution has been available from APRA AMCOS and PPCA separately for several years and will continue to be offered by OneMusic Australia. That said, OneMusic Australia reminds businesses that if they are using a digital music service, they should refer to the Terms and Conditions of the service’s end user agreement to determine if there are other permissions they may require (including from the service provider itself) that are not under the control of OneMusic Australia.

Although APRA AMCOS and PPCA have licences for businesses that permit a business to use, cache or make copies of music for the purpose of playing as background music covered under Part 1(A) above, there are notable differences in the two existing structures. The current PPCA scheme is limited to a maximum of 250 tracks per year on a cumulative basis, whereas the APRA AMCOS scheme is tiered depending on the maximum number of tracks copied on the relevant device at one time.

OneMusic Australia recognises that a balance must be achieved between ease of compliance on the one hand and a flexible structure to accommodate the needs of Hotels on the other. To that end OneMusic Australia seeks specific feedback on the two proposed licensing options set out below in *Fig. 2* and *Fig. 3*. Under *Fig. 2*, which follows the current PPCA structure, Hotels would pay a specific amount for the number of copies they make each year, capped at 1,000. Hotels would, however, be able to build up a larger library over time. Under *Fig. 3*, modelled on the current APRA AMCOS licence, Hotels would pay a fee that allows them to keep up to 2,000 copies at any one time and within that limit are able remove and add tracks to keep their music fresh as long as they keep within the 2,000 cap. Ultimately, either the structure in *Fig. 2* or *Fig. 3* could be offered as part of this scheme, depending on feedback received from the industry. Both options would not be made available concurrently however.

Fig.2

TRACKS COPIED PER YEAR PER LOCATION	RATE PER YEAR (INC GST)
1 – 500	\$400
501 – 1,000	\$800

Fig.3

MAXIMUM NUMBER OF TRACKS PER DEVICE AT ANY ONE TIME	RATE PER YEAR (INC GST)
2,000	\$600

This component of the scheme covers only reproductions made by the licensee for the particular venue that holds the public performance licence (where the music is not provided by a licensed background music supplier), and does not cover reproductions for any other location that the business may operate. A business with multiple locations would need to pay the above licence fee on a location by location basis. The reproduction of music videos for any purpose, and the copying of sound recordings on to jukeboxes, is excluded. The proposed scheme also does not cover the reproduction of music for the purpose of synchronisation with video footage.

For those venues wishing to make copies outside of these limits, further licensing, including potential source licensing, will be required as these are uses that are not within the rights controlled by OneMusic Australia.

C. Website music use

OneMusic Australia recognises that many Hotels operate websites to provide an online presence for their business. Accordingly, for those Hotels that stream music in the form of audio-only content on their website, it is proposed that this licence scheme will include this right at a flat fee of \$550 per year, including GST. In order to provide Hotels with the requisite rights, this proposed rate is double the existing APRA AMCOS standalone 'online mini' licence fee that APRA AMCOS has made available for several years.

The rights that OneMusic Australia is able to license for online uses are limited, in part because of restrictions on the use of music in advertisements. Under this part of the scheme businesses must:

- limit music use to audio-only content;
- only use music where it is incidental and where the primary purpose of the website is not the streaming or sharing of musical content;
- use no less than 5 and no more than 15 tracks playing in a random linear, non-interactive loop;
- not derive any revenue from the playing of music; and
- only stream music from their website (e.g. does not include use on a business' Facebook or YouTube pages).

In circumstances where these criteria are not met, separate licensing will be required, including the possibility of source licensing from content owners.

OneMusic Australia believes that the scope of this licence will cover the overwhelming majority of needs of Hotels. Those venues that require a wider scope (including for example online audio-visual or synchronisation rights) should seek advice from APRA AMCOS and PPCA on licensing options.

REPORTING FOR PART 1: GENERAL MUSIC USED IN THE VENUE

Venues will have the ability to declare their usage and update their general background music coverage easily through our eCommerce system once per year on the annual anniversary of their licence start date.

As noted above, Hotels will no longer be required to separately provide details of

- the type of devices used to play background music;
- the number of devices used to play background music;
- the number of separate areas using background music across the venue (other than for specific dining areas); and
- the physical size of each of those areas.

OneMusic Australia is of the view that the minimal reporting requirements applicable to this scheme will reduce transaction and administrative costs for Hotels, making licensing easier and therefore encouraging a higher level of compliance across the industry.

IMPACT FOR PART 1: GENERAL MUSIC USED IN THE VENUE

OneMusic Australia has undertaken in-depth research, analysis and testing across the data collected from existing APRA AMCOS and PPCA licensees in order to develop the proposed licensing model and fees. In respect of background music, by moving from the current licensing metrics – which are based on premises size under PPCA's scheme and devices under APRA AMCOS' scheme – fluctuations in licence fees occur.

OneMusic Australia has found that for those licensees currently holding APRA AMCOS and PPCA licences, the impact of moving to the proposed structure is a decrease in licence fees of approximately 10% across the industry. However, our analysis shows that there are a number of Hotels that are currently licensed only by APRA AMCOS or PPCA but actually require licences for the rights offered by both organisations. AMCOS and PPCA recommend that Hotels 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.

PART 2: FEATURED MUSIC USED IN THE VENUE

The difference between background music and featured music has been discussed above as part of the section headed ‘Rights’.

OneMusic Australia believes that the current licensing structure for Hotels that use featured music can be simplified. Currently, licensees are required to account to APRA AMCOS and PPCA for their different uses of featured music (being live, recorded and karaoke) through at least six separate licence applications, with Hotels required to provide different information depending on the type of featured music used.

It is OneMusic Australia’s understanding that Hotels want to access these different types of featured music without worrying about the impact on their licence fees or needing to obtain additional licences for different usages. The launch of the One Music Australia venture affords licensors and licensees alike the opportunity to align OneMusic Australia’s licensing structure with the needs of the industry. OneMusic Australia notes that this would entail concessions from all parties but believes the end result would be a net benefit to all stakeholders. To this end we propose that the use of featured music in a venue will be calculated in one of two simple ways:

Featured Music – Per Day Rate where the highest priced ticket (if there is a ticket) is no more than \$40

The per day rate is proposed to be scaled according to the capacity of the area in which the featured music is used. This may be the whole venue, or a designated area used for the purpose of providing featured music to patrons. 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 or area of the venue. Moreover, OneMusic Australia is proposing that the per day rate is the same whether the venue is offering live, recorded or karaoke featured music entertainment. In this way a Hotel can swap between different forms of featured music without impacting their licence fee. The proposed fee structure is as follows:

Fig.4

CAPACITY OF AREA	RATE PER DAY/NIGHT (INC GST)
< 100	\$12
101 – 200	\$24
201 – 400	\$48
401 – 600	\$72
601 – 800	\$96
801 – 1,000	\$120
>1,000	\$180

It is proposed that the licence fees calculated by reference to the table above are subject to a minimum annual fee of \$120 including GST.

Licensees would have the capability through the OneMusic Australia eCommerce system to report different nights at different capacities, if only part of the venue is operating for the use of featured music. OneMusic Australia believes that this is appropriate as many Hotels open different parts of their premises on different nights to account for fluctuations in trade across nights of the week.

For example, a Hotel may have DJ-presented performances 52 nights per year in their main room with a capacity of 200 people, and 52 nights per year of live performances (no cover charge) in a mid-sized room with a capacity of 100. It is proposed that this venue would be able to report each of these ‘blocks’ of nights with different capacities separately to ensure that their licence fee is proportional to the way they are using featured music.

Hotels which are considered to be dedicated karaoke venues – that is, that the primary purpose of their business is to provide karaoke facilities to their patrons – are not covered by this proposed scheme. The proposed metric for dedicated karaoke venues has been detailed in a consultation paper available [here](#). OneMusic Australia is of the view that the nature and volume of the use of karaoke at a dedicated karaoke venue requires an alternative licence structure.

In the withdrawn APRA AMCOS scheme an additional alternative metric for featured music, based on attendance numbers, was also put forward to the industry. OneMusic Australia considered this option in preparing this proposed scheme. On balance however, a per-attendee rate has not been included, noting that:

- a) there are more complicated compliance issues surrounding the reporting of attendance numbers; and
- b) for other tariffs, specifically for ‘featured recorded music’ and ‘recorded music for dance’, when compared to the existing APRA AMCOS rates, OneMusic Australia has proposed a move away from an attendance-based tariff.

That said, OneMusic Australia welcomes further comment from the industry on the inclusion of this alternative metric including how such numbers could be easily verified without resort to audits.

Featured Music – Box Office Rate where the highest priced ticket is more than \$40

If a venue hosts an event such as a live artist, DJ, musical comedy or cabaret event and the highest priced ticket or admission fee to the venue or event exceeds \$40⁶, OneMusic Australia proposes to apply a different licensing metric to ensure consistency across the way featured music performances are licensed in venues, irrespective of whether these events are hosted by a venue or a music promoter.

This proposed fee calculation is based on a percentage of the gross sums paid for admission across the course of the year, as follows:

Fig.5

TYPE OF FEATURED MUSIC PERFORMANCE	% OF BOX OFFICE (INC GST)
FEATURED PERFORMANCES NOT USING RECORDED MUSIC	2.2%
FEATURED PERFORMANCES USING RECORDED MUSIC	4.4%

It is proposed that a minimum annual licence fee of \$120 (including GST) will apply to this structure.

At this stage, OneMusic Australia intends to maintain the APRA AMCOS licensing policy and therefore proposes that Hotels will not need to report performances promoted by a OneMusic Australia recognised National Event Promoter (a list of current National Event Promoters licensed with APRA is available from the APRA AMCOS website [here](#)). OneMusic Australia notes that a separate consultation paper covering concerts and events is to be released later this year.

REPORTING FOR PART 2: FEATURED MUSIC USED IN THE VENUE

It is proposed that Hotels would report their usage under this component to OneMusic Australia annually. Venues would need to provide to OneMusic Australia:

- The number of days/nights when featured music was used during the previous reporting period;
- The number of those performances that were live performances only, performances incorporating recorded music and karaoke nights;
- The capacity of the venue or designated area within the venue where featured music was used (which can be adjusted if parts of the venue are closed on particular days or nights);
- Which events had a ticket price of \$40 or over and the gross sums taken for admission as an aggregate across those events or days/nights; and
- The name of the venue or area within the venue where the featured music was used.

Clients would need to report this at the end of each year to allow OneMusic Australia to issue provisional licences for the upcoming year, and to adjust the figures from the preceding year and raise invoices accordingly. As per PPCA’s and APRA AMCOS’ current arrangements, it is proposed that invoices would be issued on a provisional basis subject to adjustment on actual usage.

⁶ The highest priced ticket, cover or admission cost is the ticket which is most expensive – such as a VIP or late entry ticket. The proposed \$40 ticket, admission or cover fee threshold includes GST and booking or handling fees.

IMPACT FOR PART 2: FEATURED MUSIC USED IN THE VENUE

OneMusic Australia's modelling suggests that the overall impact will be licence fee neutral but notes that the new tariff structure may influence the type of featured music used by Hotels, the result of which could cause an overall increase or decrease in licence fees. Furthermore, as noted above, OneMusic Australia is aware that those venues which have not obtained the correct licensing to cover their use of featured music previously will likely experience licence fee variations in moving from their current licensing arrangements to the new structure.

OneMusic Australia believes that merging the three kinds of featured music use which are common to the sector will result in easier administration for clients, simpler reporting under one scheme and a higher level of compliance across the industry.



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.

We believe that this proposed scheme for music use in Hotels is incredibly extensive and the scope of rights offered covers the majority of music use across the industry. We have undertaken in-depth user experience testing and have considered the way that our clients want to communicate with us and to obtain their licensing in an administratively easy manner. We believe that this user pays, opt-in style scheme will ensure that:

- smaller Hotels with less music use will not be subsidising larger venues with greater music use;
- reporting is simple and undertaken for each part of the licence scheme at the same time each year; and
- licence fee calculation is easy and the metrics lend themselves to easy budgeting for clients.

Please note that OneMusic Australia has not sought to review the overall value of music used in hotels 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 music used in hotels 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 Hotels, 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 can be 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 by close of business 12 November 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 and we will be in touch.