

DATE: 22 May 2019

HOTELS, PUBS, TAVERNS, BARS, ACCOMMODATION HOTELS AND CASINOS **FINAL POSITION PAPER**

OneMusic Australia is an 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 hotels, pubs, taverns, bars and casinos. Feedback from industry associations and stakeholders was received, leading to a second consultation paper, updated to include accommodation hotels and casinos, being released on 1 November 2018. Those papers can be found [here](#).

Feedback received by OneMusic Australia has been helpful in determining if the proposed scheme is practical and accepted by the sector. This document serves as further notification that OneMusic Australia has reviewed the way in which hotels, pubs, taverns, bars and casinos (for simplicity's sake henceforth referred to as 'hotels') will be licensed to use music in order to implement a new, wide-ranging and simplified music licensing scheme. This paper is not for the purpose of consultation on the individual distribution processes undertaken by APRA AMCOS and PPCA.

The proposed scheme set out below is expected to commence from mid-2019 and OneMusic Australia will provide due notice to hotels to migrate their existing licences where relevant.

YOUR NEW ONEMUSIC LICENCE FEES

The fee structure for the use of music by hotels (inclusive of GST) is illustrated in the table below. The rest of this paper contains relevant definitions, notes about the most recent amendments to the scheme, and information aiming to clarify certain aspects of the scheme.

The rates set out in the tables below will be increased by CPI on 1 July of each licence year. The rates in this paper are inclusive of GST, but it should be noted that CPI will be applied to the GST-exclusive rates. Where there are separate rates for APRA AMCOS and PPCA rights, no fee for PPCA sound recordings will be applicable if all sound recordings used are directly licensed.

Table 1 – Background Music

(Includes any ancillary operations in your venue, for example attached bottle shops and hotel gymnasiums)

Sapphire	Diamond	Platinum
\$3,350	\$2,100	\$1,200
10+ TV Screens Any number of Radios Any number of Music Systems and Music Video Screens Workplace Music (excl branch and head office staff) Telephone on Hold (up to two Caller Capacity Lines)	7-9 TV Screens Any number of Radios Any number of Music Systems and Music Video Screens Workplace Music (excl branch and head office staff) Telephone on Hold (up to two Caller Capacity Lines)	2-6 TV Screens Any number of Radios Any number of Music Systems and Music Video Screens Workplace Music (excl branch and head office staff) Telephone on Hold (up to two Caller Capacity Lines)
Digital Copy/Delivery Plus \$400	Digital Copy/Delivery Plus \$400	Digital Copy/Delivery Plus \$400
Website Use Plus \$550	Website Use Plus \$550	Website Use Plus \$550
Gold	Silver	Bronze
\$525	\$200	\$130
Single TV Screen Any number of Radios Single Music System Workplace Music (excl branch and head office staff) Telephone on Hold (up to two Caller Capacity Lines)	Single TV Screen Any number of Radios Telephone on Hold (up to two Caller Capacity Lines)	Single TV Screen Single Radio Telephone on Hold (up to two Caller Capacity Lines)
Digital Copy/Delivery Plus \$400		
Website Use Plus \$550	Website Use Plus \$550	Website Use Plus \$550

You may also require coverage for other uses of music – for example, music on hold for over two lines, and corporate and workplace coverage if you take out the Bronze or Silver package. These proposed rates are detailed in separate consultation papers available [here](#), but your single OneMusic licence when issued will provide coverage for these additional uses where applicable.

Table 2 – Background Music for Dining Areas

Period	Dining Area Capacity (m ²)	Dining Package A	Dining Package B	Dining Package C	Partial Rights discount
1 July 2019 – 30 June 2020	7 - 15	\$700	\$300	\$150	If applicable, Partial Rights Discount minus 65% of total relevant amount
	16 - 30	\$950	\$550	\$190	
	31 - 50	\$1,350	\$950	\$330	
	51 - 100	\$1,400	\$1,000	\$350	
	101+	\$1,450	\$1,050	\$365	
1 July 2020 – 30 June 2021	7 - 15	\$790	\$340	\$173	If applicable, Partial Rights Discount minus 48.25% of total relevant amount
	16 - 30	\$1,070	\$620	\$219	
	31 - 50	\$1,520	\$1,070	\$380	
	51 - 100	\$1,580	\$1,130	\$403	
	101+	\$1,635	\$1,185	\$420	
1 July 2021 – 30 June 2022	7 - 15	\$835	\$355	\$210	
	16 - 30	\$1,130	\$655	\$266	
	31 - 50	\$1,605	\$1,130	\$462	
	51 - 100	\$1,665	\$1,190	\$490	
	101+	\$1,725	\$1,255	\$511	
1 July 2022 – 30 June 2023	7 - 15	\$870	\$375	\$225	
	16 - 30	\$1,180	\$685	\$285	
	31 - 50	\$1,680	\$1,180	\$490	
	51 - 100	\$1,735	\$1,240	\$515	
	101+	\$1,800	\$1,305	\$540	

Definitions for each dining package can be found on page 6 of this document.

A 50% discount applies to the rates set out in the table above for any dining package applicable to a Location that is an accommodation hotel and the relevant Dining Area (or Dining Areas) are open only for the use of that hotel's guests and not to the general public.

Table 3 – Featured Recorded Music

PPCA Sound Recordings*	PLUS	APRA Works and AMCOS Works
\$0.053 multiplied by FRM Area Capacity for each day of operation (24 hour period)		\$0.167 per person admitted to the FRM Area for each day of operation (24 hour period)

Table 4 – Recorded Music for Dance Use

PPCA Sound Recordings*	PLUS	APRA Works and AMCOS Works
\$1.354 multiplied by the RMFD Area Capacity for each day of operation (24 hour period)		\$0.912 per person admitted to the RMFD Area for each day of operation (24 hour period)

Table 5 – Live Music Performance (no sound recordings)

No PPCA Sound Recordings

APRA Works and AMCOS Works
For all Live Music Performances where Live Artist Performer is paid a fee but no share of box office; 2.2% of Gross Expenditure on Live Artist Performers
For all Live Music Performances where the Live Artist Performer receives a share of box office but no fee; 1.65% of Gross Sums Paid for Admission
For all Live Music Performances where Live Artist Performer is paid a fee but also share of box office; 2.2% of the Gross Expenditure on Live Artist Performers plus 1.65% of Gross Sums Paid for Admission

Table 6 – Live Music Incorporating Recorded Music Performance

PPCA Sound Recordings*		APRA Works and AMCOS Works
\$0.267 per person admitted to each Recorded Music Performance (i.e. a performance where there is an Entry Fee, and the Entry Fee is \$40 or less)	PLUS	For each Recorded Music Performance where Live Artist Performer is paid a fee but no share of box office; 2.2% of Gross Expenditure on Live Artist Performers
		For each Recorded Music Performance where the Live Artist Performer receives a share of box office but no fee; 1.65% of Gross Sums Paid for Admission
		For each Recorded Music Performance where Live Artist Performer is paid a fee but also share of box office; 2.2% of the Gross Expenditure on Live Artist Performers plus 1.65% of Gross Sums Paid for Admission

Table 7 – Karaoke

PPCA Sound Recordings*		APRA Works and AMCOS Works
\$0.053 for each person admitted to the Karaoke Area per day of operation (24 hour period)	PLUS	\$20.64 for each day (24 hour period) that karaoke functions are held at the Location

Table 8 – Standalone Functions

Period	Background Music for Standalone Function Areas
1 July 2019 – 30 June 2020	\$7 for each 100 persons of the Standalone Function Area Capacity for each day the Standalone Function Area is being used for one or more Standalone Functions, subject to a Minimum Fee of \$65.
1 July 2020 – 30 June 2021	\$9 for each 100 persons of the Standalone Function Area Capacity for each day the Standalone Function Area is being used for one or more Standalone Functions, subject to a Minimum Fee of \$71.50
1 July 2021 – 30 June 2022	\$11 for each 100 persons of the Standalone Function Area Capacity for each day the Standalone Function Area is being used for one or more Standalone Functions, subject to a Minimum Fee of \$78
1 July 2022 – 30 June 2023	\$14 for each 100 persons of the Standalone Function Area Capacity for each day the Standalone Function Area is being used for one or more Standalone Functions, subject to a Minimum Fee of \$84.50

Table 9 – ‘All Inclusive’ rate (excluding Recorded Music for Dance Use and Background Music for Standalone Functions) – comprising Background Music ‘Sapphire’ package, plus up to 2,000 tracks Digital Copy/Delivery, Website, unrestricted Featured Recorded Music performances, Karaoke, unrestricted Live Music Performances, plus unlimited Dining (using any music source).

Licensed Capacity (persons)	Rate per Location (annual)
1-25	\$4,438
26-50	\$5,528
51-75	\$6,609
76-100	\$7,694
101-200	\$12,037
201-350	\$18,552
351-500	\$25,068
501-750	\$35,926
751-1000	\$46,785
1000*	please contact OneMusic

Because this is a bundled offering, there is no ‘partial rights’ discount applicable in respect of the use or non-use of PPCA Sound Recordings. Where ticket prices for any featured or live music performances exceed \$40, those performances will be separately licensed on an event-by-event basis.

DEFINITIONS

The following definitions, listed here in alphabetical order, are those most relevant to the proposed OneMusic licence scheme for Hotels, Pubs, Taverns, Bars and Casinos set out in this document, and will assist in choosing the coverage you need for the ways you use music. The definitions will form part of the final terms and conditions offered by OneMusic, subject to possible minor amendments required to draft the agreement but not changing the intent of the meaning.

Area Capacity means, in respect of areas which are part of, or within, a multi-function establishment, the capacity of the physically separate area, where “physically separate” means the relevant area is distinguishable from other areas of the venue by a clearly defined perimeter or access rules, which may include factors such as the area:

- a. is in a separate room, a distinct space or on a separate floor;
- b. has a separate and dedicated entrance;
- c. the area attracts a separate Entry Fee.

Background Music for Location means any Licensed Music (recorded or otherwise) used at the location (other than Standalone Function Areas), including music contained in television programmes and films, that is not given prominence or used as a feature of that Location or any part of the Location.

Dining Area means a specific area within a multi-function establishment (e.g. a pub, club or entertainment complex):

- a. that is open to the public; and
- b. where the primary function is either:
 - i. the sale of food, with or without beverages; or
 - ii. the sale of hot beverages (e.g. tea, coffee) alone or in conjunction with the sale of food and which is not licensed for the consumption of alcohol; and
- c. that has a designated seating area of at least seven seats available for patrons of that business or establishment to consume the food/hot beverages at the Location; and
- d. the music played in the dining area is different to that audible in any other parts of the Location,

but excluding any area where the provision of food and/or beverages does not include full or part table service.

Dining Package A means the Background Music for Dining package that allows for:

- a. unrestricted number of devices playing music in any Dining Area from:
 - i. an online stream or a music download via a personal digital music service or other online source;
 - ii. a “commercial background music supplier”;
 - iii. a commercial recorded music format, such as CD or vinyl record;
 - iv. an internet TV or VOD service; and/or
 - v. a terrestrial or digital broadcast through TV Screens and/or radios.
- b. up to 2,000 tracks for Digital Copy/Delivery of Licensed Music for the purposes of playing Background Music for Dining.

Dining Package B means the Background Music for Dining package that allows for unrestricted number of devices playing music in any Dining Area from:

- a. a “commercial background music supplier”;
- b. a commercial recorded music format, such as CD or vinyl record;
- c. internet TV service and/or
- d. a terrestrial or digital broadcast through TV Screens and/or radios.

Dining Package C means the Background Music for Dining package that allows for unrestricted number of devices playing music in any Dining Area only from a terrestrial or digital broadcast through TV Screens and/or radios.

Entry Fee means a fee charged for admission (even if not charged to all patrons) including but not limited to a ticket price, membership fee or cover charge.

Featured Recorded Music means recorded music used at the Location or in an FRM Area that is given prominence as a feature of that venue or any part of that venue (not including a Recorded Music Performance). It includes performances by DJs, including those 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’, ‘Friday Night Beats’ or ‘Sunday Jazz’.

Gross Expenditure on Live Artist Performers means all monies and the monetary value of all benefits receivable directly or indirectly by the Live Artist Performer, including all salaries, wages, profit shares, allowances and accommodation, travel & other expenses (but excluding Gross Sums Paid For Admission and government taxes and other charges), whether receivable by the Live Artist Performer or any agent, manager, assistant or associate of the Live Artist Performer.

Gross Sums Paid for Admission means the total amount paid for admission (excluding GST) to any entertainment at which live music is performed in public at the Location (excluding GST), but does not include any monies for food and beverage that may be included in the ticket price.

Karaoke means music used for the purposes of accompanying singing by patrons.

Karaoke Area means a specific area within a multi-function establishment where music is used for Karaoke.

Licensed Capacity means the total capacity (number of patrons) of the Hotel, Bar, Tavern or Casino licensed by the relevant Local Government, Liquor Licensing body or Fire Department (as applicable to Your venue). Examples of official sources you can use when determining the total capacity of your venue will be available in the Licence Information Sheet for Hotels, which will be available shortly.

Live Artist Performer means any performer participating in the performance of music including featured and associated singers, musicians, DJs, dancers, models and conductors;

Live Music Performance means music that is performed by a Live Artist Performer that is not a Recorded Music Performance

Location means each Hotel, Pub, Bar or Casino as declared and includes all ancillary operations within the boundaries of the Location such as bottle shops and hotel gymnasiums.

Recorded Music Performance means a musical performance at the Location by a Live Artist Performer where:

- a. Sound Recordings are played; and
- b. the performance has an Entry Fee and the price of that Entry Fee is advertised as being \$40 or less (performances with a ticket price of more than \$40 must be separately licensed on an event-by-event basis).

Recorded Music for Dance Use means the use of recorded music for the purpose of dancing.

Recorded Music for Dance Use Area means a specific area, either within a multi-function establishment or a standalone dance venue, 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).

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.

Standalone Function means functions held in a Standalone Function Area where Licensed Music is being separately used, but where that area is not licensed under tariffs for Featured Recorded Music, Recorded Music for Dance Use, Live Music Performances or Recorded Music Performances.

Standalone Function Area means the area where Standalone Functions are held.

Telephone on Hold means to reproduce onto and communicate music on the business' telephone on hold system.

TV Screens means screens that only show content received via services over the broadcast service bands or via cable or satellite delivery. A screen that does not deliver any content containing sound recordings, music videos or musical works is not included.

Workplace Music Use means to:

- a. perform music by any means for the benefit of employees or their family or corporate guests at the Location, and at functions and places to which the general public is not admitted, except at any conference, event or other function where there is an Entry Fee or the Gross Expenditure on Live Artist Performers is \$50,000 or more;
- b. perform music in reception or front-of-office areas that are open to the public;
- c. allow employees to play music at their workplace (including via radios, streaming services, CD players); and
- d. permit the copying of music from legally obtained sources for the purposes noted above.

FEEDBACK RECEIVED

OneMusic Australia received welcome feedback to both consultation papers for Hotels, and has made adjustments and amendments to the scheme based on that feedback. Responses to the consultation papers have also helped identify where clarification of some aspects of the proposed scheme is needed.

The amendments made and clarifications needed as a result of the feedback are outlined below.

BACKGROUND MUSIC

The proposed OneMusic rates for Background Music have received mostly positive feedback and appear to be broadly accepted.

We have simplified the background music fee table by keeping fees for Dining separate and making the six different packages for Background Music – from Bronze to Sapphire – easier to understand.

DINING

Due to feedback received to the standalone OneMusic licence scheme for Dining businesses, a number of significant changes have been made to the OneMusic Dining licence scheme. As the rates for Dining in the Hotels scheme are based on those in the Dining scheme, the changes are now reflected in this final position paper.

Dining rates are phased in over four years because during the development of the proposed licensing scheme for standalone restaurants and cafes, we found some businesses in the sector that would be subject to more marked differences in fees would benefit from a phased-in rate to ease 'bill shock'. While the differences in fees applied far less to hotels with a separate restaurant, we applied the phase-in to all businesses eligible for the Dining rates.

FEATURED MUSIC, LIVE MUSIC, KARAOKE, RECORDED MUSIC PERFORMANCE 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 rates proposed in the second consultation paper for Hotels, 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. 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 this 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 Event Promoters (NEP) for performances in hotels will continue.
- The NEP 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.

Additionally, we have maintained the existing rates in Hotels for Karaoke and Recorded Music Performance.

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.

‘ALL-INCLUSIVE’ RATE

For the “All Inclusive” licence, we determine the fee based on the *Licensed Capacity* of your Location. This means that we’ll need to know the maximum number of people that are permitted in to your Location by the relevant regulator or licensing body. At present OneMusic has proposed all inclusive rates for venues with capacities of up to 1,000. OneMusic would be pleased to hear from any venues with greater capacities that would be interested in such an ‘all inclusive’ option. In the event there is demand at that level OneMusic will consider and develop relevant rates.

STANDALONE FUNCTIONS

Rates for standalone functions have been included for those businesses that have areas that are primarily used for hiring to third parties for functions and events. For example, areas that are usually used as bars open to the public for normal day-to-day trading but occasionally hired for functions are not considered Standalone Function areas. An area that is usually only opened or used when it is hired by a third party would be considered a Standalone Function area. We expect these rates to primarily apply to accommodation hotels.

The rates in this paper for Standalone Functions are the same as those in the OneMusic Function, Convention and Conference Centres licence scheme.

PARTIAL RIGHTS

For those businesses which are not licensed under the Bronze or Silver package for background music but can show they are not using both APRA AMCOS and PCCA rights – for example, businesses that use background music which does not include any PCCA recordings, or that have licensed either the underlying musical works or the sound recordings directly with copyright owners - a 48.25% ‘partial rights’ discount will be applied to the relevant background music package.

CALCULATOR

To see how the proposed OneMusic Australia scheme will apply to your specific circumstances, you can use the calculator found [here](#).

NEXT STEPS

Implementation of the new Hotels Licence is scheduled to begin in mid-2019. OneMusic Australia intends to publish the main terms of the licence scheme shortly in order to provide advance notice to businesses of the new structure and rates.

Businesses may object to some of the proposals set out above. Licensees and associations have recourse to expert processes under APRA’s existing alternative dispute resolution service, Resolution Pathways.

If there is a reference to Resolution Pathways and the parties are unable to agree on an outcome, then either party may make a reference to the Copyright Tribunal.

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.