

SPORTS

OUR CONSULTATION PROCESS WITH YOU

OneMusic Australia is consulting with you and would like to hear what you think.

This paper sets out the proposed rates that will apply for music use at sporting events and games. It covers APRA's current Sporting Event licence and PPCA's Tariffs S, SS and B and simplifies those separate licences and schemes by providing a combined approach. It covers the different ways music is used before, during and after sports. The licence is relevant for sporting codes and associations, promoters and producers of sporting events, sporting stadiums and venues. Other OneMusic licences such as Places of Interest and Dining and the proposed OneMusic licence scheme for Events may also be relevant to the sport event or location in which the event is held. You can access information about those licences [here](#).

We realise it can be confusing to have to pay music licence fees to two organisations. Starting from mid-2019, OneMusic Australia will be the one organisation for all your music licensing needs.

It's not easy to build a single licence scheme that suits everyone, so we've come up with a proposal which builds on previous discussions with industry and where possible applies the same metrics to the one event for both musical works and sound recording rights. We'd like you to take a look and provide us with your feedback.

The basics of the proposal

This paper sets out the proposal for licensing music use for both spectator and participatory based sports events and games, including one off events and fixtures and finals for sporting codes and associations.

The licence does not cover:

- a) events or activities where music is played consistently throughout the event;
- b) performances of music where a separate ticket is required, or additional fee is payable, to attend a music event (either before or after the sport event or as part of the sport event programme); or
- c) international tournaments, i.e. where the host nation of an international tournament changes from tournament to tournament, including the Olympics, world and/or regional cups.

Separate licensing will be required for those excluded events. Organisers of these events should contact OneMusic Australia directly to discuss their licensing requirements.

RATES

These rates are based on the current APRA AMCOS Sport Licence rates subject to 1.8% CPI increase based on the December 2018 quarter annual movement which have already been accepted by a number of sporting codes through earlier consultations.

Fees for Sport Licences will be calculated using a per attendee/per day based rate and, where applicable, a percentage of live artist expenditure. Rates vary subject to duration of event, the nature of the applicable music use category and whether the optional copying right is required. The proposed Sport Licence rates and music use categories are set out below.

1. BACKGROUND MUSIC		
Background Basic	Per attendee/per day	
<i>Event duration</i>	Musical Works	PPCA Sound Recordings
Less than 5 hours	\$0.0336	\$0.0336
5 hours or more	\$0.0504	\$0.0504
OR		
Background Extra	Per attendee/per day	
<i>Event duration</i>	Musical Works	PPCA Sound Recordings
Less than 5 hours	\$0.1008	\$0.1008
5 hours or more	\$0.1512	\$0.1512
PLUS		
2. LIVE MUSIC		
Live Basic	Per attendee/per day	
	Musical Works	PPCA Sound Recordings
	\$0.0336	\$0.0336
OR		
Live Extra	Per attendee/per day	
	Musical Works	PPCA Sound Recordings
	\$0.0672	\$0.0672
OR if relevant		
Live Premium	Percentage of Live Artist Expenditure	
	Musical Works	PPCA Sound Recordings
	2.20%	#2.20%
PLUS		
3. COPYING		
	Per attendee/per day	
	Musical Works	PPCA Sound Recordings
	\$0.01	\$0.01

Rates include 10% GST and apply to seasons starting in the financial year commencing 1 July 2019.

The GST exclusive component of the rates will be increased by CPI on 1 July of each Licence Year.

The single rate for the relevant rights will apply where there are direct or alternative licences in place to cover either all the Musical Works or all the PPCA Sound Recordings or PPCA Sound Recordings are not used at all.

#Live Premium - pro rated based on sound recording use percentage.

The rate applicable at the start of a season or series of competitions applies for the duration of that season or series.

OneMusic Australia proposes to adopt PPCA's current methodology for pro rating sound recording use but has introduced additional bands to further take into account the varying nature of sound recording use across sporting events.

The sound recording use percentage is calculated by dividing the total set times of Live Artist Performers using sound recordings by the duration of all Live Music Performances at the event. For events with multi-stage or performance areas this calculation will be performed for each relevant stage and/or performance area and the attendees will be apportioned across those areas if relevant.

The proposed sound recording use percentage bands are:

Category	Percentage Use Band	% of Live Artist Expenditure
A	0.01% – 14.99%	0.330%
B	15% - 34.99%	0.550%
C	35% - 69.99%	1.155%
D	70% - 89.99%	1.760%
E	90% - 100%	2.20%

Music use categories	
Background Basic	Recorded music played before and/or after the Sport Event or between scheduled segments of play (for example, at quarter or half time, between innings, races or games) and includes team and national anthems (but no other live music performances).
Background Extra	Includes Background Basic plus recorded music played as stings and underscores at more frequent instances during the Sport Event, for example when a player leaves or enters the game area, at time outs and during minor breaks in play or after a score, goal, try, wicket etc.
Live Basic	Applies to performances by Live Artist Performers, (including structured choreography performances but excluding national anthems) before and or during breaks between scheduled segments of the Sport Event.
Live Extra	Live Basic plus performances by Live Artist Performers after the Sport Event, which are not separately ticketed. For example, a free concert occurring in a stadium immediately after a match.
Live Premium	For performances by Live Artist Performers where the Live Artist Expenditure is \$250,000 or more.
Other relevant definitions	
Attendee/Attendance	All spectators, and where relevant participants, attending or participating in the event, regardless of whether entry fee is paid.
Live Artist Expenditure	All monies and the monetary value of all benefits receivable directly or indirectly by the Live Artist Performer including all salaries, wages, profit shares, allowance, accommodation, travelling and other expenses, excluding government taxes or other charges.
Live Artist Performer	Any performer participating in the performance of music including featured or associated singers, DJs, dancers, models, producers and conductors.
Sound Recording Use Percentage	The aggregate of the entire duration of the set of each Live Artist Performer using sound recordings within their performance as a percentage of the entire duration of all Live Artist Performers performing at the Sport Event.
Sport Event	Events and/or activities of a sporting nature where the primary purpose or focus is to watch, and/or where relevant participate in, the event or activity. It does not include events where music is integral to the activity such as dance sports, gymnastics and cheerleading meets and competitions.

Depending on how music is used at the Sport Event, the applicable rates may be one of the Background Music tariffs or one of the Live Music tariffs, or a combination of *one* Background Music and *one* Live Music tariff. The *Background Basic* tariff and the *Background Extra* tariff cannot both apply to the same Sport Event. Similarly, the *Live Basic* and the *Live Extra* tariff cannot both apply to the same Sport Event.

The intention of the Sport Event licence scheme is to cover all sporting events conducted by sporting codes and associations, or sport event promoters and organisers, on a single event basis or for a season or series of competitions, as appropriate. However, OneMusic Australia understands that not all events can be easily categorised and sometimes, to ensure that music use is accurately licensed, OneMusic may need to apply other schemes or licences. OneMusic will adopt APRA AMCOS' and PPCA's current practice of assessing how music is used at sport events on an event by event basis.

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

- Is music being used during the sport event? How is it being performed? Is it being performed by Live Artist Performers or by pre-recorded music or both?
- Do any of the Live Artist Performers at the sport event use sound recordings within their performance?
- How much money is spent on Live Artist Performers for the event?
- Am I covered by an existing OneMusic Australia licence for this sport event?

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.

DATE: 7 June 2019

SPORTS

CONSULTATION PAPER

OneMusic Australia is a joint venture initiative of APRA AMCOS and PPCA.

APRA AMCOS is the trading name of the Australasian Performing Right Association and the Australasian Mechanical Copyright Owners Society. APRA AMCOS grants licences for the live performance, broadcast, communication, public playing or reproduction of its members' and affiliates' musical works. APRA AMCOS then distributes the licence fees collected to its over 100,000+ 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 mid-2019, APRA AMCOS and PPCA intend to launch the OneMusic Australia partnership to provide a one-stop shop for the music licence needs of promoters and event producers, music venues and performance spaces where music is used to remove the requirement for them to obtain licences separately from APRA AMCOS and PPCA.

OneMusic Australia aims to harmonise existing tariffs, simplify music licensing, reduce administrative burden and counter market confusion around the difference between APRA AMCOS and PPCA. An eCommerce facility to pay online and, where applicable, to apply for one-off event music licences will provide for easy account management with OneMusic Australia.

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 music is licensed at sport events including but not limited to spectator sports conducted by sporting codes and associations, one off or series of participatory sports events. This consultation paper covers events with and without an entry fee.

For the purpose of clarity, this paper applies to events in venues such as sporting stadiums and arenas, sports fields, grounds and facilities.

Some Sport Events may be covered under other OneMusic licences, such as the Local Government Area licence. Information about those licences can be found [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 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

Sporting codes and associations, sport event organisers and producers and venues where sports events take place currently require various licences from both APRA AMCOS and PPCA for their use of musical works and sound recordings where applicable. The proposed OneMusic Australia scheme, which is detailed below, is structured to consolidate these licences into one simple to administer scheme.

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

- a) To simplify licensees' initial and ongoing reporting and administrative requirements; and
- b) To develop simple and industry-relevant structures that are fair and equitable and, insofar as possible, to be licence fee neutral when considered across the industry as a whole.

This consultation paper discusses OneMusic Australia's proposed licence fee arrangements for the playing and performance of music at sport events.

CONSIDERATIONS

Currently, both APRA AMCOS and PPCA license sport events under several separate tariffs with licence schemes based on a broad range of metrics, such as number of attendees, box office receipts and/or live artist expenditure and capacity of venue.

In July 2016 APRA AMCOS implemented its sport licence and established rates for the different ways in which musical works were used within sporting events. The rates payable for the various music use categories were phased in over a period of 3 years.

Previously APRA AMCOS had applied flat per person rates to all types of music use within a sport event regardless of the type of music use. Noting the way in which music use had developed at sport events and following discussions with a number of sporting codes, the new graduated model based on duration of events and different music use categories was developed to more accurately reflect the various ways music is used within a sport event. The graduated model effectively introduced a 'user pays' approach to the rate – enabling those sports that use relatively little music to pay a lower rate than those where music use is extensive and / or pervasive.

OneMusic Australia proposes to adopt that structure and the current rates (subject to the relevant CPI increase) and expand the existing APRA AMCOS licence to cover the use of sound recordings at sport events. The rates will continue to be calculated on per attendee per day rates as well as a percentage of artist expenditure when certain expenditure thresholds are met.

The current PPCA licensing structure for sport events is based on a per person capacity rate for venues for background music. For other uses of music at sport events PPCA Tariffs B and E4 may also apply.

Notwithstanding the different metrics currently used, OneMusic Australia is of the view that where both a musical work and a sound recording are publicly performed they should have equal value. This view is supported by the Copyright Tribunal including in its 'nightclub decision'¹. However, OneMusic Australia is conscious of the many different ways in which music can be used throughout a sport event and has formulated a proposal that will take into account these varying uses.

It is OneMusic Australia's view that having one tariff to cover the various ways in which music is used at sport events and applying a tariff structure based on a per attendee per day rate will (a) ensure consistency in approach across the two rights, (b) provide a simple metric for each sport event and (c) simplify reporting obligations and information required to license sport events. The combined structure will have no adverse impact on the administrative burden of licensees, as the per attendee per day rate and artist expenditure information is already required under the existing APRA AMCOS scheme.

¹ See Phonographic Performance Company of Australia Limited under section 154(1) of the Copyright Act 1968 (Cth) [2007] ACopyT_1.

The use and selection of music played before, between or after sport events and games is a vital component of the experience of watching or participating in sports. In most instances the music is specifically curated according to the nature of the sport event and the demographics of the likely audience or participants. OneMusic Australia believes that the licence scheme for sport events should reflect the value of music to the sport event as a whole.

The APRA AMCOS and PPCA existing schemes, respectively, provide for a reduction to the licence fee according to repertoire and sound recording use across the duration of the event. In terms of APRA AMCOS, adjustments may occur where works are not represented by APRA AMCOS. For PPCA, adjustments occur where protected sound recordings are not used in the performance or where a direct licence has been obtained from the copyright owner to use the sound recording. Of course, the adjustments will not be the same for the two sets of rights – that is a song may be in the APRA repertoire but the performance doesn't use a protected sound recording, or the song may be a public domain musical work but the performer plays the protected sound recording

OneMusic Australia does not intend to expand the scope of sport event licences. The use of protected sound recordings at sport events has always required an appropriate licence and this will not change under OneMusic Australia. However, as a consequence of adopting APRA AMCOS' approach to licensing sport events there may be a shift in the licence holder, which means that some entities which have not previously sought public performance licences for the use of protected sound recordings may be required to review their existing practices to ascertain their full licensing requirements.

This process may be new for some licensees and as such may not immediately deliver on at least one of the aims of the venture: to simplify licensees' initial and ongoing reporting and administrative requirements. Notwithstanding, OneMusic considers that enabling businesses to be fully compliant with their music licensing requirements so they do not unwittingly infringe copyright has a higher precedence.

RIGHTS

Music in this context includes all works, recordings and music videos 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.

To be clear, 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. It also excludes copying music.

STRUCTURE

Effectively OneMusic Australia's proposed sport events scheme is intended to cover the use of recorded music and live music performances at sports events and differentiate between how those different types of music may be used throughout the duration of the sports event.

As far as practicable OneMusic Australia proposes to combine the existing definitions and processes currently applied by APRA and PPCA.

Given the various ways music is used to enhance the experience of people attending and participating in sports events, OneMusic Australia considers that the extension of the existing music use categories and rates to the sound recording right to be reasonable and equitable. The application of these rates also serves to simplify the information required to process the licence and calculate the relevant fees.

Currently PPCA licenses sport events on a per person rate based on capacity of the venue for music use during assembly and dispersal of patrons. For other uses of music at sport events an additional per person rate based on attendance may apply. The adoption of the existing APRA AMCOS sporting rates will streamline this process by incorporating the various ways in which music can be used throughout a sport event into one licence scheme.

Some sport events may have been previously licensed for music use under only one relevant PPCA tariff. In those instances where OneMusic Australia will offer one licence scheme to cover different categories of music use at a sport event some licensees may see an increase in fees payable. OneMusic Australia believes that the fee increase will more accurately reflect the way in which sound recordings are used at sport events.

As the use of the sound recording rights by Live Artist Performers (within their performance) varies, adjustments are required to take into account the overall use of sound recordings by such performers. For sport events where adjustments are necessary (based on the sound recording use percentage or direct licensing) OneMusic Australia will continue PPCA's practice of pro rating sound recording use across the duration of all Live Artist Performers at the sport event.

This means that the information that is currently provided to PPCA under its event tariffs in relation to artist line up, set start and finish times will also be required by OneMusic Australia for the sport licences. This may be new for some licensees that have not previously sought different licences to cover the various ways music is used at a sport event.

Information regarding artist expenditure and attendance will also continue to be required under the OneMusic Australia scheme.

Adjustments for the use of music outside APRA's repertoire, or subject to license back or opt out arrangements, will continue with no change to current practices.

Other adjustments may also be required which could impact on the fee payable, if these circumstances arise OneMusic Australia's invoice will separately identify the musical works and sound recording components of the licence fee to ensure continued transparency in relation to the coverage of the licence.

The following examples set out fee calculations for different types of sport events. If these events formed part of a season or series of competitions, then under the OneMusic Australia proposed licence scheme they would be included in one sport licence for the sporting code or sport event organiser.

Example 1 – Fun run within a stadium

- Duration less than 5 hours
- Using background music prior to the commencement and intermittently throughout the run, followed by a DJ performance at the completion of the run
- Copying right required
- Total attendance: 5,000 people

BACKGROUND MUSIC			
Background Extra	< 5 hours, per attendee/ per day	Attendance	One Music Licence Fee
Musical Works	\$0.0336	5,000	\$168.00
<i>Plus</i>			
Sound Recording	\$0.0336	5,000	\$168.00
PLUS			
LIVE MUSIC			
Live Extra	Per attendee/per day	Attendance	One Music Licence Fee
Musical Works	\$0.0672	5,000	\$336.00
<i>Plus</i>			
Sound Recordings	\$0.0672	5,000	\$336.00
PLUS			
COPYING			
	Per attendee/per day	Attendance	One Music Licence Fee
Musical Works	\$0.01	5,000	\$50.00
<i>Plus</i>			
Sound Recordings	\$0.01	5,000	\$50.00
TOTAL			\$1,108.00

Under the existing PPCA per person rate licence structure the licence fee for an event of this nature would range between \$914 - \$1,313 under Tariff B for sound recordings used during the event plus the relevant fee based on Tariff S. These tariffs apply different metrics and do not take into account duration of the event. The One Music Australia proposal will see a reduction in the fees payable for sound recording rights as well as a simplified process in streamlining the metric applied to sport event licensing.

Example 2 – Football season grand final

- Duration > 5 hours
- Recorded music before and after and as stings after players score
- Half-time and post match performance by band not using sound recordings (total artist expenditure \$260,000)
- No copying right required
- Total attendance 70,000 people

BACKGROUND MUSIC			
Background Extra	< 5 hours, per attendee/ per day	Attendance	One Music Licence Fee
Musical Works	\$0.1512	70,000	\$10,584.00
<i>Plus</i>			
Sound Recording	\$0.1512	70,000	\$10,584.00
PLUS			
LIVE MUSIC			
Live Premium	% of Gross Artist Expenditure	GAE	One Music Licence Fee
Musical Works	2.2%	\$260,000.00	\$5,720.00
<i>Plus</i>			
Sound Recordings	n/a		\$0.00
TOTAL			\$26,888.00

The table below demonstrates how licence fees will be calculated for events where the Live Artist Performer(s) use sound recordings within their performance. To calculate the relevant sound recording use band One Music Australia will calculate the total set times for Live Artist Performers using sound recordings as a percentage of the total duration of Live Music Performances at the event. For the purpose of demonstrating this process the example above has now been expanded to include the following alternative scenario for the half time and post-match entertainments:

- 3 Live Artist Performers (2 using sound recordings for 30 minute sets and 1 using musical works only for 40 minutes) which falls within band C, being 35% - 69.99%.

Category	Percentage Use Band	% of Live Artist Expenditure
C	35% - 69.99%	1.155%

BACKGROUND MUSIC			
Background Extra	< 5 hours, per attendee/ per day	Attendance	One Music Licence Fee
Musical Works	\$0.1512	70,000	\$10,584.00
<i>Plus</i>			
Sound Recording	\$0.1512	70,000	\$10,584.00
PLUS			
LIVE MUSIC			
Live Premium	% of Gross Artist Expenditure	GAE	One Music Licence Fee
Musical Works	2.2%	\$260,000.00	\$5,720.00
<i>Plus</i>			
Sound Recordings	*1.155%	\$260,000.00	\$3,003.00
TOTAL			\$29,891.00

*Relevant percentage band. Will vary from event to event based on applicable sound recording use percentage band.

There is no proposed change to the APRA structure under the OneMusic Australia scheme. However, current rates have increased for the 2019 – 2020 financial year based on the movement in the CPI.

Under the existing PPCA licensing schemes this event would require licences under Tariff S, Tariff B and Tariff E4, which are calculated on a capacity and per attendee basis. The One Music Australia proposed scheme streamlines this into one licence scheme to cover the varied and increased ways music is used at and throughout sport events.

Example 3 – Multi-sport competition

- Various sporting competitions on outdoor sporting fields
- Duration > 5 hours
- 2 days of competition
- Music used as spectators and participants arrive and disperse and as stings and underscores at the beginning and end of activities and milestones within activity
- Total attendance 5,800 (Day one 3,000, day two 2,800)

BACKGROUND MUSIC			
Background Extra	< 5 hours, per attendee/ per day	Attendance	One Music Licence Fee
Musical Works	\$0.1512	5800	\$876.96
<i>Plus</i>			
Sound Recording	\$0.1512	5800	\$876.96
TOTAL			\$1,753.92

Under PPCA's existing licence structure the music used in this sport event would require licences under under Tariff SS and/or Tariff B with fees totaling approximately \$1,130 - \$1,590.

PART D – ONEMUSIC AUSTRALIA LICENSING STRUCTURE - GENERAL COMMENTS

Multiple uses of music

Some sport events which form part of a carnival or festival event may require additional licensing to cover the use of music which falls outside the scope of the sport licence. For example music used outside the sporting arena or outside 'game day' such as pop up bar or dining areas or markets or food fairs.

Reporting

As the OneMusic Australia events licensing scheme is adopting the existing practices of APRA AMCOS and PPCA there will be no new reporting requirements for licensees. As is currently the case information regarding music use categories, artist expenditure and estimated attendance will still be required prior to the sport event. The provision of information such as, final attendance numbers (where relevant) and set lists according to the existing APRA AMCOS timeframes will continue under OneMusic. However, there may be a shift in the entity taking out the licence which means some licensees may be required to collate and provide information they have not done previously under their existing APRA or PPCA licence, as the case may be.

PART F – SPORTING CODES AND ASSOCIATIONS AND SPORT EVENT PROMOTERS

OneMusic Australia intends to continue APRA AMCOS' current licensing structure for sporting codes and associations and sport event promoters. It is intended that this licence will cover all sport events conducted by these codes and associations in the relevant season with reporting to be provided at certain points during or at the completion of the season.

This licence will provide coverage for all sport events within a specific season or timeframe by that code, association or sport event promoter. The OneMusic Australia Blanket Sport Licence or Multiple Sport Event Licence will:

- a) Include both the APRA AMCOS rights and PPCA rights;
- b) Apply the rates for music use and methodology for calculating the licence fees for Sport Events as set out in the OneMusic Australia sport event licensing scheme;
- c) Not cover any other events (such as Promoted Music Events or Festivals) or other music use that requires licensing under another One Music Australia scheme. Separate licensing will be required to cover those uses.

TRANSITIONAL ARRANGEMENTS

Our analysis shows that there are a number of sport event that are currently licensed only by APRA AMCOS or PPCA but actually require licences for both organisations' rights or do not have coverage for all categories of music used within the sport event. APRA AMCOS and PPCA recommend that you revisit your licensing status now, rather than waiting for OneMusic Australia to commence, in order to ensure you are fully covered and not unwittingly infringing.



SUBMITTING YOUR FEEDBACK

OneMusic Australia is committed to developing music licensing schemes that are fair, equitable and relevant to Australian industries. Your feedback on the above proposal is integral to this process.

Please provide your feedback in the form of a submission to consultation@onemusic.com.au by close of business Friday, 5 July 2019. 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 as soon as possible.