



**PPCA Compliance with the Copyright Collecting
Societies Code of Conduct for the Year Ending 30
June 2023**

31 July 2023

Introduction

The Code of Conduct for Copyright Collecting Societies (the **Code**) was established to provide a framework that would ensure that Australia’s copyright collecting societies dealt with their members and licensees in a fair and transparent manner. Each year, signatories to the Code release a report detailing their society’s compliance with the Code, which is reviewed by the independent Code Reviewer. In 2023, the Code Reviewer is The Hon Kevin Lindgren AM, KC.

This report demonstrates how the Phonographic Performance Company of Australia Pty Limited (**PPCA**) has complied with the Code in the last reporting period, 1 July 2022 to 30 June 2023 (the **reporting period**). It also details the complaints PPCA received from licensees, licensors, artists and the public during the reporting period and PPCA’s response. For the purposes of clause 5.2(b)(iii) of the Code, PPCA is not a Declared Collecting Society.

This report, along with the compliance reports from the other collecting societies and the final report from the Code Compliance Reviewer, will be made available from the Code of Conduct Copyright Collecting Societies website (the **CCCCS Website**). PPCA’s report and the Code Reviewer’s report will also be made available from PPCA’s website via the dedicated Code of Conduct page. (<https://www.pcca.com.au/code-of-conduct>).

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Section 1: Legal Framework

(Code Clause 2.1)

During the reporting period PPCA met its obligation under clause 2.1, through its compliance with the *Corporations Act 2001* (Cth), the Australian Privacy Principles (**APPs**) and the *Privacy Act 1968* (Cth), as well as all other relevant legislation.

PPCA is governed by its Constitution which provides the framework for the governance of PPCA.

PPCA and its staff also adhere to several policies, including:

- Privacy Policy;
- Distribution Policy; and
- Complaints Handling and Dispute Resolution Policy;

and a range of other policies covering such matters as equal opportunity, anti-discrimination, bullying, harassment and whistleblowing.

Copies of all external facing policies, including the PPCA Constitution, are available from PPCA's website as well as the CCCCS Website.

Changes to Policies during the reporting period

The Privacy Policy was updated to more accurately described new ways PPCA collects, uses and discloses the personal information of the stakeholders it interacts with. This included providing further detail on how PPCA may use personal information in connection with the Artist and Licensor Portal. Similarly, PPCA updated some of its privacy collection statements to reflect current practice.

The Constitution was not updated during the reporting period.

Section 2: Members

(Code Clause 2.2)

During the reporting period, PPCA met its obligations under clause 2.2.

PPCA is a limited company with equal shares held by the remaining three founding record company members. These shareholder record company members do not receive, and are ineligible for, any dividends from PPCA's revenue. Instead, they can only receive payments on the same basis as all other non-shareholder Licensors – via the annual distribution and in accordance with the Distribution Policy.

Unlike the Code and other copyright collecting societies, which refer to 'Members', PPCA has Licensors – they are the copyright owners, or exclusive licensees of sound recordings for Australia. This includes multinational record companies, smaller record labels, rights management companies (including foreign-based collecting societies) and independent copyright owners such as individual artists themselves. Licensors register with PPCA through signing the Input Agreement. Through the Input Agreement, Licensors agree to allow PPCA to sub-license their sound recordings on a non-exclusive basis (meaning Licensors can continue to enter into direct licensing arrangements), and create blanket public performance licences and other licensing schemes used by users of sound recordings. Rather than the PPCA Constitution, it is the Input Agreement which sets out the terms of PPCA's relationship with Licensors.

Licensors sublicense their rights to PPCA on a non-exclusive basis, meaning they can continue direct licensing within Australia. As a requirement of registering with PPCA, all Licensors must have a direct licensing policy. PPCA has worked with and provided funding to the community legal centre Arts Law Centre of Australia, to facilitate the provision of free, independently created resources to PPCA Licensors to assist with the development of their own direct licensing policy, including a template policy which can be acquired free of charge from Arts Law.

PPCA has established an Artist Direct Distribution Scheme (ADDS), under which Australian artists who are featured on a sound recording can receive a direct payment from PPCA. ADDS is offered on an ex-gratia basis, and does not arise from any copyright within the sound recording held by the artist. Australian artists can participate in this scheme by applying to be a Registered Artist with PPCA.

As of 30 June 2023, PPCA had 3,830 Licensors and 5,353 Registered Artists.

Changes to Policies during the reporting period

The Input Agreement was not updated during the reporting period.

Engagement

PPCA engages with its Licensors and Registered Artists through a variety of means. Licensors and Registered Artists typically make queries or are contacted via phone or email, however a large amount of information and forms are made available to parties through the PPCA website and PPCA Artist Portal.

Some of the channels for Licensor and Registered Artist engagement include:

- *Website* – via the PPCA website, online forms to register as a Licensor or Registered Artist are available, with PDF copies available on request. Relevant information, such as FAQs and links to relevant guides (including use of the (p) notice and the ARIA AMRA Labelling Code) is

publicly available. PPCA also regularly publishes and updates a list Lost Licensors and Artists registered with PPCA who are no longer contactable.

- *PPCA Portal* – launched in early 2022, the Portal allows PPCA Registered Artists, Licensors and their authorised representatives (such as managers) to view their annual distribution statements and other financial documents, and update their contact and payment details. Since its launched, more than 2,650 Registered Artists and Licensors have signed up to the portal.
- *Meetings and Events* – PPCA engaged with Licensor and Registered Artists through members of the Distribution team attending conferences including Indie Con 2022 in August 2022, and face-to-face meetings with Licensors and Registered Artists throughout the reporting period.

Section 3: Licensees (Code, Clause 2.3)

During the reporting period, PPCA met its obligations under clause 2.3.

PPCA Licensing Activities

PPCA offers broadcast, communication, and public performance licences for a range of services, including radio and television broadcast, non-interactive and semi-interactive music and video streaming services. The licences offered by PPCA include:

- radio broadcast licences and simulcast licences for commercial radio broadcasters;
- radio broadcast and optional simulcast licences for members of the Community Broadcasting Association of Australia (CBAA) and non-CBAA member community radio stations;
- on demand licences for radio broadcasters;
- broadcast and communication licences for subscription television operators (including IPTV operators);
- communication licences for subscription video on demand (SVOD) services;
- television and radio broadcast licences, simulcast licences and on-demand communication licences for ABC and SBS;
- broadcast, simulcast and other digital licensing for commercial television broadcasters;
- public performance licences for theatrical productions;
- communication for linear music streaming services (such as internet radio stations) and semi-interactive music streaming services;
- communication and broadcast licences for background music services that provide music; and
- services to commercial premises by means of broadcast or streaming.

Applicants primarily apply for licences by contacting PPCA through email or the online application form or PDF available from the PPCA website.

PPCA also provides licensing through several joint licensing agreements. They include:

- Eisteddfodau with ARIA and APRA AMCOS¹;
- Early learning providers with ARIA, APRA AMCOS, Copyright Agency and Viscopy²;
- Funeral directors and associations with ARIA and APRA AMCOS;
- Tertiary education agreements with ARIA and APRA AMCOS; and
- State education departments with ARIA and APRA AMCOS.

As of 30 June 2023, PPCA directly licensed approximately 1,150 businesses, individuals, services and stations for the use of protected sound recordings and music videos. This does not include entities licensed via OneMusic Australia.

OneMusic Australia

OneMusic Australia (**OneMusic**) is a joint initiative between PPCA and APRA AMCOS, the copyright collecting society for musical works performance in Australia. Since mid-2019, OneMusic has been responsible for the administration of PPCA public performance licences. Where previously businesses

¹ See <https://www.pcca.com.au/music-licensing/eisteddfod-licensing> for Eisteddfod licensing information.

² See <https://www.pcca.com.au/music-licensing/early-childhood-education-licensing> for Early Childhood licensing information.

would have typically needed to acquire a licence from PPCA and a separate licence from APRA AMCOS, OneMusic offers a single blanket licence which covers both sets of rights, licensing the use of music by businesses. PPCA maintains a page on its website explaining the role of OneMusic with contact details³. As PPCA no longer handles licensing blanket public performance licences, the number of licensees directly licensed by and engaged with by PPCA is significantly lower than pre-2019. The day-to-day operations of OneMusic is administered by APRA AMCOS. For further information about OneMusic, please see APRA AMCOS' 2023 Code Compliance report.

³ See <https://www.pcca.com.au/music-licensing/public-performance-licence-from-onemusic> for OneMusic Australia information.

Section 4: Distribution of Licence Fees

(Code, Clause 2.4)

During the reporting period, PPCA met its obligations under clause 2.4.

PPCA issues a single annual distribution for the financial year ending 30 June on the following 31 December. Licensors and artists who have registered their details (including track titles and music video registration) before 31 August are eligible for that year's distribution. Following the annual distribution, Licensors and artists receive a distribution statement, detailing their earnings on a track-by-track (or video) basis.

The annual distribution is conducted in accordance with the Distribution Policy. A copy of the policy is available on PPCA's website, the CCCCS Website and on request. The Policy details how licence fees are allocated into distribution pools and paid to Licensors and Registered Artists. It explains the reporting sources PPCA uses to determine distributions, what expenses PPCA incurs (and how the net surplus is arrived at), and how PPCA treats funds it is unable to distribute (for example, where PPCA has lost contact with a Licensor). Plain English guides giving a simpler, summary explanation of the distribution process and a guide explaining how undistributed funds are handled are also available.

The Policy also explains the Artist Direct Distribution Scheme (ADDS). ADDS is an ex-gratia scheme offered by PPCA under which Australian artists who have featured on sound recordings can register to receive payments directly from PPCA, regardless of whether they have retained copyright in the sound recording. Like Licensors, artists must register their details before 31 August to be eligible for that year's distribution.

Questions about PPCA's distributions, title registration, payments and the Distribution Policy can be answered by the Distribution team who are available via phone and email. Reminders to register all sound recording details so as to be eligible for the annual distribution are directly sent to Registered Artists and Licensors throughout the year, included in newsletters and published on the PPCA website.

Changes to Policies during the reporting period

During the reporting period, there were no changes to the Distribution Policy.

Section 5: Collecting Societies Expenses

(Code, Clause 2.5)

During the reporting period, PPCA met its obligations under clause 2.5.

PPCA deducts its expenses from the gross revenue (licensing fees collected by OneMusic Australia or PPCA directly). The net surplus is then distributed to international and local Australian Licensors, as well as artists registered under ADDS, pursuant to the Distribution Policy.

The PPCA Annual Report for the year ending 30 June 2022 showed the cost to income ratio of 16.1%, a slight improvement from the previous financial year. Rising costs and subdued public performance revenue (continuing fallout from COVID-related lockdowns) have contributed to the ratio.

A copy of the PPCA Annual Report is available from the PPCA website.

Section 6: Governance and Accountability

(Code, Clause 2.6)

During the reporting period, PPCA met its obligations under clause 2.6.

The Board of Directors

PPCA's Board of Directors is comprised of six directors: three are Levy Members directors (representing the three shareholding record companies), two are elected by non-shareholding Licensors, two are elected by PPCA Registered Artists, and a further director is appointed by the Board from the Management sector. In line with the Constitution, elections are held each year in respect of the Licensor and Registered Artists positions. PPCA has two Board-appointed committees which meet on a regular basis – the Copyright Committee (which meets on a quarterly basis) and the Finance Committee (which meets on a monthly basis).

In 2023 PPCA again offered the position of "Board Observer", where a PPCA Licensor could attend and observe PPCA Board meetings in a structured training program administered by the Observership Program.

The Directors Duties guideline was updated during the reporting period to clarify that all non-voting participants and observers to the Board were bound by the duties, and all directors were also expected to comply with PPCA's Code of Conduct and Whistleblower Policy.

PPCA Management

The PPCA Management Team meets on a weekly basis to discuss operational and strategic matters and issues.

Individual teams meet frequently to discuss daily tasks and ongoing matters. During these meetings employees are made aware of any relevant changes to internal policies or their obligations to Licensors, Registered Artists and Licensees.

The PPCA Board, Committees and senior managers are provided with a copy of PPCA's Competition and Consumer Compliance Guidelines.

Section 7: Staff Training

(Code, Clause 2.7)

During the reporting period, PPCA met its obligations under clause 2.7.

Upon commencing their employment at PPCA, staff members receive a set of essential internal policies as part of their orientation. This includes a copy of the Privacy Policy, Complaints Handling and Dispute Resolution Policy, the Whistle-blower Policy, and the Data Breach Response Plan. Staff are encouraged to frequently consult PPCA's intranet, where copies of all PPCA policies are stored, and are notified of significant changes to key policies.

The teams involved in licensing and distribution meet on a regular basis to discuss day-to-day tasks and ongoing matters. Staff are frequently reminded of their obligations to Licensors, Artists and licensees. Team managers are provided with copies of all complaints pertaining to their respective departments. These complaints are examined and discussed during team meetings with the aim of improving customer service and internal processes.

PPCA staff receive periodic training regarding the Code. The training sessions explain the purpose of the Code, staff's obligations under the Code (especially when dealing with Licensors, Artists and licensees), and how complaints should be handled. Staff are also reminded of their obligations under the Privacy Policy and the Data Breach Response Plan during these sessions.

Section 8: Education and Awareness

(Code, Clause 2.8)

During the reporting period, PPCA met its obligations under clause 2.8.

PPCA engages with its Licensors, Registered Artists, licensees and members of the public to inform them about the Code, the role of PPCA, copyright and other relevant matters through a number of mediums.

PPCA Website

From the PPCA website, people can access information regarding the role and history of PPCA, copies of all policies and guides, and information on the licences that PPCA administer. For those seeking public performance licences (previously administered by PPCA) there are direct links and information about the formation and role of OneMusic. There are also several Frequently Asked Questions sections for Licensors⁴, Artists⁵, and licensing⁶ which provide information about copyright in music, the purpose of licensing, the role of PPCA (and its difference to APRA AMCOS), and answers around registration (as a Licensor, Registered Artist or recordings).

News and Social Media

In the News section PPCA also regularly post updates on PPCA and other relevant matters, such as the awarding of grants, advocacy updates and changes in relevant legislation (such as sexual harassment laws). PPCA regularly engages with its Licensors, Registered Artists and the general public through posting on its social media channels, averaging 2 to 3 posts a week on every channel. As of the time of writing this report, PPCA had 2,900 likes on Facebook, 320 followers on Instagram, 911 followers on LinkedIn and 1,917 followers on Twitter.

Grants and Supporting the Music Industry

PPCA increases public and industry awareness of its role through providing support, opportunity and recognition for Australian artists, often through partnerships with organisations within the music industry and creative sector. During the reporting period PPCA celebrated its 10 year partnership with the Australia Council for the Arts, awarding 10 grants of \$15,000 to Australian artists and groups to assist their development and create new recordings. Additionally, PPCA administers the PPCA Performers' Trust Foundation, issuing grants to Australian artists to promote music and musical education, and also sponsored awards at the 2022 ARIA Awards (Best Independent Release) and 2022 AIR Awards (Best Breakthrough Artist) recognising the achievements of new and independent Australian recording artists.

PPCA is a member, or provides funding to, a number of organisations which promote and advocate for Australian music, including Sounds Australia, the Copyright Council and the Arts Law Centre of Australia. PPCA is a primary supporter of Support Act, Australia's only music-focused charity which provides counselling and financial to all participants in the Australian music industry. PPCA supports the Australian Independent Record Labels Association (AIR) and the Association of Artist Managers (AAM) Australia.

⁴ See <https://www.pcca.com.au/labels/faqs>.

⁵ See <https://www.pcca.com.au/artists/faqs>.

⁶ See <https://www.pcca.com.au/music-licensing/faqs>.

Section 9: Complaints

(Code, Clause 2.9)

During the reporting period, PPCA met its obligations under clause 2.9.

PPCA welcomes feedback from all stakeholders and is committed to addressing and resolving complaints through an approach which is transparent, fair, efficient and equitable. This approach is guided by the Complaints Handling and Dispute Resolution Policy (**Complaints Policy**), which details the complaints process, the length of time PPCA may take to resolve the complaint, and what can be done if parties are dissatisfied with PPCA's actions. The Policy applies to complaints from existing and potential Licensors, Registered Artists and licensees, as well as the public. A copy of the policy is publicly available on PPCA's website and the CCCCS Website, and a PDF copy can be made available upon request.

The complaints resolution process and Policy is overseen by the PPCA Complaints Officer. The Complaints Officer has access to all staff, correspondence and documents so they can thoroughly review all complaints, provide solutions for complainants and identify areas within PPCA's own processes which can be improved to avoid similar situations in the future.

Upon commencing employment at PPCA, all staff are provided with a copy of the Complaints Policy, as well as made aware of their obligations under the Policy. A copy of the Policy is also available for staff from the internal intranet. Staff are regularly reminded about the Policy at staff meetings and specific Code of Conduct training, and are trained on how to handle complaints, including being able to provide an overview of the process and assist complainants with finding the Policy online and submitting complaints.

Changes to Policies during the reporting period

The Complaints Policy was not updated during the reporting period.

Complaints received during the reporting period

During the reporting period, PPCA received 6 complaints – two from Registered Artists, two from Licensors, one from a licensee and one from a member of the public. All complaints and PPCA's response were recorded on PPCA complaints log along with correspondence between complainant, PPCA staff and the PPCA Complaints Officer.

Complaint – Registered Artist 1

The Registered Artist emailed PPCA (8 September 2022) stating that the PPCA Board Observership 2023 program was discriminatory as its eligibility criteria was only open to Registered Artists or employees of Licensors who identified as female or non-binary. PPCA Complaints Officer responded (9 September 2022), acknowledging the complainant's frustration, and explained that the purpose of the program was to leverage infrastructure already established by The Observership Program (a third-party organisation) to better equip under-represented sections of the community in order to allow them to fully participate and redress current imbalances. The Officer also advised the complainant that if they were interested in an observership opportunity, that The Observership Program operated across a number of non-for-profit organisations beyond PPCA and accepts applications from any individual that meets its eligibility criteria. No response was received, and as of 30 June 2023 PPCA considers the complaint resolved.

Complaint – Registered Artist 2

The Registered Artist contacted PPCA (8 December 2022) to complain that they were listed on the “Lost Artist” page on the PPCA website and were having issues logging onto PPCA’s Portal. Also complained that the “complaints” link on the PPCA website was not working. PPCA Complaints Officer responded (8 December 2022) to explain the reasoning behind publishing the names of artists on the Lost Artist page (it allows PPCA to notify artists where PPCA no longer has current contact information and has been unable to locate or contact an artist about their payments). Asked for the Registered Artist to provide their current bank account details to expediate an outstanding payment. The Officer noted PPCA did not accept the complainant’s remark that PPCA was a “scam” but would be happy to arrange a call to discuss any specific questions about PPCA’s activities or expenditure. Regarding the Portal, the Complaints Officer explained that the Portal was only in its first phase of operation as it had been recently launched, but thanked the Registered Artist for their feedback and advised that their comments were being actioned by PPCA. Regarding the “complaints” link, PPCA was unable to replicate the problem and asked the complainant if they could say which browser they were using to enable PPCA to investigate further. The complainant responded (8 March 2023), with their account details and browser information.

Complaint – Licensor 1

The Licensor contacted the Distribution team (6 December 2022) regarding what they considered to be a poor choice of words for the title of a PPCA press release on new sexual harassment laws. The complainant believed that the words ‘New Sexual Harassment Laws: Don’t Get Caught Out’ were in poor taste considering the significant issue of sexual harassment in the workplace, and enquired whether women were involved in designing the release. PPCA Complaints Officer responded (7 December 2022) thanking them for bringing the issue to PPCA’s attention and stressing it was not PPCA’s intention to give that impression. The purpose of the release was to make sure that all stakeholders were aware of the evolving obligations and expectations. The PPCA Complaints Officer confirmed that women were involved in the creation of the press release, and that their comments would be provided and taken into consideration when releasing similar publications in the future.

Complaint – Licensor 2

The Licensor complained (8 December 2022) that the responses they had received from a Distribution Officer regarding when they would be receiving payment for their track/s were vague and evasive (the Distribution Officer had said that distributions were paid in December and PPCA was still in the process of finalising payments). PPCA Complaints Officer responded (9 December 2022), acknowledging their frustration, and found there was a miscommunication between the complainant and Distribution Officer after reviewing the correspondence. The Complainant’s most recent query appeared to be about payment of past earnings that had been held because of a dual claim, while in their response the Distribution Officer was referring to the current years distribution which was still being processed. The Complaints Officer confirmed that since the dual claim had been withdrawn, PPCA could release the amount held to the Licensor in the upcoming distribution. The Licensor who had registered the complainant’s track had been advised of this payment. The Complaints Officer also advised the complainant that due to the statutory caps on licence fees applicable to sound recordings in radio broadcasting, PPCA’s earnings from radio broadcasters was significantly reduced, and this would impact the amount they received. The complainant thanked PPCA for its response (10 December 2022) and PPCA considers the complaint resolved.

Complaint – Licensee

The Licensee asked PPCA (26 March 2023) to confirm if a rival internet radio station was licensed as they had been re-streaming their station's programs without permission. PPCA Complaints Officer responded (27 March 2023) that PPCA was in contact with the internet radio station, however that did not change the need for the rival station to engage with the Licensee about the use of their Licensee's content. PPCA did not receive any response, and as of 30 June 2022 considers the complaint resolved.

Complaint – Member of the public

Contacted PPCA's Complaint Officer (24 October 2022) to report that a radio station was broadcasting music directly from its presenters' personal Spotify accounts. The complainant wanted to know who this should be reported to if not PPCA. PPCA Complaints Officer responded (25 October 2022) that this issue was not directly in PPCA's control but suggested several options the complainant could take, including contacting the station directly with their concerns, if dissatisfied with the station's report contacting the relevant association (the CBAA for community radio stations and CRA for commercial stations) about the issue. Finally, if the matter was still not resolved to the complainant's satisfaction they could contact the Australian Communications and Media Authority (links to the various bodies were provided by the Complaints Officer). The complainant thanked PPCA for its reply (25 October 2022) and PPCA considers the complaint resolved.

Other Legal Matters

Review of the Commercial Radio Broadcast Licence Scheme

During 2022 PPCA initiated discussions with CRA (Commercial Radio and Audio, the representative body for the commercial radio sector) in respect of the longstanding licence for the use of protected sound recordings in traditional radio broadcasts. Following a number of meetings and a series of correspondence between the parties, on August 10 2022 PPCA wrote to CRA providing notice of termination of the existing agreement with effect from 30 June 2023.

PPCA subsequently provided CRA with the key terms of its proposed new licence, and the parties engaged in further discussion and correspondence for a number of months. Having failed to reach agreement on a new arrangement on May 17 2023 PPCA referred its proposed scheme to the Copyright Tribunal, having advised CRA of that intention.

At the time of writing the Tribunal has established a timetable for the exchange of position papers and the filing of any competing scheme that may be proposed by CRA. The next case management hearing is scheduled for 10 October 2023, at which time we expect further decisions on timetabling to be made. The parties will formalise interim arrangements, to apply until a new scheme can be agreed between the parties or ordered by the Tribunal.

Review of the Scheme applicable to Free TV Members.

For many years PPCA has had an omnibus licence scheme available to television broadcasters which are members of Free TV, covering the use of sound recordings in their traditional broadcasts and online catch up offerings.

In February 2022 Free TV advised PPCA of its Members' decision to terminate that licence, and seek amended terms. Following correspondence between the parties, in late December 2022 Free TV advised PPCA that it had referred the matter to the Copyright Tribunal. The parties have agreed interim

arrangements, to apply until a new scheme can be agreed between the parties or ordered by the Tribunal. The hearing is currently scheduled to take place during October 2024.

Section 10: Publicity and Reporting
(Code, Clause 4 (a))

During the reporting period, PPCA met its obligations under clause 4 (a).

PPCA maintains a dedicated page on its website for the Code, with links to the Code text, previous PPCA compliance reports, the Code Reviewer's Report and the CCCCS website. The link to this dedicated page is in the footer of every single page on the PPCA website. Staff are trained to answer questions about the Code, as well as direct Licensors, Registered Artists and licensees to the dedicated page for further information. A copy of the Code can be provided on request.

During the reporting period PPCA published the notice for the call for submissions to the report on its website as well as a news article to alert all visitors to the website about the upcoming annual review.

Section 11: Annual Compliance Monitoring and Reporting
(Code, Clause 5 (c))

During the reporting period, PPCA met its obligations under clause 5 (c).

PPCA constantly reviews and updates its processes and systems to improve its efficiency and data handling. During the period PPCA continued to explore the potential broader use of monitoring services to obtain more data, and more accurate data, on the use of music in venues. PPCA is also seeking, through the renegotiation of key broadcast agreements, additional information on recordings used by those licensees.