



Report to Code Compliance Reviewer on compliance with Collecting Societies Code of Conduct for year ending 30 June 2020

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PHONOGRAPHIC PERFORMANCE COMPANY OF AUSTRALIA LTD
REAL MUSIC • REAL ARTISTS • REAL IMPACT

PPCA PROVIDES LICENCES FOR THE PUBLIC USE OF SOUND RECORDINGS
AND MUSIC VIDEOS PROTECTED BY COPYRIGHT. USERS MAY ALTERNATIVELY
OBTAIN LICENCES DIRECTLY FROM ALL RELEVANT COPYRIGHT OWNERS.

Collecting Societies Code of Conduct

Report to the Code Compliance Reviewer on compliance for the year ending 30 June 2020

Background

This annual report is in respect of the Phonographic Performance Company of Australia Pty Limited (**PPCA**) and its compliance with the Code of Conduct for Copyright Collecting Societies (the **Code**) during the financial year ending June 2020.

On 1 July 2019, a revised Code arising from a review by the Bureau of Communications Arts Research (**BCAR**) in the Department of Communications and the Arts, came into effect. This report will address how PPCA has met its obligations under the revised Code.

This report, together with the reports of the Code Compliance Reviewer, will be made available on the dedicated Copyright Collecting Societies of Australia website (**CCSA Website**)^{and}, as has been the practice since the Code was first introduced, on PPCA's own website.

Section 1

Legal Framework (Code, Clause 2.1)

During the period, PPCA met its obligations as set out in clause 2.1 of the Code.

The PPCA Constitution did not change during the reporting period.

During the period, PPCA's Privacy Policy did change to provide more detail as to PPCA's practices in handling the personal information of PPCA Licensors and Licensees. In particular, the Privacy Policy now includes more detailed information as to the primary and secondary uses of personal information, and which businesses and organisations, and the circumstances under, PPCA may make disclosures of personal information to.

Copies of the PPCA Constitution, Privacy Policy, Distribution Policy and Complaints Handling and Dispute Resolution Policy are available from the PPCA website, as well as the CCSA Website.

PPCA has also made available a plain-English guide of the PPCA Distribution Policy as well as a plain-English guide explaining how Undistributed Funds are handled. These guides provide a simpler overview of PPCA's distribution practices and provide readers with links to the full Distribution Policy, as well as details as to where they can direct further questions.

Section 2

Members (Code, Clause 2.2)

PPCA is a limited company, with equal shares held by the remaining three of the six founding record company members. These members are ineligible for any dividend from PPCA Net Revenue, and only receive remuneration on the same basis as all other Licensors, in line with PPCA's Distribution Policy.

As a result, where other collecting societies refer to "Members", PPCA interacts with Licensors – Licensors are copyright owners or exclusive licensees in sound recordings. PPCA's relationship with Licensors (including its shareholder Members) is governed by the standard terms of the Input Agreement, rather than the PPCA Constitution. The Input Agreement allows PPCA to sub-license on a non-exclusive basis and create the blanket public performance and other licence schemes utilised by users of sound recordings (particularly small business).

Similarly, rather than Artist Members, PPCA has "Registered Artists". Registered Artists can receive a payment under the Distribution Policy's Artist Direct Distribution scheme, provided they are an

Australian artist featured on a sound recording. This payment is made on an ex-gratia basis and does not arise from any copyright held by the artists themselves.

As of 30 June 2020, PPCA had 2,900 licensors representing major record companies, smaller record companies and independent copy right owners (for example, recording artists themselves). At the same time 4,575 artists had registered with PPCA.

The Distribution Policy was updated, with the changes going into effect on 1 July 2019. There were no major amendments to the policy, but it was updated to make the language clearer and present the material in a layout, with examples, to make the document easier to read. The Input Agreement was not amended during the period under review.

PPCA will normally receive queries from prospective Licensors by phone or email. In such circumstances, PPCA usually refers the applicant to the relevant section of the website and the online registration form (<http://www.pcca.com.au/labels/register-as-a-licensor/>). An acknowledgement letter⁹ is sent to Licensors upon receipt of their track registrations.

Similarly, queries from Artists on registering with PPCA's Artist Direct Distribution Scheme are now generally received by email, in which case applicants are directed to the relevant area of the PPCA website (<http://www.pcca.com.au/artists-home-/register-as-an-artist/>) and the online registration forms.

The PPCA website provides an FAQ section for both Licensors and Artists to help explain the services PPCA provides. Licensors and Artists can access the PPCA Constitution from the PPCA website, the CCSA website, or are given one upon request.

In addition to the publication of its newsletters, during the period under review PPCA emailed its Licensors and Registered Artists to provide information on matters of interest to those stakeholders.

During the period under review, PPCA did not receive any requests from licensees for the methodology or matters taken into consideration when setting licence fees.

Section 3

Licensees (Code, Clause 2.3)

Since the last reporting period, OneMusic Australia Pty Limited (**OneMusic**) launched operations. OneMusic is a joint initiative of APRA AMCOS and PPCA and offers blanket public performance licences which cover both the copyright in the musical works and the sound recording. OneMusic was established to ease the burden on Australian businesses by creating a one-stop shop where businesses could acquire the necessary licensing to play music. With OneMusic's launch, PPCA handed over the bulk of its public performance licensing service to OneMusic, with the majority of the PPCA Public Performance Licensing team also moving to OneMusic. Although PPCA continues to directly licence some businesses who have not yet transitioned to a OneMusic licence, as well as continuing to issue broadcast and communication licences, the commencement of OneMusic has resulted in a large reduction in the number of licensees with whom PPCA is in direct communication

As at 30 June 2020, PPCA had 4,249 businesses and individuals licensed for the use of protected sound recordings and music videos. We note that a large portion of these public performance licences have since terminated, with licensees advised of the new joint licence offering and referred for transition to OneMusic Australia. This will be reflected in PPCA's report for the 20/21 year.

PPCA has broadcast and communication licences in place for services, including broadcasting, non-interactive and semi-interactive music streaming services.

PPCA continues to license a range of services operating within the radio and broadcast sectors, as well as services which stream music or music videos online. The type of licences issued by PPCA include:

- radio broadcast licences and separate simulcast licences for commercial radio broadcasters;
- radio broadcast and optional simulcast licences for members of the Community Broadcasting Association of Australia (**CBA**A) and community radio stations that operate independently of the CBA
- narrowcasting broadcast and optional simulcast licences for narrowcast operators;
- television broadcast licences and communication licences for free-to-air television broadcasters;
- broadcast and communication licences for subscription television operators (including IPTV operators);
- communication licences for subscription video on demand services;
- television and radio broadcast licences, simulcast licences and communication licences for the ABC and SBS;
- communication licences for linear music streaming services (such as internet radio stations) and semi-interactive music streaming services; and
- communication and broadcast licences for background music services that provide music services to commercial premises by means of broadcast or streaming.

In light of the COVID-19 pandemic and the need for greater flexibility to enable businesses to continue to operate, PPCA offered two additional complimentary licences, on a temporary basis, covering the live-streaming of sound recordings. These licences were made available to public performance licence holders in the dance instructors, gyms, and fitness centres sectors to supplement their existing licence and enable them to stream classes to their clientele, and for religious institutions to stream worship services to their congregation.

PPCA also provides licensing through a number of joint licensing agreements. They include:

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

PPCA's website contains information on the range of broadcasting and digital licences available, the application process, and a range of FAQs covering matters both specific to PPCA and on copyright issues more generally.

PPCA, in collaboration with APRA, continues to engage in extensive consultation to finalise the remaining licence schemes to be administered by OneMusic. As a consequence of APRA's role in administering OneMusic further detail on the development of OneMusic licensing schemes can be found in the APRA submission.

During the period under review, PPCA enacted several relief measures for licensees in response to the summer bushfire emergencies and the ongoing COVID-19 pandemic.

For licensees in areas impacted by the bushfire emergencies in New South Wales and Victoria, all music licensing was paused. Existing licensees had their accounts placed on hold, and a complimentary 12-month licence was offered where appropriate. Invoices were also pro-rated for businesses which had to temporarily suspend trade during the emergency.

In March 2020, PPCA posted a notice on its website outlining its COVID-19 policy and the steps taken to provide relief to licensees. Where a licensee had been forced to stop trading, PPCA placed their account on hold, paused invoicing and suspended debt collection for any outstanding invoices. Further, when made aware of any licensees that had prepaid licence fees for periods of closure, PPCA made pro-rata adjustments and processed any resulting refunds.

Section 4

Distribution of Remuneration and Licence Fees (Code, Clause 2.4)

PPCA maintains and makes available on its website the PPCA Distribution Policy. The Distribution Policy sets out how PPCA collects licence fees for the use of protected sound recordings and music videos, the type and range of expenses that impact the net surplus, and how that surplus is then allocated and paid to Licensors. The Policy also incorporates details of PPCA's Direct Artist Distribution Scheme – an *ex gratia* arrangement under which featured Australian artists may register to receive payments directly from PPCA, regardless of whether they have retained copyright in the sound recordings on which they feature.

Changes were made to the Distribution Policy, which took effect at the start of the period under review, 1 July 2019. The Policy was not drastically changed, but refreshed to make the Policy easier to understand. The Policy was also amended to include references to the new plain-English summary guides covering PPCA's distribution practices. The Distribution Information Guide offers a simple, 4-page summary of the Distribution Policy. The Undistributed Funds Guide explains PPCA's handling of funds which cannot be distributed. Both plain-English summary guides are available from PPCA's website.

In addition to being made available on the website, the Distribution Policy is provided to each new Licensor along with the Input Agreement. This correspondence describes the overall scheme as outlined in the Distribution Policy and advises that it, alongside all other policies, can be viewed on the PPCA website or provided on request. Any amendments to the policy are communicated in a variety of ways, including through articles in the regular Artist and Licensor newsletter as well as through direct communications.

PPCA undertakes a single annual distribution for the financial year ending 30 June, which is issued prior to the following 31 December each calendar year.

During the period under review, PPCA did not receive any requests from licensees asking for details about how their particular licence fee was distributed to licensors and artists.

The COVID-19 pandemic and resulting shutdown of venues has had a devastating effect on record labels and artists, many of which normally rely on live performances and touring as a critical source of income. In acknowledgement of the struggles the industry was facing, on 20 March 2020, PPCA offered Registered Artists a one-off advance, with payments ranging between \$250 and \$10,000. Eligible artists were directly contacted by PPCA regarding the scheme. Altogether, 205 artists applied to receive the advance, with the resulting payments made during the period under review, and within days of receiving the relevant information from the applicant.

Section 5

Collecting Society Expenses (Code, Clause 2.5)

PPCA's operating expenses are deducted from total gross revenue, yielding a surplus available for allocation and distribution to Licensors in line with PPCA's Distribution Policy.

The Annual Report for the year ended 30 June 2019 (published during the review period and available on the PPCA website) showed that the expense to revenue ratio was 13.9%.

In accordance with the Distribution Policy, an additional 2.5% of gross revenue was deducted, to be used for charitable, educational and like purposes, with the balance paid into the PPCA Performers' Trust.

Section 6

Governance and Accountability (Code, Clause 2.6)

PPCA's financial records are subject to an annual external audit. Reports from both the Board of Directors' and the external auditors are published in the Annual Report. The Annual Report is available on PPCA's website. The report contains detailed information required by Clause 6.2(e) of the Code. In addition, the Board-appointed Finance Committee meets regularly to review interim financial accounts, and the outgoings and expenses contained therein.

PPCA provides, as part of the annual distribution process, Licensors and Registered Artists with detailed statements setting out the composition of their allocation and payment on a track by track basis.

The PPCA Board, Committees and relevant Managers are provided with a copy of PPCA's Competition and Consumer Compliance Guidelines, and training presentations are held periodically.

In line with PPCA's Constitution (specifically clauses 6.2 (b) and 6.2 (c)), PPCA conducts regular elections to fill positions for both Licensor and Artist Representative Directors. At each meeting of the PPCA Board of Management, Board members are reminded of their obligations and duties.

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

Section 7

Staff Training (Code, Clause 2.7)

On commencement of their employment, PPCA staff are provided with a number of key documents, including the Code of Conduct, PPCA's Privacy Policy and the Complaints Handling and Dispute Resolution Policy.

Individual teams involved in licensing meet on a regular basis. During these meetings staff are reminded of PPCA's obligations under the Code and other policies.

The Business Affairs and Distribution Departments meet regularly for staff training and process review purposes. Department managers are provided with copies of any complaints received, relevant to their department, so they can be discussed and reviewed at team meetings.

Staff training sessions for the Credit, Business Affairs and Distribution departments on the Code are held regularly. PPCA maintains an in-house intranet which makes available all key policy documents, including the Code. Staff are encouraged to review the intranet regularly and are notified when changes are made to PPCA policies.

Section 8

Education and Awareness (Code, Clause 2.8)

As OneMusic now manages the operational aspects of PPCA's public performance licensing service and is responsible for engaging with public performance licensees, PPCA does not now directly engage with licensees at the same level as previous years, as users of these licences are now able to obtain relevant information from a single source (i.e. OneMusic Australia). Where PPCA still directly administers licences, explanatory materials are provided to prospective licensees about the role of PPCA, benefits of music licensing, and the operation of the Code.

The 19/20 financial year was one of transition, with existing PPCA licensees directed to OneMusic as the term of their PPCA licence drew to a close. PPCA worked closely with APRA to ensure that messaging was aligned and provided consistently, in order to guide clients through the termination of

their PPCA (and APRA) licences, and the process for obtaining a single licence under the newly settled OneMusic Australia joint schemes. Information was made available by post, distribution at specific industry events, trade publications and the PPCA website. PPCA maintained relationships with a number of licensee representative bodies and, in partnership with APRA, provided materials and ongoing updates to those bodies on the transition to OneMusic, to allow them to best advise their members.

PPCA engages with artists and licensors in several ways to educate them as to the role and function of PPCA. This includes regular meetings, presenting at seminars and panel discussions, and distributing explanatory material. PPCA also issues a newsletter, *On The Record*, to artists and licensors on a regular basis. To assist artists and licensors during the COVID-19 pandemic, PPCA provided information about various initiatives and support available.

PPCA uses Facebook and Twitter to speak directly with registered/potential artists and licensors, keeping them informed on PPCA news, issues and initiatives, as well as providing the latest music industry information to help aspiring artists, managers and music industry professionals. PPCA posts an average of one to two posts a week on Facebook and Twitter. PPCA currently has 2,979 followers on Facebook and 1,915 followers on Twitter.

PPCA raises public and industry awareness of its role through its support of Sounds Australia, the PPCA's Performers Trust Foundation, the Why Music Matters initiative, the Arts Law Centre of Australia, the Australian Copyright Council, the ATSI office, the Australian Independent Record Labels Associations (AIR), Support Act, the Association of Artist Managers, and the Australian Songwriters Association Awards. Awareness is further enhanced through the recording grants program which is operated in partnership with the Australia Council each year. This grants program facilitates the creation of new music by Australian artists.

PPCA, alongside other key Australian collecting societies, provides through its membership of the Australian Copyright Council financial support which assists the Council make available free, independent advice and information on a range of copyright issues of interest to both creators and users of copyright material.

The PPCA website provides useful resources for both music users and copyright owners. The website is promoted in a variety of ways, including PPCA promotional materials, industry listings, banners, flyers and correspondence.

Section 9

Complaints and Disputes (Code, Clause 2.9)

PPCA is committed to the equitable, transparent handling and resolving of complaints and dealing with all existing and potential licensees, licensors and registered artists in a courteous and reasonable manner.

All PPCA employees are provided with information on our Complaints Handling and Dispute Resolution Policy (**Complaints Handling Policy**), and are encouraged to ask questions and review related processes regularly. The policy document is available on the PPCA website, the internal intranet, and is also provided to new employees as a hard copy document as part of their induction package. They are also made aware that the policy is available from the PPCA website, internal intranet, their supervisor and the Complaints Officer.

No changes were made to the Complaints Handling Policy during the period under review.

A Complaints Officer continues to oversee the complaints process on behalf of PPCA, and the Officer has access to all other PPCA employees so as to properly address any issues raised by complainants.

The Complaints Handling Policy sets out guidelines to ensure any complaint is handled in a fair and reasonable manner.

The Complaints Handling Policy is readily accessible from the PPCA website and can be supplied upon request.

The Complaints Handling Policy is written in plain language and sets out the means by which complaints can be lodged and how they will be handled by PPCA. Staff are trained to be able to direct licensees, artists and licensors to the policy, explain the process of lodging complaints, how the complaints are handled and the approximate timeline for resolving complaints. Staff are also trained to direct complainant to the Complaints Officer where necessary.

The Complaints Handling Policy advises that support is available for any persons who require assistance in describing or lodging their complaint.

The policy states that a complaint may require PPCA to take further action to rectify a mistake or launch a review of certain processes.

All complaints are recorded in a complaints register database, and are regularly reviewed to identify any recurring issues. Individual complaints and the process under which they are handled are reviewed annually.

Of the 2 complaints received during the period under review, both were lodged by copyright owners.

PPCA Complaint 1

In December 2019, PPCA was contacted by a record label CEO who had noticed their label was listed on the PPCA Licensors Labels list, available from the PPCA website. The CEO complained that they had never registered with PPCA, and wanted to know why their label was listed as a PPCA Licensor. PPCA's Complaints Officer responded that the label had been registered by two overseas rights management organisations which the record label may have authorised to handle their catalogue. The Complaints Officer explained that occasionally, where a record label did not have direct representation in Australia, these rights management organisations acting on behalf of the label may register the label's catalogue with PPCA. She recommended that, if the owner did not want the record label to be registered with PPCA, they contact the rights management organisations to have them remove the label from PPCA's list. If the record label decided to take this action, she asked that they let PPCA know as they would follow up with the rights management organisations. The CEO decided not to have the record label removed, and instead asked that PPCA correct the title of the record label.

PPCA Complaint 2

In March 2020, PPCA was contacted by a recording artist who was attempting to register as a Registered Artist via the PPCA website, but kept receiving an error message every time they tried to submit their details. A member of PPCA's Distribution team emailed the artist a PDF copy of the online artist registration forms which could be returned via email. PPCA's IT team was informed of the error.

Other Legal Matters

No new legal proceedings were commenced by PPCA during the period under review.

Section 10

Publicity and Reporting (Code, Clause 4)

PPCA publishes a notification of the Annual Code of Conduct review process and the Triennial Code Review on its website and in both newsletters. The Code is available on the PPCA website, alongside all historical reports on Code compliance issued by the Code Compliance Reviewer, as are all reports issued in relation to all the Triennial Review processes.

PPCA also notes the Code Reviewer's report on PPCA compliance with its obligations under the Code in its annual report. Since the introduction of the CSAA website, PPCA's website also provides a direct link to that website.

Section 11

Annual Compliance Monitoring and Reporting (Code, Clause 5.2(c))

The process of ensuring that appropriate data is available for the proper allocation of the distributable surplus is continuous and ongoing, as new sources of data become available at a reasonable cost relative to the pool of income to be distributed.

During the review period PPCA was able to make arrangements to acquire data relating to market leading subscription streaming services, to supplement the existing data already used to distribute various public performance revenue pools. This data will be utilised for the first time in December 2020, when the year ending June 2020 surplus is distributed to PPCA Licensors and Registered Artists.