



PPCA Compliance with the Copyright Collecting Societies Code of Conduct for the Year Ending 30 June 2021

July 2021

Report to the Code Compliance Reviewer on PPCA Compliance with the Copyright Collecting Societies Code of Conduct

Introduction

This annual report has been created in accordance with the Code of Conduct for Copyright Collecting Societies (the **Code**). It details the Phonographic Performance Company of Australia Pty Limited's (PPCA) compliance with the Code during the financial year ending 30 June 2021 (the **reporting period**).

This report, together with the reports of the Code Compliance Reviewer and other copyright collecting societies, will be made available on the dedicated Copyright Collecting Societies of Australia website (**CCSA Website**) as well as PPCA's own website (www.pcca.com.au).

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Section 1: Legal Framework

(Code, Clause 2.1)

During the reporting period, PPCA met its obligations under clause 2.1.

The PPCA Constitution did not change during the reporting period.

During the period, PPCA's Privacy Policy was updated to reflect new information collection methods used when collecting information from PPCA Licensors and Licensees.

Copies of the PPCA Constitution, Privacy Policy, Distribution Policy, and Complaints Handling and Dispute Resolution Policy are available from the PPCA website and the CCSA Website. Plain-English guides about the PPCA Distribution Policy and Undistributed Funds are also available from the PPCA website. These guides provide simpler explanations of PPCA's distribution practices as a supplement to the detailed Distribution Policy.

Section 2: Members

(Code, Clause 2.2)

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

PPCA is a limited company with equal shares held by the remaining three founding record company members (in 1969, PPCA had six founding record company members). These shareholder Members are ineligible for any dividend from the PPCA Net Revenue, and only receive remuneration on the same basis as all other Licensors. Remuneration is received in accordance with PPCA's Distribution Policy.

As a result, where the Code and other collecting societies refer to "Members", PPCA instead interacts with Licensors. Licensors are the copyright owners or exclusive licensees in sound recordings for Australia. PPCA's relationship with Licensors (including its shareholder Members) is principally governed by the terms of the Input Agreement rather than the PPCA Constitution. By signing the Input Agreement, Licensors agree to allow PPCA to sub-license their sound recordings on a non-exclusive basis and create blanket public performance and other licence schemes utilised by users of sound recordings.

Like the arrangement with Licensors, PPCA does not have "Artist Members", but rather has "Registered Artists". Registered Artists can receive a payment under the Distribution Policy's Artist Direct Distribution Scheme (ADDS). To be eligible for ADDS, the artist must be an Australian artist featured on a sound recording. These payments are made on an ex-gratia basis and do not arise from any copyright held by the artists themselves.

As of 30 June 2021, PPCA had 3,215 Licensors representing major record companies, smaller labels, and independent copyright owners (for instance recording artists themselves). At the end of the reporting period 4,801 Artists were registered with PPCA.

During the reporting period, the Distribution Policy was updated. The update was to better reflect current sources of playlist data which impact the distribution of licence fees received, as well as more information about the type of licences from which PPCA derives licence fee income. The Input Agreement was not amended during the reporting period.

PPCA normally receives queries from prospective Licensors by phone or email. When this occurs, PPCA team members will refer the applicant to the relevant section of the website and the appropriate online registration form (a PDF copy which can be posted is also available from the PPCA website). An acknowledgement letter or email is sent to Licensors upon receipt of their track registrations.

Similarly queries from Artists on registering with PPCA's ADDS are often received by phone and email, at which point the enquirer is directed to the relevant section of the PPCA website and online registration form (a PDF copy that can be posted is also available from the website). Staff members from the Distribution team are available via phone and email to assist copyright owners and artists with completing the online or hard copy forms.

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

During the reporting period PPCA published newsletters and emailed Licensors and Registered Artists to provide information on matters of interest and key developments. This included information on

support for record companies and artists impacted by the COVID-19 pandemic and live music industry shutdown. In particular, PPCA continued to share information on how individuals could receive financial and mental health support from Support Act, a music industry-focused charity of which PPCA is a key stakeholder and supporter and provided updates on support initiatives of both State and Federal Governments.

Section 3: Licensees

(Code, Clause 2.3)

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

PPCA licences business and individuals both directly and indirectly via OneMusic Australia (**OneMusic**). OneMusic is a joint initiative of PPCA and APRA AMCOS, the copyright collecting society for musical works. OneMusic is administered by APRA AMCOS. Since its launch, OneMusic has been responsible for the administration of PPCA public performance licences, licensing the use of music in businesses.

As of 30 June 2021, PPCA directly licensed around a thousand businesses and individuals for the use of protected sound recordings and music videos. The reduction of the number of licensees from last year is reflective of the overwhelming majority of PPCA public performance licensees now acquiring their licences from OneMusic instead of PPCA directly.

PPCA still offers broadcast, communication, and public performance licences for a range of services, including radio and television broadcast, non-interactive and semi-interactive music streaming services. 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 (**CBAA**) and community radio stations that operate independently of the CBAA;
- on demand licences for radio 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 on-demand communication licences for ABC and SBS;
- 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 services to commercial premises by means of broadcast or streaming; and
- live-streaming licences for particular activities and events.

PPCA also provides licensing through several 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 agreements with ARIA and APRA AMCOS; and
- State education departments with ARIA and APRA AMCOS.

PPCA's website contains information on the range of broadcasting, digital and joint licences available. This includes a brief description of the licences available, the application process, and FAQs covering matters both specific to OneMusic licensing schemes and on copyright issues more generally.

PPCA continues to collaborate with APRA AMCOS on potential new licensing schemes and changes to current licences offered by OneMusic. As the administrator of OneMusic, details about these discussions can be found in APRA AMCOS' submission to the Code Reviewer.

During the current reporting period PPCA has continued to exercise forbearance when dealing with licensees, especially in regard to their individual circumstance considering the ongoing COVID restrictions. This has included stopping debt collection and waiving licence fees for individuals and businesses whose activities have been severely impacted by COVID restrictions and lockdowns.

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

Section 4: Distribution of Licence Fees

(Code, Clause 2.4)

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

PPCA maintains and makes available the PPCA Distribution Policy on its website. The Policy details how PPCA collects licence fees, how income is spent on expenses and what PPCA expenses include, and how the net surplus is allocated and paid to Licensors. The Policy also includes information regarding PPCA's Direct Artist Distribution Scheme (**ADDS**). ADDS is an ex-gratia arrangement under which Australian artists who are featured performers on tracks can register to receive payments directly from PPCA, regardless of whether they have retained copyright in the sound recordings on which they feature.

Two guides are also available from the PPCA website: a guide to the PPCA Distribution Policy and the Undistributed Funds guide. These 'plain-English' guides are designed to be easy to read, giving a simple overview of the operation of the Distribution Policy, and a clear explanation of how PPCA handles any components of net licence fees which cannot, for various reasons, be distributed.

During the reporting period changes were made to the Distribution Policy. These changes provided more detail about the type of licences PPCA offers, and included new methods being used by PPCA to gather data and make allocations for the purposes of the annual distribution, including the use of proxy streaming data and data sourced from Music Recognition Technology (MRT) providers.

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. Licensors must register their details and sound recordings to by 31 August the same year to be eligible for the December distribution.

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

Section 5: Collecting Societies Expenses

(Code, Clause 2.5)

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

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

The Annual Report for the year ending 30 June 2020 showed that the expense to revenue ratio was 15.4%, a rise from last year's 13.9%. The cause of this rise has been attributed to several unexpected events which occurred in the first half of 2020 – primarily the COVID-19 pandemic and various lockdowns and restrictions which led to an unanticipated decline in public performance revenue. The Annual Report was published during the reporting period and is available from the PPCA website.

In accordance with the Distribution Policy, an amount equivalent to 2.5% was deducted from the gross amount initially allocated to local repertoire. This was used for educational and charitable purposes. Due to the unexpected reduction in the net surplus (including the local repertoire pool) for FY2020, no payment was made to the PPCA Performers' Trust in respect of this distribution period.

Section 6: Governance and Accountability

(Code, Clause 2.6)

During the reporting period, PPCA met its obligations under 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 Board appointed Finance Committee also meets regularly to review interim financial accounts, outgoings and expenses.

During the annual distribution process, Licensors and Registered Artists are provided with a statement setting out the composition of their allocation and payment on a track-by-track basis.

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

In line with the PPCA Constitution, PPCA conducts regular elections to fill positions for both Licensor and Artist Representative Directors. At each meeting of the PPCA Board, 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)

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

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

Individual teams involved in licensing and artist and label services 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 teams meet regularly for staff training and to review internal processes and policies. Department managers are provided with copies of any complaints received relevant to their department. Complaints are discussed and reviewed at department meetings.

All PPCA staff receive periodic training sessions about the Code. The sessions explain the purpose of the Code, and the obligations staff members have for licensees, Licensors and Registered Artists. PPCA maintains an internal intranet service where all key policy documents, including the Code, Privacy Policy, Distribution Policy, and Complaints Handling policy, are made available. Staff are encouraged to regularly check the intranet and are notified when key policies are amended.

Section 8: Education and Awareness

(Code, Clause 2.8)

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

PPCA continues to make available material and content for prospective licensees, licensors, and members of the public about the purpose of PPCA, the benefits of music licensing and the operation of the Code.

From the PPCA website, people can access information about the history of PPCA alongside information on all the licences PPCA still directly administers. A dedicated page on the Code is available from the website, explaining the purpose of the Code, PPCA's compliance and with a link to the CCSA website. A link to this dedicated page is available on every page on the PPCA website (via the footer). PPCA also maintains an extensive FAQ section which provides information about the basics of copyright in music, the role of PPCA in licensing, the difference between PPCA and other music licensing bodies such as APRA AMCOS and OneMusic, as well as information on a number of other related matters.

PPCA engages with Licensors and Artists to educate them on the role of PPCA through regular meetings and the publication of the newsletter *On The Record*. The newsletters provided specific information about well-being support and financial assistance available to artists during the COVID pandemic. PPCA also engages both current and prospective artists and licensors through its social media channels. Several posts are made on a weekly basis, informing users about developments within the music industry, the availability of COVID related support, and opportunities for Australian artists. Due to the COVID pandemic and restrictions, PPCA representatives did not physically attend any conferences where explanatory materials are traditionally distributed during the reporting period. However, PPCA did participate in some virtual conferences, producing short video content explaining the role of PPCA and how to register as a Licensor or Artist.

PPCA also engages with a number of organisations to raise awareness of the operation of copyright collecting societies and the Code.

PPCA continues to collaborate with APRA AMCOS on producing materials that help raise awareness of both organisation among songwriters, artists, and prospective licensees. For example, within the reporting period PPCA and APRA AMCOS trialed a commercial radio advertising program undertaken by OneMusic to make potential licensees aware that they may need to acquire music licensing when playing background music in their business.

During the reporting period, PPCA partnered with the Australian Association of Artist Managers (AAM) to produce a guide for music managers. This guide covered several issues, including some copyright basics, the role of PPCA, how to register Artists and individual tracks, a brief outline of the PPCA distribution policy and allocation process, and other associations and resources managers may want to review to help them manage and administer their artists' rights, particularly in relation to sound recordings. PPCA representatives have also regularly met with managers during the reporting period to answer specific questions about the guide or other related-matters and provide information on types of assistance they or their artists could access.

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, NATSIMO, the Australian Independent Record Labels Associations (AIR), Support Act, the Association of Artist Managers, and the Australian Songwriters Association Awards. PPCA continues

to be a member of the Australian Copyright Council, providing financial assistance so that the ACC can continue to be a free resource available to Australian creators and members of the public.

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. During the reporting period, the Australia Council, ARIA and PPCA announced a new and additional round of grants, specifically for First Nations artists. Grants were awarded to five recipients to assist with the production of new music and providing access to managerial and industry support.

PPCA raises its profile and awareness of its role in music licensing through sponsoring individual awards at the AIR Awards, ARIA Awards, and ARIA Week. In the ARIA Awards, the PPCA-sponsored award, 'Breakthrough Artist of the Year', is awarded on-air during the free-to-air broadcast, with the presenter providing references to PPCA's role as a copyright collecting society.

PPCA continues to collaborate with APRA to improve current OneMusic licensing schemes. Ongoing consultations are still taking place with various industries and stakeholders in regard to the consolidation of one area of separate pre-existing APRA and PPCA licence schemes. It is expected that consultation, which has been delayed due to the impact of COVID on the broader music industry, will be concluded during the 21/22 reporting period.

Section 9: Complaints

(Code, Clause 2.9)

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

PPCA is committed to the equitable, transparent handling and resolving of complaints, and to ensuring all existing and potential licensees, Licensors and Registered Artists are treated in a courteous and reasonable manner. Critical to this is all staff members adherence to the PPCA Complaints Handling and Dispute Resolution Policy (**Complaints Handling Policy**).

The Complaints Handling Policy sets out guideline and the process to ensure that all complaints are handled in a fair and reasonable manner. The Policy is made available on the PPCA website, and can be supplied on request.

All PPCA staff members are provided with information on the Complaints Handling Policy when they commence their employment and are encouraged to ask questions and review processes regularly. Staff members are also made aware that the Policy is available from the PPCA website, internal intranet, their supervisors, and the Complaints Officer.

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

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, Licensors and Registered Artists to the Policy, explain the process of lodging complaints, investigating and handling complaints, and the approximate timelines for resolving complaints. Staff are trained to direct complainants to the Complaints Officer where necessary. Support is available for complainants who require assistance in lodging or describing their complaint.

As a result of a complaint, PPCA may need to take further action so as to rectify an error or launch a review of relevant processes.

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

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

Complaints received from 1 July 2020 to 30 June 2021

Of the three complaints received during the reporting period, one was from a Licensee, one was from a potential Licensor, and one was from a copyright owner.

Complaint 1

In July 2020, the Licensee enquired why a credit on their PPCA account had not transferred to their OneMusic Australia account, and requested a refund of the credit. PPCA responded that as PPCA and OneMusic were separate entities, it wasn't possible to transfer the credit to another company. Once the Licensee's details were reconfirmed, PPCA processed the refund. The Licensee subsequently complained that while the refund had been received, an administration fee had been deducted. PPCA apologised for charging the fee and refunded the amount.

Complaint 2

In October 2020, the potential Licensor complained they had not received the form to register their recordings two weeks after initially requesting it. PPCA apologised for the delay and sent the Licensor the necessary forms. PPCA also informed the Licensor that the cut-off date for registering for the 2020 distribution had passed (31 August 2020), but once registration was finalised the Licensor would be eligible to receive a distribution payment in 2021. PPCA followed up several months later as no forms had been received. The potential Licensor responded advising they would immediately register their recordings. The PPCA Distribution team have since further interacted with the complainant and expect registration forms shortly.

Complaint 3

In June 2021, a record label contacted PPCA stating they had been informed by their digital aggregator that PPCA had made conflicting neighbouring claims on specific releases. The label requested that PPCA immediately withdraw these claims. PPCA explained that it was not PPCA which had made the conflicting claims on the releases, but rather it was other PPCA Licensors who had made claims after the label's digital aggregator registered those recordings with PPCA. Also, PPCA was able to advise that several of the conflicting claims had already been withdrawn. PPCA enquired with the record label whether their digital aggregator was authorised to register their tracks with PPCA. As of 30 June 2021, no response has been received.

Other Legal Matters

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

Section 10: Publicity and Reporting

(Code, Clause 4)

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

PPCA publishes a notification of the Annual Code of Conduct review process on its website and in its newsletters.

A copy of the of the Code is available on the PPCA website, alongside previous reports on Code Compliance prepared by PPCA, and reports published by the Code Compliance Reviewer, as well as all reports issued in relation to previous Triennial Reviews.

PPCA also refers to the Code Reviewer's report on PPCA compliance with its obligations under the Code in its annual report. Since the launch of the CSAA website, PPCA refers Licensees, Licensors and Artists, as well as members of the public, to the website, with direct links to the CSAA website available from the PPCA website as well as the PPCA annual report.

Section 11: Annual Compliance Monitoring and Reporting

(Code, Clause 5.2(c))

PPCA is committed to improving business practices and efficiencies, and regularly reviews its own processes and methods of collecting data in order to continuously meet this objective.

During the 20/21 reporting period PPCA introduced a new pool of relevant proxy data to assist in the distribution of general public performance revenues, having been able to acquire data relating to premium subscription streaming services.

During the reporting period PPCA also directed considerable attention to responding to the particular unexpected business challenges resulting from the impact of COVID-19, adjusting many of its processes and procedures to accommodate the necessity for the PPCA employees to spend a considerable portion of the year working remotely. Despite the challenging conditions PPCA was able to ensure that licensees, artists and licensors were able to seamlessly contact PPCA staff via all of the usual means, and those staff were able to maintain normal response times.