

HOUSE OF REPRESENTATIVES STANDING COMMITTEE ON ECONOMICS

REVIEW OF THE AUSTRALIAN COMPETITION AND CONSUMER COMMISSION ANNUAL REPORT 2017

15QW: Music industry: APRA-AMCOS – conditions and reporting

Therefore, will the upcoming authorisation process consider introduction of additional conditions that impose clear performance measures and transparent reporting obligations? Further, if the ACCC is unable to impose such conditions does it see the implementation of a Mandatory Code of Conduct as a vehicle for bringing about such reforms?

Answer: If and when APRA seeks re-authorisation, the ACCC will apply the relevant statutory test in determining whether authorisation should be granted.

The *Competition and Consumer Act (2010)* (the CCA) permits the ACCC to specify conditions in an authorisation. Where possible, the ACCC will provide the applicants and interested parties with an opportunity to comment on proposed conditions.

The ACCC regulates mandatory industry codes that are prescribed under the CCA. However, a Minister in the Treasury portfolio is responsible for administering the industry code provisions within Part IVB of the CCA. The Australian Government's 'Industry Codes of Conduct Policy Framework' (available at <https://treasury.gov.au/publication/p2017-t184652/>) indicates that the Government will only prescribe a code in very limited circumstances and that Government intervention will only be considered where there is a demonstrable problem affecting industry participants or consumers which the market cannot or will not overcome, and where such intervention is likely to result in a net public benefit. While it is a matter for the relevant Minister to decide whether an industry code should be introduced, the ACCC notes that industry codes are intended to regulate the conduct of participants in a relevant industry in their dealing with each other and / or consumers. Further, codes are not intended to be used to impose conditions on an authorisation.