

## **Chapter 6**

# **Cooperation between APRA and the PPCA in the collection of royalties**

### **Introduction**

6.1 This chapter examines the option of cooperative licensing activities between APRA and the PPCA. As explained above in Chapter 2, the two societies deal with two different sorts of copyright – APRA acts on behalf of those who own copyright in musical and literary works (composers and publishers), while the PPCA represents those who own copyright in sound recordings (usually record companies). Business people found it difficult to understand why they had to acquire two separate licences for what is essentially one activity – playing a CD or tape.

6.2 While the idea of APRA and the PPCA combining their efforts seemed logical to most small business licensees, such a move may not be practical or in the best interests of the members of these collecting societies.

### **Licensees' views**

6.3 Many small business people did not see the logic in having two separate licensing societies.

6.4 Persons who had been contacted by both societies asked questions like 'where will it end?' and 'how many other organisations

will I have to pay in order to legally listen to music?'. There was a strong feeling that they were paying for the benefit of listening to music twice. It was not uncommon for businesses to be contacted by the PPCA shortly after receiving similar demands from APRA.<sup>1</sup> This increased the level of confusion in the business community and contributed to the widespread feeling that the demands were a hoax.<sup>2</sup>

6.5 The fact that APRA's information material does not mention that there is another society licensing music also contributed to this reaction. The Committee noted that the PPCA's brochure has a section dedicated to explaining the difference between the PPCA and APRA, and the reason that two licences are required by those playing sound recordings.

6.6 From the perspective of many licensees, APRA and the PPCA license the same activity with an almost identical group of music users. It was argued that the two organisations should amalgamate so that licensees need only deal with one licensing body.<sup>3</sup>

6.7 From those persons who did accept and understand the distinctions between the rights administered by APRA and the PPCA came a suggestion that the societies collaborate in their licensing

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1 Ms Connell, SBDC (WA), *Transcript*, p. 14.

2 RCIAA, *Submissions*, p. S434; SBDC (WA), *Submissions*, p. S481; *Submissions*, p. S483; Pharmacy Guild of Australia, *Submissions*, p. S579.

3 West Australian Small Business and Enterprise Association, *Submissions*, p. S53; ARA, *Submissions*, p. S213; Sandbarz Nite Club, *Submissions*, p. S221; TCA, *Submissions*, p. S371; Tasmanian Chamber of Commerce and Industry, *Submissions*, p. S625.

activities.<sup>4</sup> The suggestion was not always clearly defined, however it was envisaged that the two societies could develop a single licensing scheme, jointly contact businesses explaining the scheme and enable businesses to fill in one licence application form. The money could then be distributed between APRA and the PPCA according to agreements made between them.

### **Collecting societies' views**

6.8 The PPCA did not believe that it was feasible or desirable that royalties for the playing of music be collected and distributed by one organisation.<sup>5</sup> It argued that it was erroneous to apply a 'generic concept of copyright to describe a disparate group of rights holders whose only common link is the fact they own intangible intellectual property'.<sup>6</sup>

6.9 The PPCA believed that the best way to address the problems which have arisen out of two collecting societies dealing with similar groups of licensees is to encourage licensing arrangements with state or national industry associations. The PPCA stated that it already had a number of industry agreements in place which allow businesses in an entire sector to be covered, often at a lower fee.<sup>7</sup>

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4 SBDC (WA), *Submissions*, p. S483; Townsville Chamber of Commerce, *Submissions*, p. S504.

5 PPCA, *Submissions*, p. S358.

6 PPCA, *Submissions*, p. S358.

7 PPCA, *Submissions*, p. S359.

6.10 APRA similarly pointed out that APRA and the PCCA administer separate rights, have separate constituencies with different views about how license schemes should be structured and administered.<sup>8</sup>

## **Composers' views**

6.11 The response of composers to the idea of greater collaboration between collecting societies was mixed. Some composers believed it was not appropriate because their distinct interests would be compromised for the comparatively meagre gain of businesses receiving one less invoice a year.<sup>9</sup> Others saw it as a logical step that could make the system more efficient and cost effective for both music users and the copyright owners.<sup>10</sup>

## **Simpson Report**

6.12 The Simpson Review examined the option of merging APRA with the PCCA. The report noted that in Europe there are collecting societies which act on behalf of owners of both types of copyright. There have been difficulties associated with representing both groups. It

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8 APRA, *Submissions*, p. S60.

9 See for example Moonlight Cactus Music, *Submissions*, p. S43; Rainer Linz, *Submissions*, p. S86, Central Australian Aboriginal Media Association (CAAMA), *Submissions*, p. S406A.

10 See for example Irwin Music Productions, *Submissions*, p. S27; Paul Sarcich, *Submissions*, p. S46; Ms Louella Hill, *Submissions*, p. S373; Mr Woodward, Musicians Union of Australia, *Transcript*, p.29.

appears that sound recording copyright owners feel that the writer/publisher interests dominate the organisation and that the interests of the two groups are inherently at variance.<sup>11</sup>

6.13 The Simpson Report concludes that it is not surprising that there is no inclination within existing collection societies to merge given that each represents different copyright owner groups with particular interests.<sup>12</sup> It notes that mergers between collecting societies will occur only when members see a mutual advantage, and is not driven by user convenience.<sup>13</sup>

6.14 The Simpson Report also suggested that mergers between copyright collecting societies may not be in the public interest because such 'super-societies' could have extensive bargaining power which would have trade practices implications.<sup>14</sup> The Simpson Report recommended that there should continue to be a multiplicity of societies so that individual societies can represent the disparate interests of the separate groups of rights owners.<sup>15</sup>

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11 Simpson Report, para. 27.2.

12 Simpson Report, para. 27.4.

13 Simpson Report, para. 27.2.

14 Simpson Report, para. 27.4.

15 Simpson Report, para. 2.6.

## **Conclusion**

6.15 The Committee recognises that the different membership groups of APRA and the PPCA have divergent interests, priorities and methodologies. The Committee appreciates that it may not be in the best interests of the members of the collecting societies for them to merge.

6.16 The Committee acknowledges that licensees would benefit from having only one set of paperwork and one contact point. However, the Committee also understands that the collecting societies have different tariffs which are based on different factors. They also have very different styles and priorities in their licensing activities. For these reasons, the Committee does not think it appropriate to recommend the establishment of a joint licensing system.

6.17 The Committee believes that it is important that both APRA and the PPCA are aware of each other activities. It would also be helpful if the societies explained to their licensees that both collecting societies are legitimate organisations, and outlined the reasons for the existence of two separate licensing systems for the playing of music.

6.18 The Committee believes that license agreements between peak industry bodies and collecting societies are likely to be in the best interests of individual business operators as well as the collecting societies and their members. The Committee urges these parties to consider such arrangements.

### Recommendation 3

The Committee recommends that:

- the Australasian Performing Right Association and the Phonographic Performance Company of Australia continue to operate separate licensing systems;
- the Australasian Performing Right Association and the Phonographic Performance Company of Australia explain in material sent to potential licensees the reasons for the existence of two separate licensing schemes for the playing of music; and
- where it is appropriate, the Australasian Performing Right Association, the Phonographic Performance Company of Australia and peak industry bodies negotiate licensing arrangements which cover sectors of business.