

**Report of Review of Copyright Collecting Societies'  
Compliance with their Code of Conduct  
for the Year 1 July 2023 to  
30 June 2024**

**The Hon K E Lindgren AM, KC**

**21 November 2024**

# Table of Contents

<b>A. INTRODUCTORY OBSERVATIONS .....</b>	<b>3</b>
<b>B. COMPLIANCE WITH CODE REQUIREMENTS OTHER THAN THOSE RELATING TO COMPLAINTS AND DISPUTES .....</b>	<b>8</b>
Australasian Performing Right Association Limited (“APRA”) and Australasian Mechanical Copyright Owners Society Limited (“AMCOS”) .....	8
Copyright Agency Limited (“Copyright Agency”).....	36
Audio-Visual Copyright Society Limited (“Screenrights”).....	50
Phonographic Performance Company of Australia Ltd (“PPCA”) .....	62
Australian Writers’ Guild Authorship Collecting Society Ltd (“AWGACS”) .....	77
Australian Screen Directors Authorship Collecting Society Ltd (“ASDACS”) .....	82
<b>C. COMPLAINTS AND DISPUTES AS REPORTED BY THE COLLECTING SOCIETIES .</b>	<b>89</b>
Australasian Performing Right Association Limited (“APRA”) and Australasian Mechanical Copyright Owners Society Limited (“AMCOS”) .....	89
Copyright Agency Limited (“Copyright Agency”).....	115
Audio-Visual Copyright Society Limited (“Screenrights”).....	120
Phonographic Performance Company of Australia Ltd (“PPCA”) .....	121
Australian Writers’ Guild Authorship Collecting Society Ltd (“AWGACS”) .....	121
Australian Screen Directors Authorship Collecting Society Ltd (“ASDACS”) .....	125
<b>D. COMPLAINT MADE DIRECTLY TO THE CODE COMPLIANCE REVIEWER .....</b>	<b>125</b>
<b>E. CONCLUSION .....</b>	<b>127</b>
<b>APPENDIX A - CALL FOR SUBMISSIONS 2024 .....</b>	<b>128</b>

# Report of Review of Copyright Collecting Societies' Compliance with their Code of Conduct for the Year 1 July 2023 to 30 June 2024

## A. INTRODUCTORY OBSERVATIONS

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1. This report of the Code Compliance Reviewer, the Hon K E Lindgren, AM, KC, is the twenty-first annual report of an assessment of the compliance by the following collecting societies with their voluntary Code of Conduct (**Code**): Australasian Performing Right Association Limited ("**APRA**"), Australasian Mechanical Copyright Owners Society Limited ("**AMCOS**"), Phonographic Performance Company of Australia Limited ("**PPCA**"), Copyright Agency Limited ("**Copyright Agency**" and in places "**CA**"), Audio-Visual Copyright Society Limited ("**Screenrights**"), Australian Writers' Guild Authorship Collecting Society Limited ("**AWGACS**") and Australian Screen Directors Authorship Collecting Society Limited ("**ASDACs**"). This "Compliance Report" assesses that compliance during the period 1 July 2023 to 30 June 2024 (the **Review Period**).
2. AMCOS is administered by APRA. Therefore, the practice is adopted of referring to APRA and AMCOS collectively as "APRA AMCOS" except where it is necessary or convenient to distinguish between them. Although APRA and AMCOS are distinct legal entities, they have furnished a single joint report on their compliance with the Code. It is therefore sometimes convenient to conceive of the number of collecting societies as six rather than seven.

3. For the purposes of the review, each society reported to the Code Compliance Reviewer in respect of its compliance with the requirements of the Code during the Review Period. In some cases, their reports were accompanied by documents which provided the evidence for the statements made in the text of their reports (**Accompanying Underlying Documents**).
4. The review and the opportunity to make submissions relevant to it were advertised: see **Appendix A** to this Report for the notice of the review and for details of the publication of the notice.
5. Certain organisations and individuals who were known or understood to have, or to be likely to have, an interest in the review were individually notified of it by the Code Review Secretariat. The Secretariat has prepared and holds an alphabetical list of them. It is available for inspection on request. It is so voluminous, however, that in the interests of convenience it is not attached to this Report.
6. Historically, a significantly revised version of the Code was adopted with effect from 1 July 2019. This implemented recommendations of a review of the Code that was carried out by the Bureau of Communications and Arts Research (**BCAR** and **BCAR Review**) in the Department which is now called the Department of Infrastructure, Transport, Regional Development, Communications and the Arts.
7. Therefore, the Code as so amended is the version that has operated throughout the Review Period.
8. The practice is now adopted, in accordance with the terminology used in the Code as amended, of distinguishing between the

person who is the Code Compliance Reviewer and the person who is the Triennial Code Reviewer (prior to 1 July 2019 the one person performed both functions and was called simply the “Code Reviewer”).

9. In implementation of a recommendation made in the BCAR Review, there is now a dedicated website for the Code with information and links to documents and information relevant to the Code, including “for publication” versions of each of the societies’ Annual Compliance Reports to me. That website can be visited at [www.copyrightcodeofconduct.org.au](http://www.copyrightcodeofconduct.org.au).
10. At my suggestion made some time ago, the societies’ reports on compliance are structured by reference to the obligations imposed on the societies by clauses 2, 3 and 4 of the Code. Clause 2 is headed “OBLIGATIONS OF COLLECTING SOCIETIES”, Clause 3, “COMPLAINTS AND DISPUTES”, and Clause 4 “PUBLICITY AND REPORTING”. This structure of the reports directs the attention of the societies to all of the obligations imposed on them by the Code.
11. The Code applies to all collecting societies, but Clause 2.9 applies only to declared collecting societies, namely, Copyright Agency and Screenrights. Clause 2.9 was introduced in March 2017 following the issue on 28 October 2015 of a report that was supplementary to my triennial report dated 30 September 2014.
12. As mentioned in previous years, often in the Report I have used words that make it clear that I am giving an account of what the particular collecting society asserts. It would be tedious for me, and for the reader, if I were to remind the reader of this in association with every statement made in the Report. It should be understood, however, that in describing what the collecting societies do, I am inevitably relying entirely on their reports to me. I do not conduct an independent investigation of them. In

saying this, I do not imply that I have reason to doubt the accuracy of what they report to me, but it is inescapable, and should be frankly acknowledged, that my paraphrasing of the societies' reports gives them an opportunity of self-promotion. This does not apply so much to the "COMPLAINTS AND DISPUTES" section, because, in that section, I am able to test the account given by the society against the correspondence, file notes and other Accompanying Underlying Documents relating to the complaints or disputes.

13. As from 1 July 2019 APRA and PPCA introduced their "OneMusic Australia" (OneMusic) licence. It is convenient to note the background. The copyright in a musical work includes the exclusive right to perform the work in public and to communicate the work to the public: see s31(1)(a)(iii) and (iv) of the *Copyright Act 1968* (Cth) (the **Copyright Act**). That right is the concern of APRA. The copyright in a musical work also includes the exclusive right to reproduce a work in certain circumstances: see s31(1)(a)(i) of the *Copyright Act*. That right is the concern of AMCOS.
14. The copyright in a sound recording includes the exclusive right to make a copy of the recording, to cause the recording to be heard in public and to communicate the recording to the public: see s85(1)(a), (b) and (c) of the *Copyright Act*. These rights are the concern of PPCA.
15. Consistently with their respective concerns, the members of APRA and AMCOS are composers, authors and publishers of music, whereas the licensors of PPCA are recording companies and recorded artists.
16. In the absence of an opt-out by the copyright owner, APRA and AMCOS have the exclusive right to license the use of the musical works that constitute their repertoire. PPCA is a non-exclusive licensor of sound recordings: it is open to a person to seek a licence directly from the owner of the copyright in a sound recording rather than from PPCA.

17. In the case of a live performance, a licence from APRA alone is required. But in the case of the playing of sound recordings in public, as in shopping centres, cafes, restaurants and gymnasias, prior to the advent of OneMusic, a person needed to have a licence in respect of the music itself from APRA AMCOS and a separate licence in respect of the sound recording from PPCA or the rights owner.
18. Understandably, small businesses, in particular, commonly failed to understand the need for two licences and complained about it. Indeed, having obtained a licence from either APRA AMCOS or PPCA, they would often resist attempts to persuade them that it was necessary for them to obtain a further licence from the other society.
19. This explains the existence, as from 1 July 2019, of OneMusic, a joint licensing initiative of APRA, AMCOS on the one hand and PPCA on the other, the aim of which is to provide a single licence from a single source in respect of both the musical work and the sound recording—a one stop shop..
20. More will be said of this below when I address the reports from APRA AMCOS and PPCA.
21. I again record my thanks to Kylie Cooke who constitutes the Code Review Secretariat for her considerable help to me in bringing this Report to a conclusion.

## B. COMPLIANCE WITH CODE REQUIREMENTS OTHER THAN THOSE RELATING TO COMPLAINTS AND DISPUTES

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22. This section of the Report, structured society by society, addresses significant events, changes and developments during the Review Period by reference to the relevant clauses of the Code.

### Australasian Performing Right Association Limited (“APRA”) and Australasian Mechanical Copyright Owners Society Limited (“AMCOS”)

#### **General**

23. APRA AMCOS's report on their compliance with the Code was furnished to me on 1 August 2024.
24. APRA AMCOS's joint corporate website is at <https://www.apraamcos.com.au/>.
25. As noted at [2] above, APRA administers AMCOS, and has done so under an arrangement between the two societies since 1 July 1997.
26. APRA AMCOS have previously provided details of the history and constitution of each of them, as well as a history and copy of each licence scheme offered by them.

#### **Legal Framework (Code, Clause 2.1)**

27. APRA AMCOS report that they have not changed any of the principal characteristics of their membership structures during the Review Period.
28. The APRA Board has six writer directors, elected by the writer members, and six publisher directors, elected by the publisher members.



29. The AMCOS Board is elected by the members of AMCOS.
30. Being directly elected by the membership, the Boards of both societies are representative and accountable. A list of the current Directors on the APRA and AMCOS Boards is available on their joint corporate website.
31. Access to the following documents relating to, or becoming available in, the Review Period was provided by APRA AMCOS:
- APRA AMCOS “Year in Review” (an annual summary of both societies’ performance, achievements and initiatives) for the 2022-23 financial year, by way of a link on the website;
  - APRA Statutory Accounts for the 2022-23 financial year;
  - AMCOS Statutory Accounts for the 2022-23 financial year;
  - An organisational chart showing the overall management structure as at 30 June 2024;
  - The Constitutions of both APRA and AMCOS; and
  - APRA AMCOS Privacy Policy.
32. As at 30 June 2024, APRA AMCOS had 400 [2023: 381] employees (including casual compliance staff) in Australia and 36 [2023: 33] employees in the APRA AMCOS New Zealand office.
33. Neither APRA nor AMCOS is a declared collecting society under the *Copyright Act* in respect of any of the statutory licences. Accordingly, neither is required to comply with the requirements of the Attorney-General’s Guidelines for Declaration of Collecting Societies. In practice, however, they report that they satisfy many of those requirements.

## Members (Code, Clause 2.2)

34. As at 30 June 2023, APRA had 124,308 [2023: 119,771] Australian and New Zealand members, comprising composers, authors and publishers. Of these, 120,436 [2023: 116,094] were local writer members, and 582 [2023: 593] were local publisher members. In addition, APRA had 3,270 [2023: 3,074] overseas resident writer members and 10 [2023: 9] overseas resident publisher members. Most Australian and New Zealand composers and publishers of music are members.
35. As at 30 June 2024, AMCOS had 32,491 [2023: 29,604] members, of whom 31,153 [2023: 28,362] were writers and 529 [2023: 534] were publishers. In addition, AMCOS had 800 [2023: 701] overseas resident writer members and 9 [2023: 7] overseas resident publisher members.
36. As at 30 June 2024, APRA had 2,133 [2023: 1,961] and AMCOS had 530 Aboriginal and Torres Strait Islander (**ATSI**) members, which represented an increase in APRA membership of 8.77% [2023: 8.46%] and AMCOS membership of 17.26% during the Review Period. APRA AMCOS state that they remain committed to increasing awareness through the national indigenous membership strategy, overseen by their Director, National Aboriginal and Torres Strait Islander Music Office (**NATSIMO**).
37. APRA AMCOS state that their relationship with their members remains as at the core of their operations, that communication with members is frequent, and that their Member Services staff are expert in advising members on their relationship with APRA AMCOS and on the music business generally. Members continue to be able to interact freely with APRA AMCOS, having direct access to all levels of management.
38. Members, overseas affiliates, the Board's Directors and the media are able to log in to a secure section of the APRA AMCOS website which

provides a number of online services. In addition, APRA AMCOS produce a large volume of written material for members, all of which has been provided in previous reports to the Code Reviewer.

39. Royalty queries to the Membership Department are logged in that Department's query tracking system which uses the societies' internal email to forward messages to relevant staff. This system ensures that complaints made by members are also logged and brought to the attention of the relevant departmental Director and divisional Head.
40. During the Review Period, the Writer Services and Publisher Relations Departments engaged in a high volume of written and phone correspondence directly with writer and publisher members regarding all manner of enquiries, and also issued email broadcasts to the membership, which contained information including event notices, payment advices and APRA AMCOS publications.

### **International relations**

41. APRA AMCOS's International Department is responsible for the reciprocal representation agreements with other societies administering performing and mechanical rights around the world.
42. The International Department undertakes the following activities:
  - overseas royalty distributions for performing rights to members;
  - administration of the non-exclusive mandates granted to APRA AMCOS in respect of certain publishers' repertoires for multi-territory digital services on a Pan Asian basis;
  - monitoring the use of the APRA repertoire overseas;
  - making claims for missing payments and researching members' notifications and enquiries relating to overseas use and payments;and

- acting as the conduit for communications between APRA AMCOS and their respective affiliated societies, the umbrella representative bodies International Confederation of Societies of Authors and Composers (**CISAC**) and Bureau International des Sociétés Gérant les Droits d'Enregistrement et de Reproduction Mécanique (**BIEM**), as well as dealing with the World Intellectual Property Organisation (**WIPO**).

43. In the most recently audited financial statements (which are for the 2022-23 financial year), APRA collected an amount of approximately AUD\$66.9M [2023: AUD\$56.4M] for the use made of Australian and New Zealand repertoire overseas. AMCOS collected over AUD\$3.3M. [2023: AUD\$3.3M] These amounts do not include revenues collected from APRA AMCOS's licensing of certain publishers' repertoires to multi-territory digital services as that revenue is included in the APRA AMCOS digital revenue results.
44. During the Review Period, APRA distributed approximately \$61M [2023: \$57.5M] in performing right distributions from affiliate societies to APRA members over 12 monthly distributions. This amount was made up of 263 [2023: 315] individual distribution records from 34 [2023: 41] affiliate societies. AMCOS distributed \$3.2M [2023: \$1.8M] in mechanical distributions from affiliate societies to AMCOS members across 4 quarterly distributions. This amount consisted of 47 [2023: 23] individual distribution records from 8 [2023: 10] affiliate societies
45. In addition, during the Review Period, the International Department was involved in a number of regional and international activities.

### **Opt Out and License Back**

46. APRA continues to provide members with the opportunity to 'opt out' and to request that their entire repertoire be assigned to them for all territories,

in respect of all or particular uses, or to 'license back' specific works for specific uses in Australia and/or New Zealand.

47. During the Review Period, APRA received and approved 18 (2023: 7) license-back applications and no opt out applications. A copy of all information and forms relating to opt out and license back, including the plain English information guides, are available on the APRA AMCOS website.
48. For digital music services that operate internationally, AMCOS members are permitted to withdraw their digital reproduction rights specifically in relation to nominated services, rather than for all services within particular categories of use as used to be the case. Put simply, upon giving AMCOS sufficient notice, members can elect to negotiate directly with particular international digital music services.

### **Member Benefits Program**

49. APRA AMCOS have developed an extensive resources and benefits program for their full Australian members that can assist with their careers as songwriters/composers, including exclusive information, advice, services and benefits. Information on the members' program is provided on the website.

### **Licensees (Code clause 2.3)**

50. APRA AMCOS have a large Music Licensing department dedicated to liaising with licensees and potential licensees. The two main areas of licensing operations are: OneMusic and Media Licensing.
51. As noted previously, OneMusic is a joint licensing project of APRA, AMCOS and PPCA which aims to provide a single licensing solution for music and recordings in Australia and which was launched on 1 July 2019.

52. Collectively, OneMusic and Media Licensing administered approximately 122,000 (2023: 120,000) businesses and events in Australia and New Zealand during the Review Period.
53. The fees paid to APRA AMCOS by licensees vary according to the licence scheme applicable to the particular circumstances of use.

### **OneMusic**

54. OneMusic Australia (I am often referring to it simply as “OneMusic”) primarily licenses the rights of APRA, AMCOS and PPCA under single licence structures to general businesses that use music including for example, nightclubs, hotels, fitness centres and retail stores.
55. Licensees have access to ‘plain English’ Licence Information Guides tailored to their industry type (the information guides are required by the Australian Competition and Consumer Commission (**ACCC**)’s conditions of authorisation), and are able to get a quote and take out a licence online via the OneMusic website. Licensees can also complete licence applications by submitting information for processing by the OneMusic licensing department. Links to each Licence Information Guide and Fee Methodology Guide can be found on the OneMusic website - <https://onemusic.com.au/licences/>.
56. Information on other licences administered by APRA AMCOS can be accessed on its website.
57. During the Review Period, 5,088 (2023: 4,812) clients obtained new licences with 2,699 (2023: 2,292) businesses obtaining new licences via paper application and 2,389 (2023: 2,520) via the portal.

58. APRA AMCOS report that during the Review Period, OneMusic has been active in three separate consultation processes as follows:

(a) Dance and Performance Instructors and Dance Schools: In response to concerns raised by some industry participants and licensees regarding unintentional inequities in the operation of the Dance and Performance Instructors and Dance Schools music licence, OneMusic proposed amendments to a number of aspects of that licence. OneMusic sought feedback from the sector regarding those amendments in a consultation process run between 27 November 2023 and 29 February 2024, culminating in a Consultation Outcome paper published on 1 May 2024, which set out the terms of a revised scheme coming into effect from 1 October 2024.

(b) The consultation that has taken place between APRA AMCOS and Live Performance Australia (**LPA**) is reported on below at [613]-[616].

(c) Major Sporting Codes: Details of this consultation with the Coalition of Major Professional and Participation Sports in relation to use of music represented by OneMusic Australia at major sporting events have been previously provided. Negotiations continued throughout the Review Period and the consultation remains ongoing as at the end of the Review Period.

59. During the Review Period, OneMusic Australia engaged in a high volume of written and telephone contact with licensees or prospective licensees regarding all manner of enquires

## Media Licensing

60. The Media Licensing Department covers four key areas of licensing: Broadcast Licensing; Digital Licensing; Recorded Music Licensing; and Key Industries.
61. **Broadcast Licensing** includes commercial and community radio, the ABC and SBS and subscription and commercial television. In total, approximately 718 [2023: 709] licensees were administered by the Department during the Review Period.
62. The Department also administers “Production Music” (AMCOS- controlled Production Music is music specifically written and recorded for inclusion in all forms of audio and audiovisual productions). There were 567 [2023: 615] Australian production music clients licensed during the Review Period.
63. **Digital Licensing** includes video on demand services, digital subscription music services, UGC (social media) services, music downloads, online fitness, ringtones and general websites. In total, approximately 470 [2023: 519] licensees of this category were administered during the Review Period.
64. **Recorded Music Licensing** includes CD and vinyl record sales and videographers. In total, approximately 212 [2023: 194] licensees of this kind were administered during the Review Period.
65. **Key Industries** include schools, universities, TAFEs and colleges, state and federal government, airlines and luxury cruiselines and dramatic context. Approximately 11,368 [2023: 10,876] key industry licensees (across 1,761 accounts) were administered during the Review Period.
66. Clients of the Media Licensing Department are, for the most part, aware of their copyright and licensing obligations.



### **Information provided to Licensees**

67. APRA AMCOS's website contains a music licences section with information in relation to the various licences and with contact details for the relevant Licensing Department, including links to public performance licences now being administered through OneMusic:  
<http://apraamcos.com.au/music-customers/>
  
68. APRA AMCOS state that information made available to licensees and potential licensees differs according to the nature of the particular licence. For example, sophisticated national broadcasters and telecommunications companies generally require less information than small business operators who have less exposure to copyright law and limited access to specialist legal advice. The level of information provided takes these factors into account.

### **APRA AMCOS relationship with relevant trade associations**

69. APRA AMCOS report that they continue to work hard to maintain relationships with various bodies representing major licensee groups, including television and radio broadcasters, record companies, online service providers, small businesses, hotels, restaurants, fitness centres and educational institutions.
  
70. In addition, APRA AMCOS consult regularly with relevant trade associations in relation to the introduction of new licence schemes or material variations to existing licence schemes. APRA AMCOS note that this approach is demonstrated by the successful negotiation of new licence schemes with relevant industry bodies.

## Tariff Reviews

71. APRA AMCOS have previously provided detailed information in relation to the history and development of all significant existing licence scheme tariffs.
72. The following tariffs were introduced, re-negotiated or phased-in by the Media Licensing Department during the Review Period:
- New APRA AMCOS licences with Spotify, YouTube and Amazon Video, and at the end of the Review Period, was in the process of renewing licence arrangements with a number of major media licensing services including Amazon Music, TikTok, Meta and Twitch.
  - APRA communication licences with commercial television networks (Seven, Nine, Ten, WIN, SCA and Imparja) were renewed for further 3-year period until 30 June 2027.
  - A new 3-year agreement was executed in May 2024 (in conjunction with PPCA and ARIA, which are also parties to the agreement), covering the 39 public universities who are members of Universities Australia.
  - The new Education and Training Providers licence was launched to cater to the independent higher education and RTO sectors. It replaced the Commercial Colleges licence. As at the end of the Review Period there were 27 active licences in place.
  - The Domestic Use Video Licence was updated to better reflect the nature of videography businesses and how they share product with their clients in 2024. At end of the Review Period, 21 active licences are in place.

## **Multi-Territory Licensing**

73. The aim of APRA AMCOS's Multi Territory Licensing is to co-operate with music publishing rightsholders in order to establish a simple one-stop shop for multi territory licensing schemes for digital, online and mobile usage, covering the largest number of territories for the largest possible repertoire of musical works.
74. Rightsholders give APRA AMCOS non-exclusive rights in certain repertoire of its musical works. APRA then licenses that repertoire to digital service providers in its mandated territories and undertakes the ongoing invoicing, processing, claiming and distribution for online service types.
75. APRA AMCOS's Multi Territory Licensing commenced across the Asia Pacific region in July 2013 and currently represents Universal Music Publishing, Warner Chappell Music Publishing, Hillsong Music Publishing, Concord Music Publishing, Mushroom Music Publishing, Downtown Music and Songtrust Music, Origin Music Publishing, Cooking Vinyl, Ultra Music Publishing, BUMA/STEMRA (APRA's Dutch sister society) and STIM (APRA's Swedish sister society).

## **Disaster Relief**

76. APRA AMCOS report that during the Review Period they have continued their policy regarding Disaster affected licensees.
77. APRA AMCOS's actions, intended to alleviate financial pressure on affected businesses, include deferring licence fee renewals, extension of payment periods, and making corporate donations to relief appeals.
78. APRA AMCOS staff use online, print and broadcast media sources to remain actively aware of possible areas that may be affected by disaster and monitor events closely to establish the appropriate course of action.

79. No such disasters were identified during the Review Period.

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

80. The most recently audited financial statements for the year ended 30 June 2023 show that APRA AMCOS's total combined net distributable revenue for that year was \$595.2M (2022: \$534.2m).

81. APRA and AMCOS distribute royalties quarterly, with royalties for some music uses distributed monthly.

### **Distribution Rules and Practices**

82. APRA and AMCOS maintain, and make available on its website, comprehensive Distribution Rules and Practices. APRA AMCOS have published 'plain English' information guides summarising its Distribution policies, including how undistributed funds are dealt with.

83. APRA AMCOS update their Distribution Rules and Practices from time to time, in accordance with their respective Constitutions. APRA AMCOS regularly consult with their Boards and other key industry groups in relation to changes to Distribution Rules and Practices, considering the views of each membership, objective data regarding performances, and the approaches of affiliated societies to the process and methods of distribution.

84. The APRA Distribution Rules were updated in the Review Period to:

- wording regarding eligibility of claims relating to schools performances; and
- details on APRA's expense ratios

85. The APRA Distribution Practices were updated in the Review Period to:

- include a section on Tik Tok;
- include rules regarding Pay-as-Received for International payments;
- provide detail on the use of Audio data;
- update the list of Pay TV channels included in APRA distributions;
- add a section for PlayStation;
- add details regarding set list collection for concerts;
- amend frequency of distribution for concerts; and
- add a section for Dance Schools.

86. The AMCOS Distribution Rules were updated in the Review Period to:

- update the commission rate table;
- include rules regarding Fixed Point Values;
- amend distribution schedule to 'within 67 days'; and
- add detail regarding the General Control Account (GCA).

87. The AMCOS Distribution Practices were updated in the Review Period to:

- provide detail on the use of Audio data;
- add reference to Hal Leonard and Encore sheet music sales data used in schools photocopying distributions; and
- include a section on TikTok.

88. APRA AMCOS have a large Membership Department whose staff are trained to deal with members' (and others') enquiries, including in relation to distribution. The Boards of APRA and AMCOS both have a Membership and Distribution Committee that continue to deal with, among other things, requests by members for distributions in relation to "unlogged performances". This committee also deals with complaints from and disputes between members. Members are strongly encouraged to resolve

disputes between them using Resolution Pathways, APRA AMCOS' external Alternative Dispute Resolution facility.

### **Investment in Systems Development**

89. APRA AMCOS's systems development strategy is to continuously innovate and rapidly deliver new services, in response to the needs of writers, publishers and industry stakeholders. This approach has led to the successful implementation of major strategic business initiatives across various domains, including routine operations, automation, business processes, critical business functions, and digital services, all contributing to a substantial long-term value proposition.

#### *Automation*

90. Extensive work has continued to be undertaken and APRA report that efforts have been significant, with a dedicated push to streamline repetitive, resource-heavy tasks, pinpoint and address inefficiencies in business processes, and devise policy and automation strategies to mitigate these inefficiencies. By the end of the Review Period, 150+ Robotic Process Automations (**RPA**) were operational, resulting in a notable saving of 3000 days of human labour.

#### *Large strategic projects*

91. *Key strategic projects being worked on and overseen by APRA AMCOS' Executive Leadership Team during the Review Period include:*

- Distribution NextGen (Anytime Distribution)
- Repertoire Management (Advanced Data Management)
- Ingestion & Matching (Fast, Scalable Works Matching)
- Tango (D365 CE, FO, Sales, Marketing and Product and Pricing, E-Comm Website AU/NZ)

- Amplify
- International Data Processing
- Publisher Portal
- Writer Portal
- Member Earnings and Insights Portal
- Production Music Portal
- Clearance Facility Portal
- Cue Sheets Portal
- Security
- Business Continuity & Disaster Recovery

92. APRA AMCOS report that all member facing projects have received positive customer feedback and provide valuable, feature-rich services to its members

### **Cyber Security**

93. Initiatives have kept pace with the rapid digital business environment and the shift towards cloud services, challenging conventional security measures. APRA AMCOS has been proactive in continuously monitoring and enhancing its cyber threat resilience through

- An ongoing cyber security resiliency program to maintain high levels of staff awareness.
- Regular Cyber awareness training for the organization.
- Completion of technical debt remediation, including legacy system upgrades, patching, and decommissioning.
- A thorough cyber security review of Cloud systems in AWS & Azure, alongside security policy evaluations.
- Development of a forward-looking Cyber Security action plan.
- Regular test phishing email campaigns

94. A cyber security plan and assurance framework has been developed for implementation to strengthen APRA AMCOS's cyber

security posture.

### **Business Continuity & Disaster Recovery**

95. APRA AMCOS report that Business Continuity and Disaster Recovery have been a central focus, with a comprehensive plan developed to transition all on-premises infrastructure to the cloud. This strategic move ensures full redundancy and supports robust business continuity practices.
96. Over the past 24 months, significant strides have been made towards this goal, culminating in the final stages of testing a new platform that promises to bolster infrastructure resilience and maintain uninterrupted service delivery. The migration to the cloud is not just a step towards modernisation but a means of securing APRA AMCOS' operational future against any unforeseen events, guaranteeing that the business is on, no matter what challenges may arise.

### **Collecting Society Expenses (Code, Clause 2.5)**

97. The APRA accounts show that its operating expenses continue to be deducted from total gross revenue.
98. Commission on revenue pays AMCOS's expenses. The commission rate depends on the source of the revenue.
99. According to the most recent audited financial statements, for the year ended 30 June 2023, APRA AMCOS achieved a group expense to revenue ratio of 13.80% [2022: 13.34%].



## **Governance and Accountability (Code, Clause 2.6)**

100. The Annual Report of each of APRA and AMCOS contains the matters set out in clause 2.6(e) of the Code.
101. The relationship between APRA and AMCOS and their respective Boards of Directors is governed by each company's Constitution and Charter of Corporate Governance. The Boards have both established Audit, Risk & Culture Committees, which continue to meet at least six times a year and which concentrate exclusively on issues relating to Corporate Governance.
102. The APRA AMCOS Chief Executive and Executive Leadership Team meet regularly to discuss matters relating to corporate governance and the day to day operation and management of the two societies. The Executive Leadership Team also deals with policy setting and other matters relating to Human Resources and Industrial Relations matters, risk management, infrastructure, general administration, and regulatory compliance.
103. APRA AMCOS have an internal "Staff Code of Conduct" and a "Service Provider Code of Conduct", both of which complement the Code: the Staff Code sets out the standards according to which staff are expected to treat one another; the Service Provider Code sets out APRA AMCOS's commitment to shared professional standards.
104. APRA and AMCOS maintain complete financial records which are audited each year, and a statement by each company's auditor is included in their Annual Reports.
105. During the Review Period APRA AMCOS prepared additional detailed information at an anonymised or aggregate level about the accounting and distribution of licence revenue and reporting of expired undistributed

funds. The APRA and AMCOS 'Transparency Reports' for the financial year ended 30 June 2023 were provided to the Code Compliance Reviewer.

### **Australian Competition and Consumer Commission (ACCC) Authorisation**

106. As previously reported, APRA's membership, licensing, distribution and international arrangements are all the subject of an "authorisation" by the ACCC.
107. In granting the authorisation in July 2020 for a period that expired in July 2024, the ACCC confirmed that the conduct and arrangements for which APRA sought re-authorisation were likely to result in a public benefit which would outweigh the likely public detriment.
108. On 6 February 2024 APRA lodged its application seeking re- authorisation for a period of 5 years. A copy of APRA's application for authorisation can be provided upon request.
109. Given that the re-authorisation assessment process is ongoing, on 19 June 2024 the ACCC granted APRA interim authorisation, effective as from August 2024, on the same terms as the existing authorisation until such time as it is revoked or a new authorisation is granted. The ACCC has informed APRA that it will not be in a position to issue a draft determination on APRA's application until the first calendar quarter of 2025. This suggests that a final determination is unlikely to be made until mid 2025.
110. APRA considers that its authorisations by the ACCC forms a vital part of APRA's governance and accountability framework.

## **Staff Training and Development (Code, Clause 2.7)**

111. APRA AMCOS report that their staff at management level continue to be comprehensively trained regarding the Code.
112. The Executive Leadership Team meets several times per week to discuss matters relating to policy and strategy development and assessment. At these meetings issues relating to service and staff performance and training are regularly addressed.
113. In addition, the wider senior management team meets monthly, providing a cross-departmental opportunity to discuss interaction with stakeholders and wider communities and of reviewing company policies. At these meetings, the Code (including the complaints procedures and the review process) is regularly discussed.
114. Senior Manager, Manager and Team Leader forums are held at regular intervals throughout the year at which the Chief Executive and Executive Leadership Team address the middle and frontline management teams. They provide an opportunity for the latter to raise any concerns, suggestions or initiatives directly with the senior leadership, and for the Chief Executive to share information about business and membership trends and concerns, and to set performance expectations. In addition, other members of the senior management team are invited to address these groups.
115. The Music Licensing and Membership divisions usually hold staff training conferences at least once per year.
116. All departments in APRA AMCOS conduct regular departmental staff meetings which provide important opportunities to discuss Code related

topics, including client service, conflict management, time management and the procedures for identifying and dealing with complaints.

117. APRA AMCOS also hold company-wide staff briefings on a monthly basis. The briefings focus on the respective needs and expectations of general staff, middle and senior management and also of the organisation. The focus of the training sessions has in the past covered the Code, the ACCC authorisation, as well as performance within and between departments and with external stakeholders.
118. APRA AMCOS have provided details of the induction and training sessions that the People & Culture division provides for staff. The Code and internal Staff Code of Conduct are central components of the induction program that all new staff attend when they join the company. As well as the induction sessions, roles with a high level of client and/or member contact also receive additional training from within the relevant departments in relation to handling complaints and the complaints procedure.
119. APRA AMCOS have developed a “brand blueprint” which further outlines its purpose, values and “personality”.
120. APRA AMCOS report that their website and that of OneMusic Australia continues to include a “live chat” facility so that responses to urgent enquiries can be provided in real time. The staff who respond to live chat enquiries are required to attend two, two-hour training sessions to understand the live chat service guidelines and to ensure that the highest level of customer service is offered via this channel. A copy of the guidelines has been provided previously. As previously reported, in June 2020, digital chat assistance technology ‘APRABot’ was implemented within the live chat facility, which has resulted in up to 86% of APRA AMCOS and 50% of OneMusic queries being handled in real time by this technology.

121. APRA AMCOS claim that they are committed to taking a proactive approach to staff training, development and wellbeing, with such internal programs including:

- Learning Grants Program
- Leadership Development Program
- Mentoring Program
- Buddy Program
- In-house Training Programs
- AIM Access Training
- Employee Assistance Program
- Purchased Leave Scheme
- Career Development Support

122. During the Review Period, APRA AMCOS was a host organisation for the Ripple Program, which was delivered through a partnership between peak NSW arts and disability organisation, Accessible Arts and Diversity Arts Australia. This involved supporting and hosting an intern who wanted to gain insight and experience within the creative sector and provide a report on how the host organisation could improve with accessibility. The written report resulting from the program serves as a resource for APRA AMCOS on improving policies and procedures for staff and members with a disability.

123. During the Review Period, APRA AMCOS successfully launched a Reflect level Reconciliation Action Plan (**RAP**), partnering with external consultants, Stonecrab, to review APRA AMCOS' business readiness and capacity to increase Aboriginal &/or Torres Strait Islander engagement. APRA AMCOS has commenced initial planning on incorporating recommendations arising from that review, which include establishing curated mentoring

124. APRA AMCOS continues to run an Employee Wellbeing Program that includes education seminars on resilience, stress management, work-life balance and dealing with change. Further information is available upon request.
125. Pursuant to the *Workplace Gender Equality Act 2012 (WGEA Act)*, APRA AMCOS submits an annual report to the Workplace Gender Equality Agency (**WGEA**) outlining its performance against a set of standardised gender equality indicators. A copy of the most recently filed report can be read at <https://www.apraamcos.com.au/about/governance-policy/annual-reports>. As required by the WGEA Act, APRA AMCOS notifies staff and members of this report each year.
126. APRA AMCOS's internal "Wiki" facility continues to form the basis of staff training and is a key information source for all staff. All new APRA AMCOS staff are trained in accessing and using the Wiki facility which contains policies relating to Client Service, Human Resources and Work, Health & Safety.

### **Education and Awareness (Code, Clause 2.8)**

127. APRA AMCOS report that they continue to devote "considerable resources" to the education of members, licensees, industry associations and members of the public, regarding the matters set out at Cl 2.8 (a) of the Code. APRA AMCOS have provided a list of the numerous organisations and associations with which they have an ongoing relationship.
128. APRA claims that, as Australia's oldest and largest collecting society (incorporated in 1926), it is in a position to have developed extensive materials and expertise in relation to education and awareness matters. APRA AMCOS participate and contribute to the following education and awareness initiatives:

- Various Grant Programs, Sponsorships, Competitions and Promotions
- National Aboriginal and Torres Strait Islander Music Office (NATSIMO)
- Ambassador Program
- Member Events
- Member Advisory Group Development
- SongHubs and SongMakers programs
- Sounds Australia
- Live Music Office
- Various industry related organisations and programs
- Seminars and public forums

129. Since July 2020, the collecting societies that adhere to the Code have maintained a consolidated online portal for the public dissemination of governance, financial and data information, including all documents relating to the Collecting Societies' compliance with the Code. The website continues to be maintained and can be viewed at <https://www.copyrightcodeofconduct.org.au/>.

130. In their report, APRA AMCOS provide updates and information on their educational activities in detail under the headings "Member Education", "Licensee Education", "Government Relations" and "APRA AMCOS Website & Social Media".

131. I will not set out the detail here but the following is a summary:

- *Member Education* – 240 events conducted and attended in person and online by local and overseas members;
- *Publisher Members* – introduction of 'MIC Check', a new series of events for publisher members, tailored for copyright, royalties and finance staff. Two MIC Check events were held – one in Sydney and another in Melbourne, with a livestream of the

Sydney event for Publishing teams located interstate and overseas, to allow for broader participation and engagement. Surveys indicate that attendees found the sessions informative and appreciated the chance to network with peers;

- *Licensee Education* – attendance at approximately 120 industry association functions, events and awards ceremonies and production of a large volume of written material for licensees;
- *Government Relations* – continued to develop their profile with State and Federal governments, Oppositions and Departmental staff both to increase the general awareness of APRA AMCOS's breadth of operation and to lobby on specific relevant issues; and
- *Social Media* – Facebook, X (formerly Twitter), Instagram, YouTube and LinkedIn: all with increased activity; all platforms allow greater and more time-sensitive means of communications.

132. As previously reported, the APRA AMCOS website provides broad information about the services provided to members and licensees. The website is at the heart of the organisation's digital communications strategy and also provides information of interest to the wider public. The site contains a vast amount of information about copyright in general, and the activities of the two societies in particular. Among other things, members of the public can search the website to check composer details of particular works within the APRA repertoire.

133. When compared against the previous Review Period, traffic to the APRA AMCOS website increased 13% during the Review Period to 375,838 users, sessions decreased 1.2% to 577,390 and page views decreased 21% to 929,799. Users spent an average 1:27 mins on the APRA AMCOS site, compared to last year's average of 2:25 mins.



134. The OneMusic Australia website (<https://www.onemusic.com.au/>) contains general information about OneMusic Australia, an FAQ section, plain English guides to each of the licence schemes, downloadable PDFs of OneMusic Australia licence agreements and the opportunity for licensees to get a quote for many of the licence schemes online. The website also links to the OneMusic Australia eCommerce portal, which enables all licensees to pay their licence fees online and some licensees (according to their industry) to obtain their licence through the portal at a time of their convenience.
135. Site traffic increased 23% to 513,724 users and sessions increased 38% to 777,541. During the Review Period 1,296,310 pages were viewed and users spent an average of 49 seconds on the site.
136. The Communications Department is responsible for the maintenance and ongoing development of the APRA AMCOS and OneMusic websites.

### **Complaints and Disputes (Code, Clause 3)**

137. This subject is dealt with in a separate section, "COMPLAINTS AND DISPUTES", below.

### **Publicity of the Code and Reporting of Compliance with it in the Annual Report (Code, Clause 4)**

138. APRA AMCOS report that they have kept their members and licensees updated with information regarding the Code, in particular by maintaining relevant information including a copy of the Code on their website.

139. As reported elsewhere in this Report, the collecting societies continue to maintain a new standalone website for the Code [\(https://www.copyrightcodeofconduct.org.au/\)](https://www.copyrightcodeofconduct.org.au/)
140. The website is an initiative that was undertaken in response to the recommendations of the BCAR, which recommended:
- increased clarity around the role of the Code;
  - improved transparency around collecting societies' operations; and
  - strengthened governance arrangements for collecting societies and the Code
141. Societies now publish their compliance reports, with any confidential material (such as correspondence between a society and a complainant) removed. Compliance reports are available at <https://www.copyrightcodeofconduct.org.au/annual-compliance>.
142. In addition, on their own website APRA AMCOS invite any interested party to make submissions to the Code Reviewer as part of the annual compliance process.
143. Of course, APRA AMCOS's annual report to the Code Compliance Reviewer is itself directed to its compliance with the Code.

### **Monitoring, Review and Amendments (Code, Clause 5)**

144. APRA AMCOS report that they constantly explore opportunities for obtaining more accurate information of music usage in an attempt to improve the accuracy of distributions made to writers, publishers and affiliates.

145. The Data Operations Department receives music performance reports from radio and television stations, streaming and download services, concert promoters, members and many other types of users of copyright music.
146. Further, APRA AMCOS continue to invest significantly in music recognition technology, with the cooperation of licensees, to ensure accurate distribution of royalties for the performance of music in retail and hospitality settings.
147. Music recognition technology has now been rolled out in select areas across the fitness, retail, hospitality and dance industries, and continued efforts have been made to expand its use in nightclubs.
148. APRA AMCOS utilises this technology at licensed venues and music festivals where recorded music is featured, to facilitate the reporting of the music played at those venues or events.
149. APRA AMCOS also uses music recognition technology for identifying music used in advertisements, providing an audio upload function of the writer and publisher portals to upload audio files directly to APRA AMCOS' database and technology providers' databases so that the audio can be recognised and matched with music used in advertisements, providing accurate and efficient tracking of jingle play on television and radio.
150. APRA AMCOS has also implemented the use of music recognition technology for identifying music broadcast on community radio stations from 1 July 2024. In cooperation with the Community Broadcasters Association of Australia, this will lead to a significant increase in the number of hours analysed from community radio broadcasts, while also removing the administrative requirements of stations to generate and supply reporting to APRA AMCOS.

## Copyright Agency Limited (“Copyright Agency”)

151. Copyright Agency’s report on its compliance with the Code was furnished to me on 31 July 2024.
152. Copyright Agency’s website is at <https://www.copyright.com.au>.
153. Copyright Agency merged with Viscopy on 1 December 2017. Prior to that merger, it had managed Viscopy’s services under a services agreement since 2 July 2012. Viscopy members are now members of Copyright Agency, and Copyright Agency is now the licensor for the artwork licences that it previously managed for Viscopy.

### General

154. Copyright Agency is a company limited by guarantee and has more than 40,000 members. They include writers, artists, surveying firms, publishers and other collecting societies.
155. In its report to the Code Compliance Reviewer, Copyright Agency has categorised its operations as follows:
- “• in accordance with its appointments by the Australian Government:
    - management of the statutory licences for educational and government use of text, images and print music, including negotiation, collection and distribution of fair compensation for content creators; and
    - management of the artists’ resale royalty scheme; and
  - in accordance with the authority of its members, and with the oversight of the Copyright Tribunal, formulation and management of ‘voluntary’ licensing arrangements, principally for the business sector.”
156. Copyright Agency reports annually to the relevant Minister (currently the Attorney-General) in accordance with statutory obligations in the *Copyright Act* and to the Minister for the Arts in accordance with statutory obligations in the in the Resale Royalty for Visual Arts Act 2009 (the **Resale**

**Royalty Act**). Its annual reports are tabled in Parliament and are available on the Copyright Agency website.

157. As a declared collecting society, Copyright Agency also operates in accordance with the Attorney-General's Guidelines for Declared Collecting Societies.

### **Legal Framework (Code, Clause 2.1)**

158. Copyright Agency states that during the Review Period it complied with its obligations under the legislation and other documents referred to in clause 2.1 of the Code.

159. On its website, Copyright Agency publishes the following documents related to governance:

- *Constitution;*
- *Privacy Policy;*
- *Dispute Management Procedures;*
- *Complaints Management Procedures;*
- *the Code;*
- *the Australian Government Guidelines for Declared Collecting Societies;*
- *the Attorney-General's Declaration of Copyright Agency for Div 4 of Part IVA of the Copyright Act; and*
- *the Copyright Tribunal's Declaration of Copyright Agency for Div 2 of Part VII of the Copyright Act.*

160. Copyright Agency's in-house legal team continues to oversee compliance issues, including the implementation of any necessary or desirable changes to its policies or practices and monitors relevant legal and regulatory developments.

## **Members (Code, Clause 2.2)**

### **Paragraph (a): eligibility for membership**

161. Membership of Copyright Agency is free and is open to all eligible creators, owners and controllers of copyright in Works and Published Editions (as defined in the *Copyright Act*).
162. Applications for membership can be made online and are approved by the Senior Management Team, under delegation from the Board, and are reported to the Board.

### **Paragraph (b): treatment of members**

163. Copyright Agency states that it continues to adopt a range of policies and processes aimed at ensuring that its members are treated fairly, honestly, impartially, courteously, and in accordance with its Constitution and membership agreements. It has a "Service Charter", induction training for new staff and periodic updates for all staff on the requirements of the Code.

### **Paragraph (c): transparency of dealings with members**

164. In its report to the Code Compliance Reviewer, Copyright Agency gives details of its communications with its members and potential members about membership arrangements, distributions of licence fees and payments, including:
- information on the Copyright Agency website;
  - broadcast and one-on-one communications about changes to membership, distribution or payment arrangements;
  - responding to enquiries in an effective and timely manner;
  - providing secure online member accounts which enable members to review their membership, distribution and payment details; and
  - information in its annual reports, which are published on the website.

### **Paragraph (d): availability of Constitution**

165. Copyright Agency advises that its Constitution is available to the public, and to new and potential members, on its website.

### **Licensees (Code, Clause 2.3)**

#### **Paragraph (a): treatment of licensees**

166. Copyright Agency reiterates in similar terms what it has said in relation to members as recounted above, substituting “licensees” for “members” and “licence agreements” for “membership agreements”.

#### **Paragraph (b) transparency of dealings with licensees**

167. Information on the Copyright Agency website about licensing includes:

- plain English guides for different types of businesses;
- plain English guides for pay-per-use licences;
- information for media monitoring organisation customers;
- data processing protocols; and
- information in annual reports.

#### **Paragraph (c) Information about licences and licence schemes**

168. Information is published about licences and licence schemes on the corporate website and on the RightsPortal website ([rightsportal.com.au](http://rightsportal.com.au)) and via other channels, including seminars, trade shows, trade publications and in response to specific enquiries.

169. The terms of the licence agreements are reviewed regularly to ensure that they are written in plain language, correspond with Copyright Agency’s mandate, and reflect feedback from licensees.

#### **Paragraph (d): setting of licence fees**

170. For the statutory licences for education and government, Copyright Agency mostly deal with bodies or departments representing a class of licensees such as Universities Australia (UA) for universities; Copyright Advisory Group to the Australian Education Senior Officials Committee (CAG) for most schools and TAFEs; and the Attorney General's Department for the Commonwealth government; rather than with individual licensees.
171. Copyright Agency reports that in 2022, Copyright Agency reached agreement with CAG on the copyright licence fees payable by the school sector for 2023 to 2025 under the Education Statutory Licence, with an option to extend to 2026.
172. In February 2023, Universities Australia and Copyright Agency reached agreement on copyright fees from 2023 to 2026, and on the balance of fees payable for 2019 to 2022.
173. Copyright Agency also has individual licence agreements with more than 1,000 other education providers, such as registered training organisations, and with licensees for its voluntary licences. In 2023, it introduced a new rate card for this sector, following a consultation process.
174. Copyright Agency have non-statutory (voluntary) licences for the business sector, including for media monitoring organisations (**MMOs**). Following proceedings in the Copyright Tribunal and the settlement of subsequent legal proceedings, Copyright Agency entered into a new agreement with Isentia in 2022, and Meltwater is operating under a licence ordered by the Tribunal. Copyright Agency has an agreement in place with another MMO and has negotiations on foot with yet another one..



### **Paragraph (e): acknowledgement of industry associations**

175. Copyright Agency acknowledge the role of industry associations with which they have dealings, including Communications and Public Relations Australia, Australian Local Government Association, Association of Corporate Counsel, Early Childhood Australia, Independent Tertiary Education Council Australia (ITECA), Independent Higher Education Australia (IHEA), and English Australia.

### **Paragraph (f): consultation with industry associations**

176. During the Review Period, Copyright Agency sought input from IHEA, ITECA and English Australia.

### **Paragraph (g): response to requests for licence fee methodology or factors**

177. Copyright Agency reports that where licensees requested further information in connection with negotiation of licence fees, that information was provided.

### **Paragraph (h): request for ADR**

178. In the Review Period, Copyright Agency reports that no requests for ADR were received.

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

### **Paragraph (a): distribution policy**

179. On its website, Copyright Agency publishes its:

- distribution policy;
- distribution schedule;
- payment timetable (when payments are made to members' bank accounts);
- information sheets about individual distributions;
- deductions before distribution; and

- articles in our online Help Centre on a range of distribution-related issues.

**Paragraph (b): distribution in accordance with distribution policy and Constitution**

180. Copyright Agency distributes payments in accordance with its Constitution and Distribution Policy.
181. Copyright Agency informs members of proposed and recent changes to distribution policies and processes via a range of channels, including one-on-one communications, broadcast emails, group meetings, the corporate website including information sheets for each major distribution.

**Paragraph (c): licensee requests regarding rights payments**

182. Copyright Agency reports that during the Review it published information on its website regarding distributions of licence fees received from the school and TAFE sectors, following communications with Copyright Advisory Group (**CAG**): see [617]-[620] below.

**Paragraph (d) (i): consultation with members**

183. There were no substantive changes to distribution policies in the Review Period. Copyright Agency's information sheets on each major distribution continue to outline any changes since the previous distribution.

**Paragraph (d) (ii): Plain English guidelines**

184. Copyright Agency's distribution policy, and information sheets about individual distributions, are in plain English.

## **Collecting Society Expenses (Code, Clause 2.5)**

### **Paragraph (a): expenses of managing and operating the society**

185. Copyright Agency reports that the operating costs associated with managing the statutory and voluntary licence schemes continue to be met from its revenue. In a few cases, the deduction is a fixed percentage but in most cases the deduction represents the actual and projected costs relevant to the particular licence scheme.
186. Members receive itemised information about deductions with each payment. In addition, it publishes information about expenses, including the expense to revenue ratio for each financial year, in its Annual Report.
187. Copyright Agency's Board of Directors approves the society's annual operating budget and reviews the budget at each Board meeting.

### **Paragraph (b): other amounts**

188. Copyright Agency's Constitution allows it to deduct up to 1.5% of revenue for application to cultural or benevolent purposes. Its Board approves the amount to be allocated for these purposes. Copyright Agency publicly invites applications for cultural support. The Board approves the successful applications following a recommendation process by a committee of the Board.

## **Governance and Accountability (Code, Clause 2.6)**

### **Paragraph (a): Board accountable to members**

189. Under Copyright Agency's Constitution, its Board comprises directors elected by author, artist and publisher members respectively, and directors appointed by the Australian Society of Authors and the Australian Publishers Association. The current directors and the capacity in

which they were elected or appointed appear on Copyright Agency's website.

**Paragraph (b): maintenance of financial records**

190. Copyright Agency reports that it maintains proper and complete financial records, including providing detailed reports to the Board and to its Audit, Finance & Risk Committee.

**Paragraph (c): audit of financial records**

191. The Society's financial statements are audited annually. Information about revenue, expenses and distribution of licence fees is included in each Annual Report, together with the auditor's report, and is made available to the public on Copyright Agency's website, as well as to members and to the Minister. In addition, the Annual Report is tabled in Parliament.

**Paragraph (d): information to members**

192. On request, Copyright Agency provides reasonable information to members about entitlements to payment, in accordance with privacy and confidentiality obligations.

**Paragraph (e): information in annual report**

193. Copyright Agency's annual reports provide information about:

- total revenue for the period;
- total amount, and nature of, expenses;
- total amounts allocated and paid to members, including breakdowns by licence sectors;

**Paragraph (f): information in annual publications**

194. Copyright Agency's annual reports provide information about the accounting and distribution of licence revenue, including:

- classes of Licensees from whom licence revenue was received;

- classes of Members to whom licence revenue was paid
- categories of copyright material for which licence revenue was received; and
- relative proportions of domestic vs international payments of licence revenue

**Paragraph (g): information about expired undistributed funds**

195. Copyright Agency's annual reports provide information about expired undistributed funds, including:

- the reason/s why funds remain undistributed to rightsholders;
- the steps taken to locate rightsholders and to distribute funds; and
- information on the allocation and use or proposed use of the funds

**Staff Training (Code, Clause 2.7)**

196. Copyright Agency's procedures for making its staff aware of the Code include:

- induction training for new staff members on the requirements of the Code;
- policy documents implementing those requirements on the society's intranet; and
- periodic updates for all staff on the requirements of the Code.

**Education and Awareness (Code, Clause 2.8)**

**Paragraph (a): activities to promote awareness**

197. Education and awareness activities conducted by Copyright Agency for its members, licensees and other stakeholders include:

- information on the Code website, including communications to members, licensees and other stakeholders about that website;

- information on the corporate website and other websites managed by Copyright Agency;
- *emails to members*
- eNewsletter (*Creative Licence*)
- social media channels
- presentations at Copyright Agency events and other events;
- engagement with industry and professional associations that represent members and licensees; and
- mainstream and specialist media (such as industry magazines and newsletters).

198. Copyright Agency also uses the above channels to provide information about:

- matters relating to membership, including eligibility, benefits, responsibilities, policies and procedures; and
- matters relating to licensing, including benefits, responsibilities, obligations under copyright law, policies and procedures.

199. Information on the website relating to membership includes:

- membership terms and conditions;
- information about distributions, including distribution policy, information about each distribution (such as the data used), and forthcoming distributions;

200. Information on the website relating to licensing includes:

- licences available for various sectors (e.g. business, not-for-profit, education);
- pay-per-use licences;
- plain English guides;
- works excluded from voluntary licences;

201. Copyright Agency also creates awareness of its role through sponsorship and the publicity associated with grants from the Cultural Fund. For

example, in the Review Period, it supported the Educational Publishing Awards Australia (**EPAAs**) AATE/ALEA National Conference (for literacy educators), and writers' festivals.

**Paragraph (b): factors affecting activities to promote awareness**

202. Copyright Agency claims that its activities to promote awareness are proportionate to the number of members and licensees we have, and our revenue.

203. Copyright Agency liaises with other Collecting Societies and some activities are done jointly from time to time. The Collecting Societies jointly support the services provided by the Australian Copyright Council, including information, advice and training on a large range of copyright issues.

**Paragraph (c): particular information about membership and licensing**

204. Information on the website relating to membership includes:

- a 'Join Us' webpage, with information about eligibility, benefits of membership and how to join;
- membership terms;
- policies and procedures affecting members, including those relating to distributions and disputes.

205. Information on the website relating to licensing includes:

- benefits of obtaining a licence, including a video for individually licensed education institutions and a webpage for businesses;
- information for licensees about their responsibilities is provided in training sessions, and is also available on the website, for example guidelines for online teaching; and

- policies and procedures affecting licensees, including those relating to applying for a licence (including where this can be done online).

**Paragraph (d): guidelines about expired undistributed funds**

206. There is a webpage about unpaid allocations on Copyright Agency's website.

**Paragraph (e): online portal for Code**

207. With other collecting societies, Copyright Agency launched a website for the Code which is jointly maintained by the societies.

**Reporting by Declared Collecting Societies (Code, Clause 2.9)**

208. As noted earlier, clause 2.9 of the Code deals specifically with reporting required by Declared Collecting Societies, of which Copyright Agency is one.

**Paragraph (a): information in annual reports**

209. Copyright Agency's annual reports provide the information set out in clause 2.9(a).

**Paragraph (b): information about licensee classes and expired unpaid allocations**

210. The annual reports also provide information regarding:

- classes of recipients of licence fees received from the schools, universities and government sectors respectively;
- allocations unpaid after four years from the education sector and government sector respectively, the reasons the allocations were unpaid, and the proportion of unpaid allocations attributable to each reason.



### **Complaints and Disputes (Code, Clause 3)**

211. This subject is dealt with in a separate section, "COMPLAINTS AND DISPUTES", below.

### **Publicity of the Code and Reporting of Compliance with it in the Annual Report (Code, Clause 4)**

#### **Paragraph (a): publicising the Code**

212. The Code is available on the Code website, as is information about the annual review of compliance with the Code, the Code Reviewer's reports, and the Triennial Review of the Code. The Copyright Agency website has a webpage devoted to the Code and contains a link to the Code website.

213. Copyright Agency alerts members and other stakeholders to the Code and to the annual compliance review and triennial review in a number of ways including on its website.

#### **Paragraph (b): statement about Code compliance in annual reports**

214. Copyright Agency includes reference to its compliance with the Code in its annual reports.

215. Of course, Copyright Agency's annual report to the Code Compliance Reviewer is itself directed to its compliance with the Code.

#### **Paragraph (c): notification of contraventions**

216. There have not yet been any findings or notifications of contravention of the Code by Copyright Agency.

## Audio-Visual Copyright Society Limited (“Screenrights”)

### General

217. Screenrights' report on its compliance with the Code was furnished to me on 31 July 2024.

218. Screenrights' website is at <https://www.screenrights.org>.

219. Audio-Visual Copyright Society Limited, trading as “Screenrights”, was established in 1990 to be the declared collecting society for purposes of the statutory licence for the copying and communication of broadcasts by educational and other institutions under the then Pt VA (now Pt IVA Division 4) of the *Copyright Act*. Under those provisions, Screenrights also represents the owners of the copyright in sound recordings and cinematograph films (and works included in sound recordings and cinematograph films) for the purposes of the statutory licence in favour of educational institutions.

220. In addition, Screenrights is the sole collecting society for the collection of equitable remuneration for the retransmission of free-to-air broadcasts under Pt VC of the *Copyright Act*.

221. Finally, Screenrights has also been declared to be the collecting society in respect of television, radio and internet broadcasts under the government copying scheme under s 183 of the *Copyright Act* (Copyright Agency is also declared for that purpose).

222. As at 30 June 2024, Screenrights had 5,296 members [2023: 5,159] and 1,684 licensees [2023: 1,631]. It collects royalty payments from schools, universities, vocational training bodies, government agencies, TAFEs,

resource centres, retransmitters and New Zealand schools and tertiary institutions, as shown in the following table:

<b>Entity Type</b>	<b>Number</b>
<i>Screenrights Members</i>	5159
<i>Licensees</i>	1,684
<i>Schools -- Government, Catholic Systemic, Independent -- Peak Bodies</i>	26
<i>Schools - Individual Independent</i>	14
<i>Higher education including universities</i>	64
<i>Private Vocational Education/Training Organisation (inc ELICOS, U3A)</i>	23
<i>Government Agency</i>	456
<i>TAFE (including individual institutions and Departments representing multiple institutions)</i>	9
<i>Resource Centre</i>	5
<i>Retransmitter</i>	4
<i>NZ -- Tertiary</i>	27
<i>NZ – Schools</i>	1054
<i>NZ – Resource Centre</i>	2

### **Legal Framework (Code, Clause 2.1)**

223. Screenrights reports that during the Review Period it has complied with the legal framework governing its operations.

224. A copy of Screenrights' key governance documents, including the Constitution, Corporate Governance Statement, Privacy Policy which is in compliance with Australian Privacy Principles, Distribution Policy and Competing Claims Resolution Procedures (CCRP) can be accessed on the corporate website.

225. The Screenrights Board is elected by the members in accordance with the Constitution and the Board includes on an ongoing basis up to 8 General Directors, three Authorial Directors (Screenwriter, Screen Director and Screen Composer) and at least one New Zealand Director. A list of current directors and the Screenrights executive team is available on the corporate website.
226. Screenrights' Legal team oversees compliance with the legal framework governing its operation, including monitoring legal and regulatory developments, overseeing any changes to policies and practices and training of staff in relevant laws including privacy and workplace behaviour laws.
227. In the Review Period, Screenrights made changes to the CCRP, Constitution and Distribution Policy. Members were consulted in each case prior to changes being made.

## **CCRP**

228. In 2023, Screenrights reviewed its processes for dealing with competing claims. Reviewing the effectiveness of resolution pathways is an ongoing process, and Screenrights is committed to continuing to work with Members to ensure that pathways are fair and equitable for all Members. This involves balancing a range of factors which include considerations of access, equity and cost.
229. Screenrights determined that although the Express Resolution Procedures (**ERP**) are effective, high levels of administrative engagement and costs of the then CCRP to the general membership were disproportionate to the amounts in dispute. As a result, in July 2023, a new Assisted Resolution Process (**ARP**) was introduced, which is less determinative and more facilitative.

230. The intention of the changes is to improve the efficiency of how competing claims are handled and support the timely resolution and release of royalties, for the benefit of all Members.

### **Constitution**

231. At the Annual General Meeting in October 2023, Screenrights adopted a new Constitution. The purpose of updating the Constitution was to simplify and modernise the language while retaining the useful operations of the previous Constitution. Most of the changes are technical ones, and do not affect the operations of Screenrights or the rights of Members. For example, some clauses were amended to align with Screenrights' current governance practices. A table outlining the major amendments adopted was provided to the Code Reviewer.

### **Distribution Policy**

232. In February 2024, Screenrights updated its Distribution Policy to simplify and improve the accessibility of the policy. The amendments do not impact the methods used to calculate, allocate and distribute royalties. Multiple updates were made to remove duplication, simplify explanation and apply consistent terminology. Members were notified of all changes via email and given the opportunity to comment prior to Board review. The Members who responded did so positively. The revised policy was approved by Screenrights' Board in February 2024..

### **Members (Code, Clause 2.2)**

233. Membership of Screenrights remains open to all eligible rightsholders. Membership increased in the Review Period from 5,159 to 5,296 Members.

234. Screenrights states that it adopts policies, processes and practices to ensure that members are treated fairly, honestly, impartially and

courteously in accordance with its Constitution and the Membership Agreement. This includes staff training such as a comprehensive induction process and Code of Conduct training.

235. Screenrights' Member Services team engages in frequent communication with members via phone, email and a Live Chat feature on the online membership portal MyScreenrights.
236. Screenrights adopts a continuous improvement approach to information management and information systems. It reports that it undertakes ongoing initiatives each year to improve the quality and handling of information, and simplify member engagement with Screenrights. The Society also undertakes initiatives to streamline information processing within its in-house systems to deliver efficiencies to royalty distribution.
237. Some of the key initiatives in the Review Period include:
- Implementing improvements to the security of Member information including multi- factor authentication for users of online portals, including MyScreenrights; and
  - Updates to simplify Screenrights' Distribution Policy, as outlined above.

### **Licensees (Code, Clause 2.3)**

238. Screenrights reports that it adopts policies, processes and practices to ensure that licensees are treated fairly, honestly, impartially and courteously in accordance with the Screenrights' Constitution and the licensing agreements.
239. Screenrights' approach to licensees is built on respect for their needs with the goal of ensuring that they receive fair value while

maintaining equitable remuneration for members. Most negotiations of licence agreements are conducted with peak bodies, except in the case of retransmission where the individual licensees are substantial commercial organisations.

240. Screenrights' corporate website contains a Screenrights Licences section where it provides information about the licences available, and what uses are covered by the licences. Further, in relation to the Australian educational statutory licence, information is provided for educators on accessing educational content.

241. A Remuneration Notice is required to be completed by any new licensee under the statutory educational licence. The methodology for calculating the amount of equitable remuneration payable by an educational institution is included in the Remuneration Notice.

242. For the educational statutory licence, Screenrights generally negotiates with bodies that represent a group of licensees such as Universities Australia (UA) and the Copyright Advisory Group to the COAG Education Council for schools and TAFES.

243. The educational scheme agreement covering 98% of Australian schools was renewed in 2021, remained in force during the Review Period and continues until 31 December 2025, after which it may be extended for successive one year periods.

244. For the government statutory licence, Screenrights deals with the Attorney General's Department for the Commonwealth and with a collective representative group for the States and Territories. New Government Copying agreements to include internet copying have been executed by the State of Victoria, the Australian Capital Territory, Tasmania and the Northern Territory. The remaining States and Territories

continue to remain in the process of being finalised as at the end of this reporting period. In 2024, Screenrights' agreement with the Commonwealth was extended to 30 June 2026.

245. In relation to retransmission statutory licences, the agreement between Foxtel and Screenrights entered in 2021 will roll over for a further 12 months on 31 December 2024. Screenrights has agreements with three other retransmitters.

246. A primary transparency factor in dealings with licensees is the availability of usage data, which forms a key part of licence negotiations. Screenrights provides all relevant usage data to the licensees. This is the same data that Screenrights uses for its distribution purposes.

247. Detailed usage data for each university is provided to UA annually as required under the Universities Agreement established in 2018-2019, extended by variation in 2022 to December 2023. A new Remuneration Agreement for the period January 2024 to December 2027 has been executed. The usage data is a component in determining the amount of equitable remuneration payable and is provided by UA to all Universities for transparency.

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

248. In the Review Period, Screenrights distributed payments in accordance with its Distribution Policy and Constitution.

249. A copy of the Distribution Policy can be accessed from Screenrights' corporate website. Screenrights has published 'Plain English' guidelines on the Distribution Policy which set out how royalties are calculated in detail. These guidelines are also available on the corporate website.



250. As detailed above, a review of the Distribution Policy was conducted during the Review Period to simplify the policy and improve its accessibility. No changes were made to methods of royalty calculation, allocation or distribution.
251. With the exception of royalties in dispute, all undistributed royalties from the 2020 distribution year have been rolled over to the 2024 distribution year. Any royalties still in dispute from the 2020 year have moved into the Competing Claims Fund (CCF), which allows Members an additional 12 months to resolve their competing claims to these royalties.

### **Collecting Society Expenses (Code, Clause 2.5)**

252. Screenrights' reports that its Board continues to approve the annual operating budget, and an updated financial report which compares actuals to budget is reviewed at each Board meeting.
253. Screenrights' expenses for the Review Period were approximately 15.19% (2023: 14.91%) of gross revenue, subject to audit review. The audited figure will be in Screenrights' Annual Report.
254. Screenrights' operating costs associated with its licensing schemes are met from revenue. In some cases, a fixed percentage is deducted, but otherwise the deductions are generally based on actual costs. Members receive itemised reports about deductions along with payments.
255. Detailed information on Screenrights' expenses including the expenditure to collections ratio for the year ended 30 June 2024 will be found in Screenrights' Annual Report, where a comparison with the year ended 30 June 2023 will be shown. This report will be made available by the end of November 2024.

## **Governance and Accountability (Code, Clause 2.6)**

256. Screenrights reports that it has complied with the requirements of Clause 2.6 during the Review Period. Screenrights' Board has acted in accordance with the Constitution and Corporate Governance Statement in being accountable to members. The current directors on the Board are listed on the society's website.
257. The Audit, Risk & Governance Committee of the Board met six times during the Review Period. Its principal functions are to ensure that accounting records are maintained in accordance with statutory requirements, to ensure that financial controls are sufficient, to review the operational and strategic risk assessments, and to review the financial statements and consult with the external auditors.
258. Screenrights maintains complete financial records every year. Where requested by a member, Screenrights provides information about the member's entitlement to payment from Screenrights consistent with obligations under privacy law and any applicable duties of confidentiality.
259. Screenrights' Annual Report for 2024 will be available in late November 2024, including the audited accounts as at 30 June 2024. Each Annual Report of Screenrights contains the matters set out in clause 2.6(e) to (g) of the Code including revenue, expenses and distribution of payments to Members.
260. Annual Reports are published on the corporate website and presented to the members in preparation for the Annual General Meeting. A copy is provided to the relevant Minister and is tabled in Parliament.

## **Staff Training (Code, Clause 2.7)**

261. Staff training on the Code is conducted annually. Amongst other things, Screenrights' Code of Conduct training session familiarises staff with complaints handling procedures, Screenrights' alternative dispute resolution procedures for disputes between: Screenrights and Licensees; Screenrights and Members; and Members and Members. The importance of compliance with the Code is also emphasised to staff in induction training.
262. During the Review Period, emphasis was placed on informing employees of changes to the Constitution, Distribution Policy and CCRP to assist employees with explaining these documents to Members, Licensees and the public.
263. Updates on Code requirements are communicated to staff on an ongoing basis and as required.

## **Education and Awareness (Code, Clause 2.8)**

264. During the Review Period, Screenrights continued to provide information about its services and royalty distribution schemes, policies and procedures on its website, which is reviewed and updated regularly. Screenrights continued to provide animated explainer videos to support the communication of this information. Screenrights' governance, financial and data information is also available on the corporate website
265. Screenrights previously created an 8-part webinar series which included information about Screenrights' services. In 2023-2024 Screenrights made this series, which was formerly offered at a subsidised price, free to access to make it as accessible as possible.

266. In May 2024, Screenrights published an online informational article in *Inside Film Magazine* entitled 'Understanding Statutory Educational Royalties in Australia', to assist in raising industry awareness around Screenrights' function as it relates to Australian Educational collections and distributions to its' Members.

267. Screenrights continued to promote its role and functions as a copyright collecting society by sponsoring and participating, either through speaking engagements, digital/online representation or providing attendees with communications material about Screenrights at the following events in the Review Period:

- Australian Directors' Guild (ADG) Awards, December 2023;
- Australian Writers Guild AWGIES Awards, February 2024;
- Screen Production and Development Association (SPADA) Summit, November 2023;
- Screen Forever (run by Screen Producers Australia), March 2024;
- Australian International Documentary Conference, March 2024;
- Asia Pacific Screen Forum, November 2023;
- Big Screen Symposium, April 2024; and
- Melbourne International Film Festival (MIFF) 37° South Market, August 2023.

268. Screenrights also continued its Cultural Fund competitive grant program in 2023 and 2024. The Cultural Fund was established in 2018 to support innovative projects that foster the creation and appreciation of screen content in Australia and New Zealand. The Fund awards up to \$50,000 per initiative. Screenrights promotes the Cultural Fund on the corporate website and through a dedicated marketing and communications campaign.

269. Screenrights has published plain English guidelines on how its undistributed funds are allocated in compliance with Clause 2.8(d) on the corporate website.

### **Reporting by Declared Collecting Societies (Code, Clause 2.9)**

270. Screenrights' Annual Report provides the information required by clause 2.9(a) of the Code, including in an Annexure to that report.

### **Complaints and Disputes (Code, Clause 3)**

271. This subject is dealt with in a separate section "COMPLAINTS AND DISPUTES" below.

### **Publicity of the Code and Reporting of Compliance with it in the Annual Report (Code, Clause 4)**

272. Screenrights publicises the Code and its undertaking to be bound by it, by referring to that fact and making the Code available on Screenrights' corporate website for download by members and licensees and other interested stakeholders. It also communicates about the Code via its e-newsletters and news items that are linked from the homepage of the website.

273. In the reporting period, Screenrights published its 2022-2023 Annual Compliance Report to the Code Reviewer on its website. Past Code of Conduct Compliance Reports and Triennial Reviews of the Code of Conduct are also published on the website for Members and Licensees and other interested stakeholders.

274. Screenrights' corporate website also links to the Code of Conduct website, where a copy of the Code can be accessed centrally.

275. The Society includes a statement in its Annual Report (under “Governance”) on its compliance with the Code.

276. Of course, Screenrights’ annual report to the Code Compliance Reviewer is itself directed to its compliance with the Code.

### **Monitoring, Review and Amendments (Code, Clause 5)**

277. In 2021-22 Screenrights initiated a multi-year digital transformation project to transition its proprietary systems for managing royalty claims to the cloud. This project continued in 2023-2024. Key platform features released in 2023-2024 include a streamlined payout release engine to optimise all payments that Screenrights makes to Members; best practice technologies and processes for storing customer bank details; and client management features for agents. The new systems are being released in stages and will deliver a modern user experience, significantly increased performance capability and improved security.

278. Screenrights continues to use AI technology to assist with data matching and processing. Data management systems are being improved by developing in-house tools that can apply AI technology to additional data processing activities. This will allow Screenrights to build efficient data management practices in an environment of increasing data volume.

### **Phonographic Performance Company of Australia Ltd (“PPCA”)**

279. PPCA’s report on its compliance with the Code was furnished to me on 31 July 2024.

280. PPCA’s website is at <http://www.pcca.com.au>.

## **Legal Framework (Code, Clause 2.1)**

281. PPCA states that during the Review Period, it met its obligations as set out in clause 2.1 of the Code, including, but not limited to, complying with its obligations under the *Corporations Act 2001* (Cth), the Australian Privacy Principles and *Privacy Act 1988* (Cth).

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

283. PPCA reports that its Constitution and its Privacy Policy were not updated during the reporting period.

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

- PPCA Code of Conduct;
- 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.

285. Copies of the all external facing policies including the PPCA Constitution, are available from the PPCA website.

## **Members (Code, Clause 2.2)**

286. PPCA claims that during the Review Period it met its obligations under clause 2.2.

287. PPCA is a limited liability 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 dividend from PPCA Net Revenue, and can only receive remuneration on the same basis as all other non-shareholder licensors, via the annual distribution and in accordance with the Distribution Policy.
288. As a result, whereas other collecting societies represent the interests of “members”, PPCA represents the interests of “licensors” (ie the copyright owners or exclusive licensees in 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.
289. Through the Input Agreement, Licensors agree to allow PPCA to sublicense 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.
290. 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.



291. 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.

292. As at the end of the Review Period on 30 June 2024, PPCA had approximately 4,170 Licensors [2023: 3,830] and the number of Registered Artists was 5,642 [2023: 5,353].

### **Changes to Policies during the reporting period**

293. PPCA reports that the Input Agreement was not updated during the reporting period.

### **Engagement**

294. PPCA states that it 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.

295. 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 Artists are available, with PDF copies available on request. Following submission of application forms, Licensors and Registered Artists are contacted via email.
- Relevant information, such as FAQs and links to relevant guides

(including use of the (p) notice) are publicly available. PPCA also regularly publishes and updates a list Lost Licensors and Artists registered with PPCA who are no longer contactable.

- PPCA Portal – the PPCA Portal allows Registered Artists, Licensors and their authorised representatives (such as managers) a simple and secure way to view annual distribution statements, other financial documents, and update contact and payment details. Licensors and Registered Artists can also alter the configuration of the portal to share access with third parties, including their managers or accountants, and manage the type of access each party has (i.e. whether they have ‘read only’ access, or the ability to change contact details, payment details etc.)<sup>11</sup>. Since it launched, more than 1,500 Licensors and 2,020 Registered Artists 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 2023 and presenting an award at the Australian Songwriters Association conference. The Distribution team also regularly met with Licensors and Registered Artists throughout the Review Period. PPCA also conducted a number of online webinars to provide updates and respond to questions from Licensors and Registers Artists on topics such a grant opportunity and the Fair Pay for Radio Play campaign.

### **Licenses (Code, Clause 2.3)**

296. PPCA claims that during the Review Period it met its obligations under clause 2.3.

297. PPCA continues to offer 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;
- 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;
- live-streaming licensing for religious institutions; and
- communication and broadcast licences for background music services that provide music and/or music videos to commercial premises.

298. PPCA continues to directly license hundreds of licensees and their services across a range of industries.

299. PPCA also provides licensing through a number of joint licensing agreements, some of which are administered through OneMusic Australia. They include:

- Eisteddfodau with ARIA and APRA AMCOS;
- Early learning providers with ARIA, APRA AMCOS and Copyright Agency;

- Funeral directors and associations with ARIA and APRA AMCOS;
- Tertiary education with ARIA and APRA AMCOS; and

300. In addition, PPCA, continues to collaborate with APRA AMCOS on delivering more joint licensing schemes via OneMusic. As previously reported, since mid-2019, OneMusic has been responsible for the administration of PPCA public performance licences. Where previously businesses 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.

301. PPCA maintains a page on its website explaining the role of OneMusic with contact details. 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. Further information about OneMusic is contained within the APRA AMCOS section of this Report.

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

302. PPCA states that during the Review Period it met its obligations under clause 2.4.

303. PPCA reports that it continues to issue a single annual distribution for the financial year ending 30 June on the following 31 December. Licensors and Registered 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 Registered Artists receive a distribution statement, detailing their earnings

on a track-by-track (or video) basis. Statements are posted, emailed and made easily accessible online via the PPCA Portal.

304. The annual distribution is conducted in accordance with the Distribution Policy. A copy of the policy is available on PPCA's website and on the Code of Conduct website.
305. During the Review Period, there were no changes to the Distribution Policy.
306. The Distribution 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 or Registered Artist). Plain English guides giving a simpler, summary explanation of the distribution process and a guide explaining how undistributed funds are handled are also available.
307. The Policy also explains the Artist Direct Distribution Scheme (ADDS), which was referred to at [291] above. 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.
308. Questions about PPCA's distributions, title registration, payments and the Distribution Policy are 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 and in posts across its social media channels.

### **Collecting Society Expenses (Code, Clause 2.5)**

309. PPCA states that during the Review Period it met its obligations under clause 2.5.

310. PPCA deducts its expenses from the gross revenue (licensing fees collected by OneMusic Australia and 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.

311. PPCA's Annual Report for the year ended 30 June 2023 (published during the Review Period) showed that the expense to revenue ratio was 15.4% [2022: 16.1%], an improvement from the previous financial as the impact from COVID begins to ease and revenues return to pre-2020 levels.

312. The Annual Report is available from the PPCA website.

### **Governance and Accountability (Code, Clause 2.6)**

313. PPCA claims that during the Review Period it met its obligations under clause 2.6.

#### **The Board of Directors**

314. PPCA's Board of Directors comprises of eight directors: three are Shareholder 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 Artist Management sector.

315. 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).

316. During the Review Period, PPCA again offered the position of “Board Observer”, where a Registered Artist or employee of a PPCA Licensor could attend and observe PPCA Board meetings in a structured training program administered by the Observership Program.

317. The Directors' Duties Guideline is supplied to all directors and Directors are also expected to comply with PPCA's Code of Conduct and Whistleblower Policy.

### **Annual Reports**

318. PPCA continues to maintain complete and proper independently audited financial records. PPCA's Annual Reports are publicly available from the PPCA website. As well as an overview of PPCA's activities during the year, the report includes financial details include information regarding PPCA's revenue, expenditure and total distributions to Licensors and Registered Artists.

### **PPCA Management**

319. The PPCA Management Team continues to meet each week to discuss operational and strategic matters.

320. 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.
321. The PPCA Board, Committees and senior managers are also provided with a copy of PPCA's Competition and Consumer Compliance Guidelines.

### **Staff Training (Code, Clause 2.7)**

322. PPCA states that during the Review Period it met its obligations under clause 2.7.
323. PPCA's practice is to provide staff at the commencement of their employment with a set of essential internal policies as part of their orientation. This includes a copy of the PPCA Code of Conduct, Privacy Policy, Complaints Handling and Dispute Resolution Policy, the Whistleblower Policy, and the Data Breach Response Plan.
324. The PPCA Code of Conduct outlines PPCA's expectation for conduct of staff, management, Board members, contractors, and members of committees, advisory groups and panels. 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.
325. 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.

326. In addition, 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.

### **Education and Awareness (Code, Clause 2.8)**

327. PPCA states that during the Review Period it met its obligations under clause 2.8.

328. PPCA states that it continues to engage 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.

### **Frequently Asked Questions (FAQs)**

329. Visitors to the website can find a suite of comprehensive resources regarding the role and history of PPCA, including access to all policies and guides. Information regarding all of PPCA's licences is available, as well as information about OneMusic Australia and its role in administering public performance licences. An FAQ section is available for Licensors, Registered Artists, and includes general questions about copyright, licensing and the role of PPCA.

## **News and Society Media**

330. PPCA uses its website and social media channels to communicate important events and relevant music industry matters to its Licensors and Registered Artists, as well as members of the public. In the News section on the website PPCA regularly posts updates on PPCA and other relevant matters, such as the awarding of grants, advocacy updates and changes in relevant legislation.
331. PPCA regularly engages with its Licensors, Registered Artists and the general public through posting on its social media channels. PPCA publishes a newsletter, '*On The Record*', available from the website and sent to staff, Licensors and Registered Artists. The newsletter contains updates on the activities of PPCA, reminders about registration and grants, and other relevant news items.
332. PPCA posts news about its activities, as well as relevant news items, across several social media platforms, including Facebook, X (formerly Twitter) and Instagram.

## **Outreach and Support of the Music Industry**

333. PPCA enhances public and industry awareness of its role by offering support, opportunities and recognition to Australian artists, frequently collaborating with organisations in the music industry and creative sector.
334. PPCA continued to administer the PPCA Performers' Trust Foundation, issuing grants to Australian artists to promote music and musical education. To date, the Trust has provided \$2,973,511 in funds.
335. PPCA sponsored awards at the 2023 ARIA Awards (Best Independent Release) and 2024 AIR Awards (Best Breakthrough Artist) recognising the achievements of new and independent Australian recording artists.

336. PPCA collaborates with, and provides funding support to, several organisations that champion Australia music, such as Sounds Australia, the Copyright Council of Australia and the Arts Law Centre of Australia. Additionally, PPCA has supported the Australian Independent Record Label Association (AIR) and the Association of Artists Managers (AAM). PPCA offers significant support to Support Act, which provides both counselling, mental health and wellbeing support programs and crisis financial assistance to all members of the Australia music industry.

### **Advocacy**

337. During the Review Period, PPCA actively advocated for the removal of the legislative caps on radio broadcast licence fees, in an effort to ensure artists and labels are fairly compensated for the use of their recordings. This involved actively lobbying in support of the private Members' Bill proposed to remove the caps, the *Copyright Legislation Amendment (Fair Pay for Radio Play) Bill 2023*, as well as undertaking an industry wide education campaign to ensure artists and labels are aware of the legislative caps and their impact. PPCA attended the Senate Committee hearings held on 7 March 2023 in Canberra discussing the caps and their economic impact on Australian artists and labels.

### **Complaints and Disputes (Code, Clause 3)**

338. This subject is dealt with in a separate section, "COMPLAINTS AND DISPUTES", below.

## **Publicity of the Code and Reporting of Compliance with it in the Annual Report (Code, Clause 4(a))**

339. PPCA claims that during the Review Period it met its obligations under clause 4(a).
340. 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 Copyright Collecting Society website. The link to this dedicated page is in the footer of every single page on the PPCA website.
341. 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.
342. During the Review 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.
343. Of course, PPCA's annual report to the Code Compliance Reviewer is itself directed to the issue of its compliance with the Code.

## **Monitoring, Review and Amendments (Code, Clause 5)**

344. PPCA states that during the Review Period it met its obligations under clause 5(c) of the Code.
345. PPCA reports that it constantly reviews and updates its processes and systems to improve its efficiency and data handling.
346. 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;
- sought, through the renegotiation of key broadcast agreements, additional information on recordings used by those licensees; and
- continued to discuss with all key licensees opportunities to acquire data on actual usage, to improve distribution accuracy.

347. PPCA also spent time and effort investigating opportunities to upgrade and enhance its bespoke developed distribution system, including through discussions with like societies in territories operating in similar environments.

## Australian Writers' Guild Authorship Collecting Society Ltd ("AWGACS")

### General

348. AWGACS's report on its compliance with the Code was furnished to me on 6 August 2024.

349. AWGACS's website is at <https://www.awg.com.au/awgacs>.

350. AWGACS states that there have been no substantive changes to its practices since the last reporting period in 2023.

351. AWGACS is not a declared society under the Copyright Act.

352. AWGACS continues to be a member of the International Confederation of Societies of Authors and Composers (**CISAC**) and therefore submits to the international best practice Professional Rules for dramatic, literary and audio-visual guidelines. AWGACS's procedures continue to be subject to CISAC review and extensive reporting on an annual basis.

353. AWGACS confirms that it does not license the use of its members' works and that it only collects and distributes secondary royalties.

### **Legal Framework (Code, Clause 2.1)**

354. In December 2023, the Australian Competition & Consumer Commission (ACCC) authorised AWGACS to amend its constitution to make an assignment of rights a condition of membership.

355. In June 2024, members voted in favour of amendments to the Constitution which came into effect in July 2024.

356. The application, consultations and decisions are available on the ACCC public register here: <https://www.accc.gov.au/public-registers/authorisations-and-notifications-registers/authorisations-register/australian-writers-guild-authorship-collecting-society-ltd>

### **Members (Code, Clause 2.2)**

357. The number of members of AWGACS at 30 June 2024 was 2,454 [2023: 2,287], an increase of 167 since the last report.

358. As noted above, all current and future members must assign their right to secondary royalties to AWGACS. Members have responded positively to the change and an extensive education plan will involve members, agents and various industry stakeholders.

359. Membership remains open to all scriptwriters.

360. AWGACS's constitution is available to all members and potential members upon request and on the AWGACS section of the Australian Writers' Guild (**AWG**) website.

### **Licensees (Code, Clause 2.3)**

361. Clause 2.3 of the Code does not apply to AWGACS because AWGACS is not a licensor of copyright material.

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

362. For the same reason, AWGACS does not recover licence fees for distribution.

363. AWGACS distributes to its members monies collected from partnered societies. This is in accordance with its Constitution and is governed by its Distribution Policy as determined by the Board.

364. The Distribution Policy is made available to AWGACS's members upon request and is also published on the AWGACS section of the AWG website.

365. In the financial year ended 30 June 2024, AWGACS collected \$3,106,919 [2023: \$2,426,889] for distribution in 2024 and distributed \$956,831 [2023: \$1,064,860] from prior year collections.

### **Collecting Society Expenses (Code, Clause 2.5)**

366. AWGACS states that it deducts from each year's royalty collections, its operating costs for that year.

367. AWGACS also deducts 5% of gross royalties received as a "cultural levy" to be directed towards appropriate activities in support of its members. It sponsors the Annual AWGIE Awards for scriptwriters, which is run by the AWG.

368. In addition, AWGACS continues to invest, as resources permit, in pursuing new sources of royalties from new societies.

### **Governance and Accountability (Code, Clause 2.6)**

369. The Board of Directors of AWGACS comprises five directors, of whom two are elected by the Board of the AWG (which itself is democratically elected by and from writers who are members of the AWG), two are elected by the AWGACS members from among the AWGACS membership, and one director is, ex-officio, the AWGACS/AWG Group CEO or AWG Executive Director.

370. During the Review Period, AWGACS has been audited and has presented the audited accounts to the members at an AGM, including:

- Total revenue during the period;
- Total amount and general nature of expenses;
- Allocation and distribution of payments to members.

371. AWGACS voluntarily submits to the extensive governance and accountability reporting measures and reviews of CISAC.

### **Staff Training (Code, Clause 2.7)**

372. AWGACS reports that existing employees are aware of the Code and of its requirements and particularly of the Society's Complaints Handling Procedure.

### **Education and Awareness (Code, Clause 2.8)**

373. As a small society, AWGACS focuses on the education of scriptwriters and relies on larger societies and the Australian Copyright Council (ACC) to



contribute to the promotion of the importance of copyright and of making information about the roles and functions of collecting societies in general accessible to the general public.

374. Internationally, the Society's membership of CISAC is directed to accomplish the same purposes.

375. AWGACS seeks to increase awareness among its members and the scriptwriting community via sponsorship of the Annual AWGIE Awards.

376. In addition, AWGACS continues to promote awareness of scriptwriting royalties to its members and industry stakeholders via electronic bulletins and an accessible and regularly updated website.

377. Similarly, all of AWGACS's foundation documents are available to international collecting societies via the CISAC online portal, and domestically via the AWGACS website.

378. AWGACS continues to provide an advice service to members and to industry stakeholders on copyright and related issues.

379. AWGACS responds individually to all telephone and email enquiries from members, potential members and the general public about the society's purposes and practices.

380. In respect of the newly amended Constitution, AWGACS has prepared a range of educational events, including workshops with the industry's top literary agents, a webinar hosted by the ACC and ASDACS, a "Lunch Break" hosted by the AWG and a membership-specific webinar in Australia and New Zealand.

### **Complaints and Disputes (Code, Clause 3)**

381. The subject of complaints and disputes is dealt with in a separate section of this report, "COMPLAINTS AND DISPUTES", below.

### **Publicity of the Code and Reporting of Compliance with it in the Annual Report (Code, Clause 4)**

382. The Code is posted on the AWGACS section of the AWG website and is made available to members and potential members upon request.

383. Of course, AWGACS's annual report to the Code Compliance Reviewer is itself directed to the issue of its compliance with the Code.

### **Monitoring, Review and Amendments (Code, Clause 5)**

384. Calls for submissions are made available on the website.

## **Australian Screen Directors Authorship Collecting Society Ltd ("ASDACCS")**

### **General**

385. ASDACS's report on its compliance with the Code was furnished to me on 31 July 2024.

386. ASDACS's website is at <https://asdacs.com.au>.

387. ASDACS was incorporated as a company limited by guarantee in 1995. ASDACS collects and distributes secondary royalty income for audio-visual directors, which arise from the screening of their work both internationally and domestically.

## **Legal Framework (Code, Clause 2.1)**

388. ASDACS reports that there were no changes made to its Constitution during the Review Period.

389. ASDACS's Privacy Policy, Annual Accounts, and Constitution are available on the ASDACS website.

390. ASDACS consists of four staff members. The staff list is available on the ASDACS website.

391. As has been previously noted, ASDACS is not a declared collecting society under the Copyright Act and is therefore not required to comply with the Attorney General's Guidelines for Declared Collecting Societies. Nevertheless, ASDACS's constitutional rules are largely modelled on these guidelines.

## **Members (Code, Clause 2.2)**

392. By the end of the Review Period, the membership had grown to 1,559 [2023: 1,487], an increase of 5%. 1,222 members were Australian, 236 New Zealander and 101 were international residents for tax purposes.

393. In addition to its Constitution, the ASDACS website features a FAQ section with information sheets aimed to provide members with easy access to information and resources.

394. All staff are trained to respond to members' queries and complaints in accordance with its complaints policy also available on its website.

### **Licensees (Code, Clause 2.3)**

395. ASDACS does not grant licences to use copyright works.

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

396. ASDACS does not collect licence revenue, but instead collects royalties generated from secondary rights. Secondary royalty income for the 2023-2024 financial year period totalled \$1,865,171 [2023: \$1,583,152].

397. A total of \$96,300 bank interest [2023: \$61,980] earned on ASDACS income over the 2024 financial year will be distributed evenly to its members in accordance with its constitutional rules.

398. ASDACS distributes domestic and international income collected the prior financial year to members on an annual basis. During the Review Period, \$1,649,178 [2023: \$1,121,801] of secondary royalties collected in the 2022-2023 year were distributed to the members.

399. In accordance with ASDACS's constitutional rules, after four years, undistributed funds are transferred into a development fund and put toward the benefit of the members. During the year, expired distributions of \$115,484 [2023: \$77,873] were allocated to the development fund. Of these funds: \$7,738 was used on database development, \$3,800 was spent on an IT Upgrade and \$46,148 on a copyright campaign to improve the copyright of directors.

400. As reported previously, the ASDACS distribution rules and practices were updated in June 2019 to include requirements as per the Code of Conduct changes introduced 1 July 2019. In particular, the guideline maintains that the membership will be consulted prior to making any substantive changes to its distribution rules and practices and affirms that

a detailed report on undistributed funds will be made available to its members. A plain English distribution rules and practices guideline is also available on the ASDACS website.

### **Collecting Society Expenses (Code, Clause 2.5)**

401. ASDACS's members received the full amount of gross royalties that ASDACS received from reciprocal collecting societies internationally for their works, less the following amounts:

- **Administrative fee:** administrative fee of 18.63%, which covers ASDACS' operational expenses.;
- **Membership fee:** membership fee of 10 per cent, waived for members of the Australian Directors Guild (ADG), the Directors and Editors Guild of New Zealand (DEGNZ), beneficiaries and retirees; and
- **Cultural and Charitable Purposes Fund:** cultural and charitable purposes fund fee of 4%. In 2023-2024, \$82,043 was transferred to the fund. \$50,000 was granted to the ADG (\$30,000 toward the ADG Awards and \$20,000 toward the ADG National Industry Development Program). \$10,000 was granted to the Motion Picture Industry Benevolent Society to go toward screen industry professionals, including directors, in need.

### **Governance and Accountability (Code, Clause 2.6)**

402. At its Annual General Meeting, seven members were appointed to the ASDACS Board in accordance with its constitutional rules. The list of the board members appointed is available on the ASDACS website.

403. As mentioned previously, the 2023-2024 audited ASDACS Annual Accounts will be made available on the ASDACS website and include

details on collections, administration expenses, distributed funds and undistributed funds.

404. ASDACS continues to be a member of **CISAC** and abides by CISAC professional rules and standards, including the submission of an annual finance declaration and completion of a professional rules questionnaire and Asia-Pacific Committee Territory/Society Reports.

#### **Staff Training (Code, Clause 2.7)**

405. During the Review Period, all staff were made aware of the Code and were given further training on ASDACS's complaints handling procedure, as outlined in the ASDACS complaints policy.

#### **Education and Awareness (Code, Clause 2.8)**

406. The ASDACS website continues to promote the importance of copyright and makes detailed reference to the nature of copyright as administered by societies in Australia and overseas, addressing the functions and policies of ASDACS in particular.
407. ASDACS continued to send to its members a quarterly e-news and used social media (Twitter, Facebook and LinkedIn) to keep members informed and aware of its work and progress.
408. ASDACS continues to promote fair remuneration for screen directors. This is in alignment with the broader international Writers and Directors Worldwide 'Audio-visual campaign', which is aimed at gaining an unassignable and un-waivable right to remuneration for audio-visual authors across the globe.

409. ASDACS continues to be a member of the Asia-Pacific Audio-visual Alliance for Writers and Directors, aimed as a platform for audio - visual creators to share, connect and communicate, advocate for stronger copyright protections and further their interests in Asia-Pacific.

410. Plain English distribution rules and practices guidelines, as well as information sheets on retransmission rights, undistributed funds and distribution practices are available to members on the ASDACS website.

411. ASDACS also makes its documents available on the Code of Conduct for Copyright Collecting Societies website introduced as from 1 July 2019.

### **Reporting by Declared Collecting Societies (Code, Clause 3)**

412. As previously noted, ASDACS is not a declared Collecting Society under the Act.

### **Complaints and Disputes (Code, Clause 3)**

413. This subject is dealt with in a separate section, "COMPLAINTS AND DISPUTES", below.

### **Publicity of the Code and Reporting of Compliance with it in the Annual Report (Code, Clause 4)**

414. ASDACS publicises the Code and its adherence to it on its website and in all relevant information documents provided to members and potential members.

415. The Code is posted on the ASDACS website where those interested can also find:

- the Code Reviewer's latest Report on Compliance with the Code;
- the Code Reviewer's Triennial Review of the Operation of the Code; and
- the 2023 Call for Submissions.

416. Of course, ASDACS's annual report to the Code Compliance Reviewer is itself directed to the issue of its compliance with the Code.

### **Monitoring, Review and Amendments (Code, Clause 5)**

417. As previously reported, in order to improve the capture and exploitation of data to achieve better business practices, ASDACS has upgraded its database to allow the transfer of its repertoire of members works to the International Documentation on Audio-visual Works (**IDA**) database: <https://www.ida-net.org>. IDA is a non-profit international audio-visual rights management system, owned by CISAC, that Authors' Societies consult to get accurate information on audio-visual works and rights owners. ASDACS continues to update and add new works to IDA on a regular basis.



## C. COMPLAINTS AND DISPUTES AS REPORTED BY THE COLLECTING SOCIETIES

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### Australasian Performing Right Association Limited (“APRA”) and Australasian Mechanical Copyright Owners Society Limited (“AMCOS”)

#### **General**

418. The APRA AMCOS Complaints Policy and Procedure can be read at

<https://www.apraamcos.com.au/about/governance-policy/policies-procedures/complaints-procedure>.

419. APRA AMCOS reported on three member complaints and ten licensee complaints dealt with during the Review Period.

420. APRA AMCOS has designated them CM01 – CM02 , CU01, and CL01 – CL010 respectively. “CM” indicates a complaint by a Member, while “CL” indicates a complaint by a Licensee or prospective Licensee. “CU” is a special case. It means “Complaint Updated” and is an updating report on a complaint that was made in the previous review period.

#### **Complaints by Members**

##### **APRA AMCOS Complaint 1 – CMO1**

421. CMO1 is a composer of musical jingles that are used on television and radio.

422. Generally speaking, his complaint was over the amount of royalty income paid to him. He made the serious complaint that APRA had actually falsified information which it had provided to him touching his royalty distributions.

423. CM01 wrote to APRA on 8 April 2024 complaining that he had been “continually experiencing issues with MRT missing [his] jingles”. “MRT” is an acronym for [Music Recognition Technology] which, according to the complainant, is supposed to pick up the broadcast of jingles for royalty payments.
424. What prompted the present complaint is that “once again” jingle payments were missing in a distribution. That was the November 2023 distribution. According to the complainant, when he raised this with APRA he was assured that the works would be spotted and payment would be paid in the February 2024 distribution. He says that he was told that this was part of a “one off extraordinary payment” that APRA was making to all of its members who missed out due to a shortcoming in the MRT system.
425. CM01 provided to APRA a list of his missed works for APRA to investigate. APRA’s response was that the reason why the first of his works under investigation had not been paid for in the August 2023, November 2023 and February 2024 distributions was that he had been late in uploading and/or registering the work with APRA. The work had gone to air in May 2023, yet, according to APRA, he had not uploaded the audio until July 2023. In other words, the omission of payments was his own fault due to this late registration.
426. The complainant was able to demonstrate that he had registered the work with APRA on 28 May 2023. He therefore complained that the explanation that APRA had given to him was “false and deceiving”.
427. Importantly, CM01 asserted in his letter of complaint that this was just the latest example of the kind of experience that he had been “up against” and that “after four years, this latest incident [was] the final straw”.
428. On 9 April 2024, APRA acknowledged receipt of the complaint and undertook to respond within 14 days. On the 14<sup>th</sup> day, 23 April 2024, APRA’s Director, Writer Services, wrote to CM01 advising him that the

matter was complex and that there were “a number of moving parts that a number of teams across [APRA's] business [were] investigating”.

429. On 1 May 2024, APRA AMCOS's Director, Writer Services, wrote to CMO1 a lengthy and detailed account of the review that had taken place. The email advised him that there had never been an intention to mislead him or to deny him his rightful royalties, and that the problem had been that “an incorrect date was wrongly identified by a staff member”. Separately, the email advised that, due to a previous issue with APRA AMCOS's “Digital Music Recognition provider”, reports on the particular work had only begun to be received by APRA AMCOS in the last quarter of the financial year, 2023. More happily, the email advised that as at its date, around 7,700 performances of the particular work had been identified and that payment for them was due to be made in the May 2024 distribution.
430. On 16 May 2024, CMO1 responded to the effect that while the particular work had been the immediate impetus for his complaint, he had had similar issues with APRA registration dates being wrong in the case of previously missed works.
431. Understandably, CMO1 asked for an assurance that the “one-off extraordinary payment” would not affect the amounts of the payments to which he was entitled but had missed, and an assurance that the missed performances would be paid for at similar “block rates” as would have applied if the payments had been made and not missed.
432. In regard to the “block rates” question, the Director, Writer Services advised that there had been a substantial increase in the number of jingle broadcasts with the result that the rate per broadcast had fallen considerably, in fact by an average of just over 45%.
433. Finally, the suggestion was made that a system of monthly meetings between CMO1 and the relevant officer at APRA AMCOS be established.

434. CMO1 was not satisfied and wrote a lengthy letter to the Director, Writer Services on 1 July 2024 raising numerous questions and pointing out inconsistencies in the advices that APRA had conveyed to him. The complainant expressed thanks for the offer of a closer working relationship with the relevant APRA officer but said that he wanted to resolve one thing at a time.
435. The Director, Writer Services wrote to CMO1 on 4 July 2024 an email which included the following
- “We’re in the process of reviewing your questions here. Once we’ve thoroughly gone through them, we’ll come back with a full breakdown. Don’t hesitate to reach out if you need anything else here too.”
436. I have set out that paragraph because, in its report to me, APRA states that it considers the complaint to be resolved. Yet the report acknowledges that the queries that CMO1 raised about the processing of royalties for his jingles in general, and the non-recording of performances of them, remained unresolved and continued “to be progressed under the standard processes for member distribution queries”.
437. APRA AMCOS has explained that the standard format of the report provided by APRA AMCOS in their Code Compliance Report in respect of CM01 was current up to 4 July 2024. APRA has since provided an update on the status of the matter and copies of further correspondence between APRA and CM01 between 7 August 2024 and 5 November 2024 in furtherance of resolving CM01’s queries around processing of his jingle royalties, which underpin his overall complaint.
438. As of 8 November 2024, APRA advises that each of CM01’s royalty queries which were open at the time APRA lodged the standard format of its report with the Secretariat on 5 August 2024 have been analysed and the outcomes shared with CM01.

439. APRA AMCOS report that where jingle royalties were found to be miscalculated due to an error or omission by APRA or its external MRT provider, the error was explained to CM01 and the relevant royalties adjusted and paid to him.
440. APRA further reports that where royalties were correctly calculated but CM01 was under a misapprehension concerning the relevant use, reporting or royalty calculation, clarification was provided to him. For example, MRT is utilised for jingles on metropolitan broadcasts but not regional broadcasts. For regional broadcasts, APRA relies on different reporting and calculation methodologies. APRA reports that most of CM01's queries which were open at the time when APRA AMCOS lodged their Code Compliance Report have been resolved. Unresolved queries continue to be investigated and remain the subject of correspondence between APRA and CM01, including additional queries raised by CM01 in response to APRA's findings. APRA assures me that it and CM01 continue to work cooperatively and amicably to resolve specific queries that remain unresolved and, ultimately, the broader issues underpinning CM01's overall complaint around his royalty payments.

## **APRA AMCOS Complaint 2 – CMO2**

441. The complainants are composers of music, some of which has been used in a series of television programs that have featured on Australian and overseas television networks. The letter of complaint was dated 11 April 2024 and is lengthy and detailed.
442. The complainants say in their letter of complaint that they have been members of APRA for almost thirty years during which time they have won or been nominated for numerous awards. In addition, they say that they have assisted APRA by donating their time and effort in judging and speaking roles and workshops. They say that they joined APRA because of its "core promise of collecting royalties...for whenever our work is broadcast or publicly performed".

443. The complainants have carried out their own investigations, which, they say, APRA should have done. I will not set out here the detail of their investigations or what they revealed. They summarise their findings as follows:

- “(1) APRA's failure to identify international versions of [a particular popular television program] containing our music;
- (2) APRA's failure to investigate obvious payment anomalies;
- (3) APRA's failure to collect unclaimed income from international PRO's;
- (4) APRA's failure to collect royalties for the broadcast of [the Australian version of the program] overseas.”

444. The letter of complaint gives particulars of all four alleged failures. It concludes with the assertion that by the claimants' reckoning, APRA has failed to identify more than 6,000 one-hour broadcasts (with close to 4,500 of those hours having been confirmed to contain the complainants' music). APRA has failed, according to the allegation, to recognise a further 1,000 or more hours of broadcasts for which no payment has been made.

445. CMO2 state that APRA seems simply to wait for money to arrive from overseas, take its percentage and pass on the remainder. This, they allege, falls far short of what members reasonably expect from an organisation like APRA and of what APRA has promised to do. They point out that this is particularly concerning, given that APRA is a monopoly in Australia and that Australian composers have no other choice but to assign their rights to APRA exclusively.

446. Still as part of their conclusion, CM02 state:

"As best we can estimate it (based on royalties received in territories comparable to those that were missed), APRA's failings identified above are likely to have cost us alone as composers of the [series] score a staggering amount – more than \$2.5 million in royalty payments to date. Additional royalties would also have been payable to our co-composers".

447. The final paragraph in the letter of complaint is as follows:

"Perhaps most concerningly, if this is how APRA conducts operations for two of Australia's highest-profile composers, on high-profile catalogues such as [the names of three television series], then what is happening to the emerging writers who make up so much of APRA's membership? How badly have they been short-changed?"

448. The letter of complaint led to a meeting on 10 May 2024 between officers of APRA and the complainants. APRA has not provided a separate account of what happened at that meeting but says that the effect of it appears in the narrative which is summarised below.

449. Following the meeting, on 24 May 2024, APRA wrote to CM02.

450. Apparently at the meeting, APRA had undertaken to provide the complainants with a further update regarding the status of APRA's collection and distribution of international income for the use of their compositions in the particular TV show in question. That update was provided in the form of Attachment A to the letter from APRA (signed by its Chief Executive, Mr Ormston).

451. Attachment B to the letter was a preliminary formal response to some of the allegations made against APRA in CM02's letter of 11 April. APRA indicated that it was committed to working with the complainants to collect and distribute as much international income arising from the exploitation of their works as possible, but added that for this endeavour to succeed, it would have to be a collaborative effort involving multiple stakeholders including the complainants themselves.

452. There were further meetings on 11 June, 5 July and 10 July between the complainants and officers of APRA. The papers provided to me do not contain a separate account of what happened at the respective meetings, but APRA says that the effect of them is captured in the following narrative.
453. APRA says that the complainants first contacted APRA in 2023 regarding the allegation that certain overseas royalties had not been remitted to them. APRA staff had investigated this at the time but did not consider that the matter amounted to a complaint.
454. The letter of complaint dated 11 April 2024 arrived just over 12 months after the report on the original complaint about the shortfall in royalties.
455. Under the heading "Resolution" in the standard format of the report to me, APRA says that it has been addressing the matter at the most senior levels of management, including the Head of Membership Services and the Chief Executive Officer. APRA reports that notwithstanding the meetings that have taken place, the matter has now been referred by the complainants to external lawyers.
456. APRA reports that the complainants have "commented positively about the usefulness of the meetings and written update and the level of effort APRA AMCOS is putting into addressing their concerns", but say that they remain frustrated and concerned at what they consider to be a significant shortfall in income caused by APRA AMCOS's failures in collecting royalties on their works performed internationally.
457. APRA reports that it is continuing to work in good faith with CM02, the publishers of the relevant musical works, and the overseas PROs (Performing Rights Organisations) involved, to identify, collect and distribute as many outstanding royalties as possible. Ultimately, however, APRA considers that the complainants' position as to quantum is probably overstated and that many of their allegations reflect a misunderstanding



as to the role and capacity of APRA AMCOS to ensure that all music used in overseas programs is properly accounted for.

458. APRA AMCOS report that notwithstanding this, the complaint has provided an opportunity for APRA AMCOS to review some areas of their international collection and distribution systems and processes, and to consider whether there is any opportunity for improvement, particularly in terms of co-operation between the different parties who all have a role to play in the successful operation of those systems and processes. Those parties include stakeholders such as the writers, the publishers of the relevant musical works, the television production companies, the overseas performing right organisations (PROs) and of course APRA.
459. In the meantime CM02 and APRA have both referred the historical claims of underpayment to their respective lawyers to establish an appropriate process for the resolution of the claims without the need for further escalation.

#### **APRA AMCOS Unresolved Member Complaint from Preview Review Period 1 – CU01**

460. This complaint by a member was not made in the Review Period, but is a “carry over” from my report for 2022-2023, in which the complainant was designated CM03.
461. The complaint was ongoing and unresolved at the time when that report was issued. It is therefore a “Complaint Updated” (**CU**).
462. The complainant had queried the low level of the amounts of his royalty distributions for certain periods in 2020 and 2021. He contrasted the substantially greater amounts that he had received by way of royalties from PPCA for the same period.
463. Lieschke & Weatherill Lawyers, representing CU01 wrote at length to APRA AMCOS on 21 November 2023 asserting that the particular work in

question had been used “on high rotation in a marketing campaign” for a particular product on television and radio throughout 2020 to 2022, entitling their client to royalties.

464. The solicitors summarised the dispute from their client's viewpoint, noting that he had first raised concerns relating to the inadequacy of distributions on 16 November 2020. The solicitors said that CU01 required payment by 5 December 2023 of all royalties and that if this was not possible, an explanation would be required by that date.
465. APRA AMCOS's Director, Writer Services, wrote to CU01 at length and in detail on 24 November 2023. This included a table breaking down the missed performances across each television channel identified by APRA in its complaint investigation, with the associated value shown, totalling \$2,349.19.
466. In that letter, APRA advised CU01's solicitors that in resolution, APRA would make a one-off payment of the additional \$2,349.19 it had identified as all remaining royalties payable to CU01 with respect to the period subject of the complaint.
467. That royalty payment amounting to \$2,349.19 was paid by APRA to CU01 on 4 December 2023.
468. On the same date, 4 December 2023, CU01 wrote to APRA noting that he would gratefully receive the payment but also observing that he was not granting APRA a release and that he would add (apparently in a further email) that the amount received did not resolve any other royalty payments that may remain outstanding.
469. CU01 suggested in the same email that yet further royalties may be payable and left open the possibility of his further escalating the issue. In fact, however, this has not eventuated and APRA regards the complaint

as resolved as of the date, 4 December 2023, when the additional royalties were paid.

470. Since APRA has not responded to the point made by CU01 about the lack of a release, APRA seems to have accepted that the complainant was correct, as, indeed, he seems to have been.

## **Complaints by Licensees**

### **APRA AMCOS Complaint 1 – CLO1**

471. CL01 operates a bar and made the following complaints:

- (1)** Because his OneMusic licence is billed for bundled music only, he had no choice but to pay for music uses included in the bundle that he derived no benefit from.
- (2)** His business pays more proportionally for its music use than does a business that opens for longer hours, as the latter can play more music than he can, yet pays the same licence fee.
- (3)** OneMusic unfairly targets some businesses, that is to say, takes enforcement action against some businesses and not others.
- (4)** OneMusic had not taken his issues seriously when he previously raised them.

472. CL01 raised these four complaints in an email dated 23 October 23 to “OneMusic Complaints”. He informed OneMusic that he had sought legal advice and had referred the matter to his local Federal Member of Parliament and the ACCC.

473. CL01's email explained clearly the four issues of which the above is a summary.

474. After a formal acknowledgement on 24 October 2023, OneMusic responded substantively also in detail on 8 November 2023. Over the signature of OneMusic's "Director", OneMusic's email sought to persuade CL01 that he already had the most cost-effective licence for his business, namely, the "Gold Background Music for Location" and the Digital Copy/Delivery (DCD) under the Hotels Licence. OneMusic's email explained that the "Gold Package" which he had was a licence only to **play** music from a music system, and that OneMusic had included DCD to cover the **copying and delivery** involved in streaming music from a digital online service.
475. OneMusic's email concluded by seeking payment of the outstanding licence fees of \$1,578.23.
476. CL01 responded on 22 November 2023. He was not persuaded by OneMusic's explanation and advised that he would send OneMusic's response "to the ACCC and my Local Member Monique Ryan in addition to your dispute resolution service". In particular, he alleged that a similar business (which he did not name) with a liquor licence and a food licence which had been operating for some 15 years (11 years longer than CL01's business) had never been charged or even approached by OneMusic or APRA, yet it takes (according to CL01) only "2 seconds to look up who has a liquor licence and food licence".
477. On 28 February 2024, OneMusic acknowledged CL01's response and his advice that he had forwarded OneMusic's last email to the ACCC, his local Member of Parliament and OneMusic's own independent dispute resolution service, "Resolution Pathways".
478. In its narrative, OneMusic observed that CL01 had not provided a further response or revised his declared music use or paid outstanding fees. OneMusic concluded that although there remained the difference of opinion between CL01 and OneMusic about the structure and fairness of OneMusic's licence scheme, OneMusic considered the complaint

“resolved” on the basis that the issues raised by the complainant had been responded to.

479. OneMusic reports that it has not been contacted by the ACCC, CL01's local Member of Parliament or Resolution Pathways regarding the subject matter of CL01's complaint.

## **APRA AMCOS Complaint 2 – CLO2**

480. CL02 complained about the manner in which OneMusic had pursued payment of his outstanding invoice. The invoice was issued on 3 September 2023 with a due date for payment of 3 October 2023 – 30 days after the date of issue.

481. On 10 October 2023, OneMusic issued an automated payment reminder requesting payment by 24 October 2023. As at 10 October 2023, the original invoice was seven days overdue.

482. The complainant paid the outstanding fees (\$99.50) on 23 October 2023. That was one day before the date stipulated by OneMusic. On 23 October payment was 20 days overdue.

483. The problem that then arose was that on the following day, 24 October 2023, OneMusic issue a second automated payment reminder. OneMusic explains that this was issued because the previous day's payment had yet to be processed. The second reminder contained the following: “if you have already made payment please accept our thanks and disregard this notice”.

484. That kind of standard form advice is commonly encountered in commerce and can hardly be objected to.

485. On 27 October 2023, an officer of OneMusic called the complainant. The complainant expressed the view that OneMusic did not have a good understanding of its customer base and suggested that its approach was

a “one-size fits all”, which was not appropriate for a small voluntary organisation like his. He said that he felt there was no connection between OneMusic and grassroots organisations such as his own and that he did not appreciate the way OneMusic contacted clients. He said that his organisation's treasurer was 90 years old and still operated using cheques, which can take time to be approved. He asserted that OneMusic should differentiate between clients such as his, and larger organisations, and that there should be better collaboration between OneMusic and its licensees.

486. The OneMusic officer explained that OneMusic was working on a new system which may allow it to create different templates to go out to different licensee groups. He said that he would discuss this with OneMusic management and that a “softer” touch would be introduced if this was possible.

487. Following the telephone conversation, the OneMusic officer emailed the complainant on 31 October 2023 apologising for the fact that OneMusic's customer service fell short of his expectations. The officer concluded by expressing the hope that OneMusic had resolved the matters of complaint, and by offering his own contact details if CL02 should have any concerns or feedback on how organisations such as his own could best be served by OneMusic.

*Code Compliance Reviewer's comments (if, and to the extent, called for)*

488. In my view, OneMusic handled the complaint satisfactorily. I have some sympathy with the “one size fits all” aspect of the complaint and encourage OneMusic to pursue its efforts referred to in [486] above.

### **APRA AMCOS Complaint 3 – CLO3**

489. CL03 operated a dance school business. OneMusic issued an invoice and an account summary on 2 August 2023.
490. On 23 August CL03 requested a list of the artists who would receive from OneMusic the payment to be made by her. That was a request for information as distinct from a complaint.
491. On 24 August, OneMusic replied to the effect that the information sought was confidential. In addition, OneMusic advised that CL03's account had been placed with OneMusic's external debt collection agency due to non-payment.
492. On 20 November, CL03 wrote to OneMusic repeating her request for information, complaining that she had never been consulted as to how many students and classes she currently had or how many events she held, and adding a further complaint about her having been charged to hold a non-profit event for a local hospital – something she said she had raised previously without response.
493. On 21 November, OneMusic responded enclosing CL03's current statement of account along with all invoices which made up the current balance owing. OneMusic also attached a "Statement of Claim" that itemised the legal costs incurred. The total amount claimed was \$2,225.90 plus legal costs of \$817.39 = \$3,043.29.
494. In response on the same day, CL03 complained about the "Events Unlimited" charge that was made and which she had previously queried. She advised that since that had never been justified, she was not liable to pay for the legal costs incurred. Finally, she sought advice on how to adjust the amount being charged. Apparently she meant "adjust to accord with her usage of the music".

495. Later, again on 21 November, OneMusic responded, referring to the fact, as alleged, that there had been numerous communications via email and telephone between CL03 and OneMusic's Licensing team regarding the level of tariffs. OneMusic's email made the point that it was a matter for CL03 to review the quarterly invoices to ascertain whether there had been any change in her business that might warrant a change in the tariffs.
496. Finally, on the same day, CL03 wrote asking how to escalate the matter to "complaints", and disagreeing with OneMusic's suggestion that it was a matter for her to check the tariffs, but she said that she would review the invoices and send through the adjustments to be made.
497. On 11 December, OneMusic's National Resolutions Manager wrote a lengthy email to CL03 dealing with her complaints in turn. He apologised for the lack of response in relation to her query regarding the fundraising event and gave her the link to a form to be completed which could lead to the issuing of a "Casual Event Licence".
498. OneMusic provided the statistics of music use that CL03 had provided to it in January 2022, on the basis of which the licence fees had been calculated. The Manager asked CL03 to advise if any necessary adjustments were to be made. As a gesture of good faith, he indicated that OneMusic would withdraw the debt matter currently sitting with its external mercantile agent, and waive associated legal costs.
499. He also apologised for not having provided a "more fulsome response" to the enquiry about the recipients of the fees that CL03 paid and he proceeded to give such a response. He explained that OneMusic does not seek from licensees under the *Dance and Performance Instructors and Dance Schools* licence details of songs played and does not distribute royalties on the basis of songs actually played, but distributes on the basis of "deemed music use".



500. According to the narrative, OneMusic considered the complaint resolved and stated that it was separately liaising with the complainant regarding payment of a small balance outstanding and confirming updates to her previously declared music use.

501. In the absence of any further communication from CL03, I think APRA AMCOS was entitled to regard the complaint as resolved.

#### **APRA AMCOS Complaint 4 – CLO4**

502. The complaint raised was that on at least two occasions, employees of OneMusic acted unprofessionally towards the complainant. One occasion was at the complainant's business premises and the other at an awards night.

503. The complaint was raised in an email dated 19 January 2024 from the complainant's solicitors who were writing to OneMusic about the licence needed.

504. On 14 February 2024, the solicitors for OneMusic responded to the complaint, rejecting the allegations, including by denying that OneMusic's representatives had ever entered the complainant's business premises.

505. On 21 February 2024, CL04's solicitors responded to the effect that their client did not wish to pursue the complaint.

506. The correspondence between the solicitors for the complainant and for OneMusic was dealing with the question of the complainant's need for a licence, and that issue was also resolved.

#### **APRA AMCOS Complaint 5 – CLO5**

507. On 22 January 2024, the Business Development Manager/Owner of a business complained to OneMusic about the "high pressure tactics" that

a particular member of its staff was employing to convince the complainant that she would face legal action if she did not purchase a licence. She complained that notwithstanding her requests, the individual had continued to call her. She added: “we are very confident in our current music provider and after [name of employee's] behaviour we would NEVER use the service of OneMusic”. She asked OneMusic to control the employee and instruct him to cease contacting her business in any form, adding that if his behaviour continued, she would escalate the complaint to the Code Reviewer or the Australian Communications and Media Authority (**ACMA**).

508. On 22 January 2024, a senior lawyer at OneMusic replied undertaking that the complaint would be investigated and a response provided within 14 days.

509. On 6 February 2024, OneMusic's National Resolutions Manager wrote to the complainant explaining the role of APRA AMCOS and PPCA, and the need for OneMusic to check that music in their repertoire was appropriately licensed. The email from OneMusic asked the complainant to advise the name of the music supplier she used, and enclosed a list of all Australian background music suppliers whose playlists include music from OneMusic's repertoire.

510. On 6 February 2024, CL05 responded to the effect that she thought it ridiculous that “a staff radio” was classed as a “public performance” and would cost \$1,000 or more if the radio could be heard by a customer in a car park. In any event, she advised that she had decided not to play any music at all in her business. She also raised a query concerning OneMusic's use of the expression “our music”

511. On 9 February 2024, One Music's National Resolutions Manager replied responding to particular queries that had been raised, including the one arising out of his use of the expression “our music”. He expressed regret that CL05 had decided not to use music in her business and the hope that

she would reconsider, in which case he invited her to let OneMusic know, or to go to its licensing portal to secure a licence.

512. CL05 did not raise any further issues and OneMusic justifiably considered the complaint as resolved rather than ongoing.

#### **APRA AMCOS Complaint 6 – CLO6**

513. The complaint was that CL06 had not received a licence document from OneMusic, notwithstanding his having requested it. In addition, the complaint was about rude treatment when CL06 called OneMusic to follow up on the request.

514. The complaint was made in an email dated 16 February 2024 which certainly conveys the impression that the OneMusic staff member was, as alleged, “rude and unprofessional” in speaking to the complainant.

515. A OneMusic staff member attempted to call the complainant on 19 February 2024, but, not having succeeded, wrote by email apologising for the way in which the complainant had been treated, and enclosing a copy of the licence certificate he had been seeking.

516. On 20 February 2024, the OneMusic officer managed to speak to CL06. He told the complainant that she would speak to the staff member concerned and asked if he was seeking anything beyond that, to which he replied that he was not.

517. Finally, on 29 February 2024, OneMusic's Customer Relations Manager wrote to CL06 thanking him for having raised his concerns, apologising for the poor service he had received on the telephone, and assuring him that she had spoken with the staff member in question and with the manager of that person, regarding the complainant's experience.

518. CL06 raised no further issues and OneMusic justifiably regards the complaint as resolved.

## **APRA AMCOS Complaint 7 – CLO7**

519. CL07 made strong complaints: that OneMusic was a “scam”; that it had issued invoices to his wife’s business when she had never entered into a licence arrangement with it; and that it had fooled his wife into paying fees.
520. CL07 lodged his complaint via the Small Business Association of Australia (**SBAA**) on behalf of his wife.
521. The letter of complaint from SBAA dated 4 February 2024 began by saying the CL07 had reached out to that organisation as APRA was a member of it. The email from SBAA stated: “he was rather angry, stating that OneMusic was a sham, used aggressive methods and never took their calls”. The email advised that the complainant claimed to have gone to the media. SBAA advised that it had asked CL07 to provide evidence but it had not in fact seen any aggressive behaviour in any of the communications complained about.
522. The email concluded by asking APRA to investigate the matter as the writer did not know the history of the matter and why CL07’s wife had received the invoice “that goes back five to six years”. The email from SBAA enclosed correspondence between CL07’s wife and APRA.
523. On 1 March 2024, OneMusic’s Senior Licensing Manager replied to SBAA promising to respond substantively to the complaint but in the meanwhile confirming that CL07’s wife held a licence which she had applied for on 15 January 2020 via the online portal.
524. On 15 March 2024, OneMusic provided the promised substantive reply. The Senior Licensing Manager advised that the periodic issue of licences and follow ups arose from the fact that CL07’s wife had in fact applied for the licence. In response to a request from the business, the licence was terminated as at 1 March 2024.

525. That is where the correspondence ends and APRA AMCOS regards the matter as having been resolved on 15 March 2024.
526. In their report to me, APRA AMCOS state that they have not been able to identify any basis for the complaint. They repeat that the complainant's wife established a One Music licence in January 2020 and declared her music use. They say that all that has happened since then is that OneMusic has issued renewal invoices. APRA AMCOS report that they have not seen any evidence that staff had been aggressive or unreasonable in their dealings with the licensee.
527. The licence was cancelled in February 2024 in response to a request for cancellation received from the licensee.
528. There has been no further communication from SBAA, the licensee or her husband, and OneMusic justifiably treats the complaint as not ongoing.

#### **APRA AMCOS Complaint 8 – CLO8**

529. This complaint was made on 14 May 2024 over the signature of the Chief Executive Officer of an Aboriginal Shire Council. I will refer to that individual as the complainant or as CL08.
530. The opening paragraph stated that CL08's complaint was over the "lack of customer service provided by OneMusic, as well as the lack of follow up and governance around [its] agreement with [the] Council".
531. There were four complaints. The first one related to an invoice issued by OneMusic to the Council on 4 July 2023 which was sent to the email address of someone who had left the Council two years earlier. In consequence, the invoice was not received by the Council. The complaint was that OneMusic should have followed the matter up by a telephone call to the Council to ensure that the invoice had been received and to request payment. The absence of such a telephone

follow up was described as a “lack of customer service from OneMusic” and as “not satisfactory”.

532. The second complaint was that OneMusic requested payment under an agreement that had expired on 30 June 2023 and was therefore no longer in force. The failure of OneMusic to provide a new agreement for CL08 to authorise was described as a “lack of customer service and governance from OneMusic” and as being “not satisfactory”.
533. The third complaint was that when the invoice eventually did reach CL08, he requested information from OneMusic on the invoice and requested that the agreement be updated, but this did not occur. Again, the “lack of customer service and governance from OneMusic” was described as being “not satisfactory”.
534. Fourth and finally, CL08 complained that OneMusic advised that it had not received any reply from the Council and referred the matter to an external collection agency in May 2024. CL08 complained that the statement by OneMusic was “untruthful” and CL08 attached the communications between her and OneMusic that preceded the reference to the external collection agency in May 2024.
535. CL08 concluded by stating that OneMusic had a very long way to go to improve its customer service and that the starting point should be to provide an updated agreement.
536. On 21 May 2024, OneMusic's Senior Licensing Manager replied to CL08 assuring her that the matter would be investigated and a substantive response supplied within 14 days. In the meanwhile, the account had been placed on hold.
537. On 22 May 2024, CL08 acknowledged receipt.
538. On 6 June 2024, the Senior Licensing Manager provided a substantive response to the complaints.

539. In relation to the first, second and third issues, OneMusic apologised, acknowledging that the service to customers fell short of expectations, and confirmed that the relevant staff had been counselled and assured CL08 that any miscommunication was unintentional.
540. The relevant part of the email dated 6 June 2024 is the following passage:
- “Firstly, I wanted to say how disappointed I was that your experience with OneMusic's Customer Service staff was not satisfactory. I can assure you that OneMusic endeavours to ensure that its staff adhere to the highest standards of customer service, and I apologise to you for the miscommunication by our staff to you in respect of Council's OneMusic Licence Agreement. I have spoken to the team members concerned, and I am confident that there was no intention to mislead you and that these issues will not occur again.”
541. In relation to the fourth issue (the licence agreement executed by the Council's former CEO), the Senior Licensing Manager advised that that agreement remained in force because the licence under it continued until terminated in accordance with a provision within the agreement. Two things followed from that, according to the Senior Licensing Manager. The first was that the Council had had the benefit of the licence since July 2020. The second was that APRA AMCOS (and now OneMusic) was entitled to charge the licence fee for all intervening periods.
542. By the email, OneMusic offered to enter into a new Licence Agreement to be signed by the current CEO of the Council if that was required.
543. CL08 responded to the effect that she would, indeed, like a fresh Licence Agreement which she could sign, but without any change to the level of licence fees.
544. On 19 June 2024, the Senior Licensing Manager sent to CL08 a new agreement for her to sign which would take effect from 1 July 2024. The APRA AMCOS report to me says that KL08 took up that option in a generally positive response.

545. APRA AMCOS say that they consider the complaint as resolved as from 6 June 2024 and I think they were entitled to form that view..

### **APRA AMCOS Complaint 9 – CL09**

546. The complaint was that OneMusic had insisted that CL09 sign a Licence Agreement and threatened legal action in default, in circumstances in which CL09 was willing to pay the licence fees but was unwilling to sign a OneMusic Licence Agreement.

547. The complaint was made by email on 16 May 2024.

548. On 2 May 2024, CL09 had written to OneMusic to the effect described above and OneMusic's National Resolutions Manager had replied on the same day asking CL09 why he was unwilling to sign the Licence Agreement for his business, so that OneMusic could issue an invoice. CL09 advised that he was quite willing to pay quarterly invoices so long as his business was playing some form of music at its shops, but that he would not sign the licensing documents that OneMusic had sent to him.

549. On 17 May 2024, the OneMusic Complaints Team wrote to CL09 advising that the issue raised was being investigated and that a substantive response would be provided within 14 days.

550. That substantive response was provided on 6 June 2024 by the Senior Licensing Manager at OneMusic. The response was to the effect that signature of an agreement was necessary, otherwise the terms of the licence would not be known. The Senior Licensing Manager stated that the Licence Agreement would state "the specific location or locations, the length and breadth of coverage and payment terms". She expressed confidence that CL09 would appreciate the difficulty OneMusic would have in raising regular invoices without an underlying agreement permitting it to do so.



551. She attached again the relevant form of Licence Agreement for CL09 to complete and sign if he wished to continue to play OneMusic's repertoire of music in his stores.
552. APRA AMCOS advises from its records that on 24 June 2024, a OneMusic licence for CL09's premises was acquired directly from the OneMusic website at 1:30pm, causing an invoice to be issued at 1:33pm which was paid at 1:34pm.
553. CL09 wrote to OneMusic on the same day at 2:04pm advising that he did not accept that there needed to be any agreement in place, since most transactions and payments of money take place every day without one and he could not see how the transactions between him and OneMusic were different.
554. He stated: "Payment has now been cleared to your bank account and covering our shops. But to reiterate and hold on record, we have not entered into any agreement with you."
555. APRA AMCOS advises that its systems could only have issued the invoice to CL09 (which he paid) after he had accepted and agreed to the licence terms and conditions on OneMusic's website, which OneMusic records as having occurred on 24 July 2024.
556. On that basis, APRA AMCOS report that OneMusic considers CL09's premises licensed and the complaint resolved as at 24 June 2024. On the facts reported to me by APRA AMCOS related above, I think that understanding was correct..

### **APRA AMCOS Complaint 10 – CL10**

557. On 27 May 2024, CL10 wrote to OneMusic complaining that someone (from OneMusic) "took payment of almost \$2,000 over the phone last week" and stated "you're not getting any more money from our family business. This is ridiculous". CL10 also stated in her email of complaint that

she had spoken to other business owners nearby who had not heard of OneMusic. She said that she was left with the impression that she was being “scammed”, so she had a conversation with the ACCC but was left unsure about “the ability of OneMusic”.

558. She then asserted that she had spoken to someone at OneMusic to “try to gain more understanding” but was told that [an undefined something] was “bullshit” and the person took payment over the phone. However, CL10 complained of having received another invoice which reinforced her concern that the approach of OneMusic may well be a scam. In addition, she complained that her employees were harassed on the phone multiple times by people representing OneMusic demanding that they supply CL10's personal details.

559. On 29 May 2024, OneMusic's Senior Licensing Manager replied promising an investigation by OneMusic as a priority and a substantive response within 14 days.

560. On 18 June 2024 the substantive reply was provided. The Senior Licensing Manager apologised for any rudeness by OneMusic staff and regret that CL10 felt that she was being harassed.

561. The Senior Licensing Manager said that it appeared that music within the OneMusic repertoire was being played at CL10's premises and that, as a result, the request for CL10 to obtain a OneMusic licence remained in place. The Senior Licensing Manager confirmed that OneMusic had received CL10's payment of \$1,890.37 on 23 May 2024 covering all outstanding invoices and legal costs for the period 1 May 2022 to 30 April 2024, and as a result CL10's account had been "placed out of default".

562. The point was made, however, that since music in OneMusic's repertoire was being played at CL10's premises, on 2 May 2024 an invoice had been issued for \$151.51 covering the quarter commencing 1 May 2024 which had fallen due for payment on 1 June 2024. The Senior Licensing Manager

extended this date to 31 July 2024. She pointed out, however, that the next quarterly invoice for the period 1 August to 31 October 2024 would be issued in August and would be due for payment on approximately 1 September 2024.

563. On 18 June, CL10 wrote to OneMusic stating that not only was she sent an invoice for \$151.51; she was also sent an additional invoice for \$821.89.

564. On 20 June, the Senior Licensing Manager replied, explaining that the \$821.89 was included in the payment of \$1,890.37 that OneMusic had received on 23 May 2024.

565. OneMusic reports that CL10 has not raised any further issues and has in fact since paid the invoice issued for the ongoing licence, and accordingly OneMusic considers the complaint resolved.

566. I think it was entitled to form that view.

## Copyright Agency Limited (“Copyright Agency”)

### Particular Complaints

567. Copyright Agency reports that two new complaints were received during the Review Period. They are addressed below.

568. It is reported that there have been no further developments in relation to any of the five matters in Copyright Agency's report to the Code Compliance Reviewer in respect of the 2022-2023 period.

569. Importantly, there has been a development in relation to the matters raised by the Copyright Advisory Group (**CAG**) directly with the Code Reviewer in respect of that period. In response to CAG, Copyright Agency has now published information on its website, including in diagrammatic form, about how copyright fees paid by the school sector and the TAFE sector are distributed to rights holders. The information is available from:

- [Who receives copyright fees paid by the school sector](#)
- [Who receives copyright fees paid by the TAFE sector](#)

### **Copyright Agency Complaint 1 – CAC1**

570. CAC1 is a writer for a newspaper. By his email of 21 September 2023 he advised Copyright Agency that he was proposing to write an article complaining that Copyright Agency took money from members, such as himself, and spent it on “niche, progressive works and conferences” without the approval of members. A second (but perhaps related) complaint was that Copyright Agency had published the society’s support for a “Yes” response to *The Voice* referendum without first seeking the views of members.

571. As will appear below, Copyright Agency says that it is a misconception to think of the statement that was made by the members of its Board, as a statement made by the society itself.

572. CAC 1’s email concluded: “If you would like to comment, would you mind responding to me within three hours?”

573. Some five and a half hours later, still on 21 September 2023, the Director Policy, Government and Member Relations of Copyright Agency, responded. She observed that Copyright Agency’s Constitution allows up to 1.5% of licence fees to be set aside for cultural purposes, and that this was approved by members at an AGM in 2011 and is consistent with government guidelines for copyright management organisations. She advised the complainant that the Board of Directors approves applications for funding and that information about all funded projects is provided on the Copyright Agency website. She further informed CAC 1 that in 2021-22 there were 83 funded projects.

574. In relation to the statement regarding the referendum on *The Voice*, she gave the complainant a link to the statement and observed that it was

made by the Board and that it acknowledged that there would be a range of views among Copyright Agency's 40,000 members.

575. On the following day, 22 September 2023, an opinion piece by the complainant appeared in the press. Throughout the piece, the author misidentified Copyright Agency as "Copyright Australia".

576. I will not summarise the opinion piece. It suffices to note that the author complained about Copyright Agency's use of 1.5% of the income that it derives from his works, for left-wing, progressive causes without his consent.

577. On 26 September 2023, the CEO of Copyright Agency wrote to the complainant following up on his opinion piece. She remarked that the statement on *The Voice* had been put forward as the view of members of the Board of Directors, and that it had acknowledged that there would be a range of views among the 40,000 members of Copyright Agency. In relation to the expenditure of funds, she reiterated that the Constitution of Copyright Agency provides for up to 1.5% of licence fees to be put into cultural projects which was consistent with government guidelines for copyright management organisations. In addition, she observed that in August 2023, Copyright Agency conducted a member survey which revealed that most respondents supported the existence of the cultural fund. She offered to meet with the complainant to discuss his views.

578. Such a meeting took place on 24 October 2023 in which the complainant maintained his position and said that he may write about Copyright Agency again if there was something new to say. There have been no further developments.

*Code Compliance Reviewer's comments (if, and to the extent, called for)*

579. Article 74(c) of Copyright Agency's Constitution provides that the purposes for which the Cultural Fund is to be used are "such special

purposes (including cultural and/or charitable purposes) as the Directors think fit". The first complaint made by CAC 1 does not attack any particular instance of funding as not falling within that broad mandate. Rather, it is a sweeping and general attack on the political orientation of the Board in dealing with applications for funding. An attack of that kind cannot be dealt with under the rubric of compliance with the Code of Conduct.

580. In relation to the second complaint, the complainant raises a fundamental issue of governance and administration. The question whether a Board of Directors should take positions and make public statements on politically controversial or sensitive issues has featured in the press, not only in relation to not-for-profit organisations, but also in relation to profit-driven companies.
581. It is not the role of the Code Compliance Reviewer within the space of a few paragraphs within the Annual Compliance Report to express a concluded view on this matter. There will be differences of opinion in the community on whether CAC 1's complaint is justified, and it would be beyond my role to express what would be a personal view. I note, however, that I do not think it answers CAC 1's complaint only to point out that the statement was the Board's personal statement and that this was made clear in the statement itself (although it is right that this was done). The reason why that is no answer is that the Board can still be seen to be improperly taking advantage of the platform provided to it as an elected body to advance its personal views.
582. There is no provision of the Code that is obviously relevant to the second complaint. Clause 2.6 (a) of the Code provides: "The Board of Directors of a Collecting Society will be accountable to its Members". Accountability does not, however, require that every decision taken by a Board of Directors be subject to prior approval of, or consultation with, the members.

583. Ultimately, it is not clear to me that the Board's statement went beyond its role. The statement included the following: "*The Voice* will have the position and potential to impact outcomes for Indigenous people and communities, fostering an environment **where First Nations art and writing can grow and flourish**" (emphasis supplied). Whether one agrees or disagrees with that view, a board of directors of Copyright Agency holding it would be entitled to make a statement supporting a "Yes" response to *The Voice* referendum. Seen in that light, the statement was more than just a "personal" statement.

### **Copyright Agency Complaint 2 – CAC2**

584. It seems that the stakeholders in this dispute, in addition to Copyright Agency, are the following:

- indigenous artists who are represented by an art centre that is a Copyright Agency member ("the Artists");
- a well-known garment fashion label, {"the Retailer"};
- a company which is also in the business of creating clothing for sale, apparently specialising in creating fabric with designs based on indigenous art ("the Fabric Producer");
- a company which was providing professional advice to the Retailer ("the Retailer's Adviser");

585. CAC 2 is the founder of the Fabric Producer, which wished to use artistic works of the Artists to create designs for fabric to be made into garments by the Retailer. This would require the grant of a licence by Copyright Agency permitting the reproduction, publication and communication to the public of the relevant artistic works.

586. The complaint was made by CAC2 of cultural insensitivity, specifically that she was spoken over and felt that she was being kept from a direct

relationship with the artists when Copyright Agency asked for agreement on basic terms before progressing to a meeting with the Artists. Copyright Agency says that this is a standard practice which it has found produces the best outcome and best manages the expectations of all parties.

587. Apparently the complaint was made by CAC2 to Copyright Agency's Account Manager, Visual Arts, who reported it to Copyright Agency's "Head of Visual Arts", who then dealt with the Retailer and the Retailer's Adviser.

588. Negotiations have continued towards conclusion of a contract. I have been supplied with a draft Licence Agreement between Copyright Agency, the Retailer and the Fabric Producer.

*Code Compliance Reviewer's comments (if, and to the extent, called for)*

589. The report of the complaint is rather vague but it seems that the complaint has been overtaken by the commercial negotiations.

## Audio-Visual Copyright Society Limited ("Screenrights")

590. Screenrights reports that it received no complaints in the Review Period.

591. In the year ended 30 June 2024 it received over 117,000 claims to royalties, bringing the total member claims to almost 1.9million. Over the Review Period, Screenrights opened competing claims involving 305 series and 876 one-off programs. It notified members of the competing claims via direct communications and the MyScreenrights portal.

592. Over the Review Period, a total of 1,191 competing claims progressed through the Assisted Resolution Process (**ARP**). The following figures outline the resolution rate of the ARP phases over the Review Period:



- 54% of competing claims were resolved under Phase 1 of the ARP;
- 99% of competing claims not resolved under Phase 1 were resolved under Phase 2; and
- 38% of competing claims that remained unresolved at the closure of Phase 2 were resolved under Phase 3.

## Phonographic Performance Company of Australia Ltd ("PPCA")

### **General**

593. PPCA reports that during the Review Period it complied with cl 2.9 of the Code. Its approach is guided by its *Complaints Handling and Dispute Resolution Policy* (**Complaints Policy**). The Complaints Policy details the process by which complaints may be made and the procedure that will be followed to resolve them.

594. All staff are provided with a copy of the Complaints Policy and are made aware of PPCA's obligation under the Policy. The Complaints Policy is also available for staff from the internal intranet. Staff are regularly reminded about the Complaints Policy at staff meetings and staff training sessions.

595. During the Review Period, the Complaints Policy was not updated, and PPCA received no complaints.

## Australian Writers' Guild Authorship Collecting Society Ltd ("AWGACS")

596. AWGACS reports that its Complaints Handling Procedure and Dispute Resolution Procedure were developed in line with the requirements of the

Code, the requirements of the International Confederation of Societies of Authors and Composers (**CISAC**) and the Australian Standard AS4269-1995 (Complaints Handling).

597. The procedures continued to be reviewed during the Review Period by CISAC.
598. AWGACS reports that during the Review Period, it received one complaint from a member.
599. The complainant-member sent by post a handwritten letter dated 23 April 2024 to AWGACS but addressed personally to a person who had previously been a director on the AWGACS board.
600. It was agreed between the former director and the AWGACS Manager that she should open the envelope. She did so.
601. The complaint was over late payment of royalties. The letter included the following:
- "Months pass, promised royalties don't appear – no notification of which shows and what amounts are involved."
602. On 1 May 2024, the AWGACS Manager spoke to the former director about the complaint, then called the complainant who said that he was disappointed over the time it took to receive his royalties after he returned his distribution forms to AWGACS. The AWGACS Manager advised him that AWGACS would always accept forms sent by post and that AWGACS understood that not all members are online and was committed to improving ways to stay in touch with offline members and would be designing a process to do so.
603. In reporting to me, the AWGACS Manager states that "[t]he matter was resolved over the phone". In addition she reports that (a) the member was paid his royalties on 1 May 2024 (the day of the conversation); and

(b) AWGACS has put in place a procedure of posting annually a hard-copy newsletter to members who register for the hard copy (online members receive newsletters monthly).

604. On the same day, 1 May 2024, the AWGACS Manager reported the complaint to the AWGACS CEO.

605. I am not informed of the date of the return of the distribution forms; the period between then and 1 May 2024.

606. AWGACS reports that on 7 May 2024 it wrote a formal letter of response to the complainant.

607. The letter included an apology for the delay in remitting the royalties. The letter explained, as had been explained to the complainant on the telephone, that AWGACS had re-worked its IT systems which would ensure the timely distribution of royalties. The letter assured the complainant that AWGACS remained “focused on paying all distributable royalties to members” and advised that AWGACS would always facilitate postal communication when email was not preferred or available.

608. The AWGACS Manager also advised that she was going to work with her colleagues to ensure that members without an email, like the complainant, were kept up to date with general news and distribution notifications.

609. The latter enclosed a *Complaints Handling Procedure* document for the complainant's information. No response was received from the complainant

610. In an online meeting that I had with officers of AWGACS, I made the point that the fact that AWGACS was able to make the payment on the very day of the conversation with the complainant raised the possibility that the society may have been “sitting on” his money (in the sense of unjustifiably failing to distribute money to which he was entitled) for some

time. AWGACS subsequently provided the following explanation which I find entirely persuasive, as well as informative, that deserves to be set out in full (omitting the account of the telephone conversation which is recounted above):

- AWGACS undertakes a range of highly complex administrative duties to collect secondary royalties, collate the corresponding data and ensure the accuracy of the payment allocations.
- This includes reconciling international data, completing incomplete data and translating from other jurisdiction (AWGACS partners with over 30 international collecting societies), locating and identifying writers, and requiring writers to warrant against the titles for which royalties are paid.
- Secondary royalties can be paid to writers who are members of AWGACS and who complete the essential steps to collect their payment. AWGACS must receive a warranty from members that they have been attributed to credits correctly and that they are entitled to receive a payment.
- AWGACS holds royalties in trust while it attempts to contact those writers who are owed royalty payments, which can include writers who have died. Some of these payments will have been left to beneficiaries as property in a will, but where a writer dies intestate, this introduces complexity.
- For these reasons, AWGACS aims to be careful in distribution and ensuring the right monies are paid to the right people. While we have a process for retrieving wrongly paid monies, it is our preference to pay it once and pay it correctly.
- It is for this reason that while the financial year ends in June, we commence distribution in the November-February following. The data matching and checking work is significant. During this time, paid royalties reside in a specific allocation fund.
- In the most recent 2022-23 distribution, 1,209 people were allocated a payment.
- In the most recent distribution, the amount that became distributable to the Complainant (and subsequently the amount that was eventually paid to him) was \$1,169.89.
- The Complainant is one of seven members who prefer postal communication. That is, seven, or 0.2% out of the 2,495 membership.
- We have experienced some difficulty in ensuring our database developer built us pathways for 'postal only' members, as the overwhelming majority of them use the online facilities available to them.
- This 'postal only' process is still a manual one.
- AWGACS received the postal distribution forms from the member on approximately 21 February 2024.
- As mentioned, we received the letter of complaint from the member on 1 May 2024. As you will recall, [the former director] is no longer an AWGACS Board member and has not been for some time, and spends part of the year overseas.
- We did not open the letter when it arrived, but first contacted [him] to seek his permission to do so as it was addressed to him. He gave us the permission, and upon doing so we found the complaint.

- .....
- Since [the conversation with the complainant on 1 May 2024], we have begun the work of designing a 'postal only' membership process. We have instructed our designer to begin work on a specific newsletter that will be posted in addition to all royalty and payment correspondence, and our new database will be able to specifically 'flag' postal only members.
- We will also design an internal office process for ensuring this is posted in a timely fashion; the majority of our staff work remote some or all of the time and we no longer have office infrastructure for post (our franking machine was disposed of in 2021, we do not have a post office box).
- We note that in the 27 years AWGACS has operated, this is the first formal complaint AWGACS has received from a member. At no time did we 'sit on' the members money or withhold it from the Complainant; he has received payments from us annually (where royalties became payable) for the majority of the time of the existence of AWGACS. The sole reason AWGACS exists is to pay royalties to writers, and we hope to continue doing so with this member, and all our other members.

## Australian Screen Directors Authorship Collecting Society Ltd ("ASDACs")

611. The Review Period covers the distribution period of 1 January 2022 – July 2023 royalty income. During that time, no formal complaints were received.

612. Any complaints received by ASDACS are recorded in a specific Complaints Register which is separate from other records of interactions with members.

## D. COMPLAINT MADE DIRECTLY TO THE CODE COMPLIANCE REVIEWER

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### Live Performance Australia

613. Live Performance Australia (**LPA**) which represents licensees in respect of the public performance of musical works in Australia, made a submission, to which APRA replied on 17 October 2024.

614. LPA's submission and APRA's response became moot when, on 21 October 2024, LPA advised the Code Reviewer that its negotiations with APRA AMCOS and PPCA on new OneMusic licences for *Ticketed Music Events* and *Eligible Temporary Music Events* were complete and LPA was "satisfied with the outcomes".

615. IPA also advised that it was working with the OneMusic team to develop information guides and resources to educate the industry about the new licensing scheme. LPA's letter concluded:

"We are pleased that OneMusic has taken the pro-active and positive approach to working with us prior to implementation of the new licensing scheme on 1 January 2025. We look forward to continuing our collaboration with the OneMusic team on these education and awareness activities."

616. Obviously, no further comment is called for by me as Code Compliance Reviewer.

### **Update on Copyright Advisory Group (CAG) complaint 2022-23**

617. My Code Compliance Report for last year (2022-23) recorded at [575] – [584] CAG's complaint that had been made directly to me and Copyright Agency's written response to it. As noted at [576], at my request, the Secretariat convened an online meeting with Delia Browne, the National Copyright Director of CAG, and Libby Baulch, Director Policy, Government and Member Relations of Copyright Agency, at which their respective papers were discussed.

618. The paragraphs referred to above speak for themselves.

619. As was noted earlier in this Report, Copyright Agency now provides, in diagrammatic form, allocations of copyright fees received from the school and TAFE sectors.

620. There was no complaint from CAG this year.

## E. CONCLUSION

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621. As contemplated by cl 5.1 (c) (i) of the Code, I conclude that, overall, there has been a high level of compliance with the Code.

622. This report is now submitted to the societies and to the Attorney-General's Department.

Dated: 21 November 2024



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**The Hon Kevin E Lindgren, AM, KC**  
**Code Compliance Reviewer**

## APPENDIX A - CALL FOR SUBMISSIONS 2024

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Notice of the Review, with an invitation to make submissions by mail to the Code Reviewer at a specified address or by email by 31 July 2024, was given by the Societies to their members, and by the Code Review Secretariat to some licensees of the various societies or to bodies representing large classes of licensees, as well as to other interested persons, names and addresses having been supplied by the societies. The Notice was published in an advertisement in The Australian newspaper on 29 June 2024 and it was also placed on the websites of the societies. It was in the following terms:

**The Code Reviewer**  
Suite 704  
4 Young Street  
NEUTRAL BAY NSW 2089  
EMAIL: [codereviewer@gmail.com](mailto:codereviewer@gmail.com)

**COPYRIGHT COLLECTING SOCIETIES  
CODE OF CONDUCT  
CALL FOR SUBMISSIONS 2024**

Each of the copyright collecting societies, Australasian Performing Right Association Limited ("APRA"), Australasian Mechanical Copyright Owners Society Limited ("AMCOS"), Phonographic Performance Company of Australia Limited ("PPCA"), Copyright Agency Limited ("Copyright Agency"), Audio-Visual Copyright Society Limited ("Screenrights"), Australian Writers' Guild Authorship Collecting Society Limited ("AWGACS") and Australian Screen Directors Authorship Collecting Society Limited ("ASDACS"), subscribes to a code of conduct. In its original form, the Code came into effect in July 2002. The most recent update came into effect on **20 May 2022**.

A copy of the Code is available on each Society's website or from the Code of Conduct for Copyright Collecting Societies website <https://www.copyrightcodeofconduct.org.au/code> and can be downloaded or, if requested, a copy can be supplied by post.

Compliance by participating collecting societies with the Code's standards of conduct is the subject of an independent annual review. The Code Reviewer for this purpose is former Federal Court judge and former President of the Copyright Tribunal of Australia, The Hon Kevin Lindgren AM, KC. His current task is to review the Societies' compliance with the Code during the period **1 July 2023 to 30 June 2024**.

The Code allows for interested parties to make submissions to the Code Reviewer concerning a collecting society's compliance or non-compliance with the Code. If you wish to make a submission, **please inform the Code Review Secretariat** at the address above or by email ([codereviewer@gmail.com](mailto:codereviewer@gmail.com)). The Secretariat will send you details about the procedure for making a submission.

The closing date for completing the submission process is **31 July 2024**.