



16 October 2019

Australia-European Union Free Trade Agreement  
Office of Trade Negotiations  
Department of Foreign Affairs and Trade  
RG Casey Building  
John McEwen Crescent  
Barton ACT 0221

SUBMISSION BY APRA AMCOS.

*The Australasian Performing Right Association Limited*

Australasian Performing Right Association (APRA) is a non-profit organisation, established in 1926, which represents over 100,000 Australasian composers, songwriters and music publishers. It administers the Performing Rights, including public performance, broadcast and communication to the public, in the music of its members and affiliated societies in Australia, New Zealand and much of the Pacific. It represents its members' interests around the world through reciprocal representation agreements with similar organisations.

*Australasian Mechanical Copyright Owners Society*

Australasian Mechanical Copyright Owners Society (AMCOS) is a non-profit company representing around 20,000 music publishers and composers in Australasia and administers certain reproduction rights in Australasia on behalf of its members and affiliated societies around the world. APRA administers the operations of AMCOS, under contract.

APRA AMCOS plays a primary role in the development of the Australasian music industry through support of emerging song writing talent and music publishing activity, with a view to encouraging export of Australian music and improving our terms of trade in music. We work in partnership with government to support the development and career paths within Australian music through the cornerstones of live music, digital distribution, local venues, education and the global stage.

APRA AMCOS has focused on, and participate in, the growing international success of Australian music over the last few decades. The significance of these returns and the corresponding investment in the local industry is reflected in the growth of APRA's international revenue – essentially the royalties flowing to Australasian songwriters from their overseas performing rights. In the past decade this has more than doubled from AUD\$20.5m to nearly \$46m annually. The extrapolation and significance of these figures across the industry is explained in the recently published report by Sounds Australia, *BORN GLOBAL, Australian Music Exports*<sup>1</sup>. This is benchmark research providing a foundation to support the strategic development of Australian music exports.

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<sup>1</sup> findings from the 2016-2019 Australian Research Council Linkage project *The Economic and Cultural Value of Australian Music Exports* from partners University of Newcastle, Monash University, Australia Council, Sounds Australia and APRA AMCOS.  
<http://www.soundsaustralia.com.au/index.php/export-research/>



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### *Sounds Australia background*

In 2009, the Australia Council for the Arts created an International Music Market Development Initiative, with the intention of advancing Australian music export. APRA AMCOS, as the peak music industry body partnered with the Australia Council and took on custodianship, providing the strategic, administrative and management support required to deliver the export project.

The national export program was named 'Sounds Australia' and was established to provide a cohesive and strategic platform to assist the Australian music industry access international business opportunities at key showcase conference events including The Great Escape in the UK; MIDEM, France; Reeperbahn and Jazzahead!, Germany; Classical Next in Holland and Primavera Pro, Spain. This involves participation in industry conferences, organising and promoting showcases and business networking for Australian act and their management.

Sounds Australia exemplifies a whole of government, whole of industry partnership made up of federal and state agencies. In addition to the Australia Council for the Arts and APRA AMCOS, varying degrees of investment have been made by the Department of Communications and the Arts, DFAT, Creative Victoria, Arts SA, Arts Queensland and Create NSW, whilst the industry organisations include AIRA, the Phonographic Performance Company of Australia Limited (PPCA) and the Australasian Music Publishers Association (AMPAL).

### *Our submission*

APRA AMCOS has participating in industry briefings and meetings on the negotiations towards an Australia EU Free Trade Agreement. The economies making up the EU are our most important trading partners – European societies remitted more than AUD\$26m in performing right royalties to APRA in the last financial year, representing more than half of our international collections. In the top 20 paying territories, in order, are the UK, France, Germany, Italy, Denmark, Holland, Belgium, Sweden, (Switzerland), Finland, Norway, Austria, Ireland and Spain.

Copyright and creative industries are a significant contributor to the Australian economy. The PWC report commissioned by the Australian Copyright Council and elaborated using the WIPO framework, *The Economic Contribution of Australian Copyright Industries 2002-2016* shows that our copyright industries employ more than 1 million Australians, generate the equivalent of 7.1% of GDP and \$6.6 billion in exports, around 2.7% of total exports<sup>2</sup>. Australia enjoys a regulatory environment that facilitates legitimate use of copyright materials, where content is made available and rightsowners are fairly compensated. Such a regulatory environment fosters investment in local creation and provides export opportunities for our creative industries, and for APRA AMCOS to develop and participate in multi territory digital licensing models, especially in the EU.

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<sup>2</sup>[https://www.copyright.org.au/acc\\_prod/ACC/Research\\_Papers/PwC\\_Report-Value\\_of\\_Copyright\\_Industries.aspx](https://www.copyright.org.au/acc_prod/ACC/Research_Papers/PwC_Report-Value_of_Copyright_Industries.aspx)

We regard the EU as recognising the overriding importance of the creative industries and their diversity to their economy and societies. They are also the birthplace of copyright, droit d'auteur, and collective management of copyright - with the first music collective management organisation (CMO) being formed in France in 1850. The recent EC Directive on Collective Management (Directive 2014/26/EU) provides a useful detailed framework for regulating the performance of collective administration, particularly in the context of the single market and cross border licensing. The Directive has as its core detailed EU-wide harmonising rules on governance, transparency and accountability for CMOs, including provisions for monitoring and compliance.

APRA AMCOS welcomes the wording of the revised proposed Article X.13 'Collective management of rights' in the draft agreement. Australia has the highest level of good governance and transparency in its collective management entities and we require the same from our trading partners, so we support language like this in FTAs. Specific obligations in FTAs to ensure enforcement of effective regulation of collective administration may provide an additional tool for us to redress trade barriers and losses to Australian rights-owners due to inadequate standards of collective administration.

The new draft EC Directive on Copyright in the Digital Single Market (DSM Directive), in Article 17 seeks to ensure the favourable interpretation of safe harbour laws in a manner that requires ISPs to remunerate creators and copyright owners fairly for the use of their copyright works<sup>3</sup>. It supports our position to not to extend our safe harbour provisions or introduce other digital exceptions in Australia. While the provisions elicited opposition from DSPs, the provisions were voted through by governments seeking to redress the transfer of value from the creative industries to the ICT sector through digital disruption. We believe these provisions also embrace the objectives of our obligations under the UNESCO Convention on Cultural Diversity<sup>4</sup>. APRA AMCOS would be very supportive of any text in the FTA which addressed these policy positions as well.

Over the last decade we have partnered with Sounds Australia in their vision to fast-track the global success of Australian music by assisting with research, policies and activities in developing and established markets. For example, APRA AMCOS has organised international co-writing programs for our members called Songhubs.<sup>5</sup> These include Songhubs in London and Stockholm. Other export focused initiatives of APRA AMCOS from a membership perspective include our biennial Professional Development Awards<sup>6</sup>, which support emerging songwriters working in a broad range of genres by providing funding to attend workshops, music education courses, composer seminars, co-writing sessions and other relevant international and local activities.

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<sup>3</sup> <https://www.cisac.org/Newsroom/News-Releases/EU-Copyright-Directive-will-help-create-a-better-and-fairer-digital-world>; <https://www.cisac.org/Newsroom/News-Releases/CISAC-calls-for-further-measures-following-release-of-EU-Commission-s-copyright-package>

<sup>4</sup> <https://www.cisac.org/Newsroom/Articles/CISAC-and-UNESCO-address-creators-remuneration-at-Paris-conference> The UNESCO operational guidelines "recognise and value the work of creators in the digital environment, by promoting equitable and fair remuneration for artists and cultural professionals" [https://en.unesco.org/creativity/sites/creativity/files/sessions/6cp\\_11\\_do\\_numerique\\_en.pdf](https://en.unesco.org/creativity/sites/creativity/files/sessions/6cp_11_do_numerique_en.pdf)

<sup>5</sup> <http://apraamcos.com.au/songhubs/>

<sup>6</sup> <http://apraamcos.com.au/awards/2019-awards/pda/>



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APRA AMCOS also has membership representatives working with our writers who are touring or living in our major markets. Our first overseas representative is working in London and Europe, as well as Los Angeles, New York and Nashville.<sup>7</sup> In the London office our members can now also access recording/writing rooms in the legendary [RAK Studios](#), where artists including Adele, Arctic Monkeys, Radiohead and Midnight Oil have recorded.<sup>8</sup> Next year, APRA is planning its first “APRA Global Music Awards”<sup>9</sup> in London in 2020 to raise awareness of the phenomenal success of Australian music and to recognise and promote our members’ work.

### *Trade in Services*

Reported international tours by our members have increased more than three times over the last five years, with attendant increases in the value of that sector of our business. The importance of international touring to economic returns and soft diplomacy is elaborated further in the report *BORN GLOBAL*.<sup>10</sup> In the last financial year, our members reported nearly 15,000 performances on tour in Europe. This included nearly 6,000 in the UK and over 3,000 in Germany. The European summer touring circuits are very important in market penetration, as are the major festivals such as Glastonbury. Having effective copyright regulation and enforcement in those territories is key to our members’ success. Also the ability under agreements to address any market access issues relating to movement of people and barriers to entry, including visas for touring and overseas based members ‘going global’.

Apart from touring and performances, music as a service also includes music in audio-visual products (film and TV exploitation garner nearly half of APRA’s international performance revenue) and music in the evolving gaming and on-line multi-media sectors<sup>11</sup>. In that regard we support the submission of Screen Producers Australia on the proposed agreement,

Digital disruption has transformed the music and creative industries. This allows our members’ music to access important markets in Europe and elsewhere directly and to leverage their social media networks to support their success. For example, one of our members, Tones and I, a songwriter from the Mornington Peninsula was until recently busking in the street until her song “Dance Monkey” has recently reached number 1 in charts in Austria, Belgium, Czech Republic, Denmark, Estonia, Finland, Germany, Hungary, Ireland, Luxembourg, Netherlands, Norway, Slovakia, Sweden, Switzerland, and the UK. Ensuring effective regulation and enforcement of rights exploited by digital services provides the industry the ability to effectively recognise the value of these uses. APRA AMCOS has recently launched a new “1,000,000,000 List”<sup>12</sup> which is awarded to APRA AMCOS members who have achieved extraordinary success by accumulating over one billion streams globally for an original song.

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<sup>7</sup> <http://apraamcos.com.au/music-creators/living-earning-or-touring-overseas/international-reps/>

<sup>8</sup> <http://apraamcos.com.au/music-creators/living-earning-or-touring-overseas/international-creative-spaces/>

<sup>9</sup> <http://apraamcos.com.au/news/2019/october/global-apra-music-awards-debut-in-2020/>

<sup>10</sup> Supra no 1

<sup>11</sup> <http://apraamcos.com.au/news/2019/july/high-score-2019-expands-to-a-two-day-event-exploring-music-in-games/>

<sup>12</sup> <http://apraamcos.com.au/news/2019/october/flume-joins-the-1000000000-list/>



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APRA AMCOS is grateful for the opportunity to make submissions on the proposed agreement. We believe it to be very important to the on-going success of Australian music globally, given that the EU is such an important market with a strong emphasis on the importance of the creative and copyright industries. We look forward to further updates on the progress of the negotiations and to the conclusion of the agreement.

Yours sincerely,

Scot Morris  
Director International Relations