

# MUSIC IN EISTEDDFODAU



## FREQUENTLY ASKED QUESTIONS

**Customer enquiries** 1300 852 388 eisteddfods@apra.com.au www.apraamcos.com.au

By bringing together all music copyright organisations under a one-stop-shop type licence, it is now much easier for Eisteddfod and competition organisers to take care of all necessary licensing in one simple transaction.

### What is copyright?

For so many Australian artists copyright is an important source of income. Copyright is federal law governed by the Copyright Act (1968). The Act exists to ensure that people who make creative content (musical, literary, dramatic or artistic) are able to protect that content, and are fairly paid when that content is used.

You will generally require permission from the copyright owner to perform, communicate, reproduce or adapt a copyright-protected work. If someone uses a copyright protected work without the right permission or licence in place, they are infringing the owner's rights.

In Australia, a musical work is protected for the life of the creator plus 70 years after their death (In 2005 this duration was increased to 70 years from 50 years).

By respecting copyright, you are ensuring that the next generation of Australian songwriters and composers are given a fair go, and rewarded for all of the great work that they do.

Many Eisteddfodau and competitions may not have been aware that they required a licence with ARIA and PPCA so have not deliberately been unlawful. Because of this unique situation, there will not be any retrospective charges.

Now that we have advised the industry in full, it is very important and in the best interests of risk management for committees and organisers that all Eisteddfodau and competitions make sure they have an appropriate licence in place from now on.

### Who is APRA AMCOS?

So they can get on with the important business of creating and performing fresh work, songwriters, composers and publishers assign certain rights in their works to APRA AMCOS. Some 95,000 members have assigned their rights to APRA AMCOS. We are able to then license use of those works on their behalf to organisations in Australasia.

APRA AMCOS license organisations to play, perform, copy, record or reproduce music. It would be impossible for most music users to always know who owns the music they are using and how to reach them for permission, so we offer one point of contact to access legal use of over 1 million works.

We are affiliated with similar rights management organisations around the world which means that we not only represent works by creators from Australia and New Zealand but from around the world.

Apart from 13 per cent operational expenses, all of the licence fees we collect go directly back to the songwriters, composers and publishers who own the work you are using. By international comparison these expenses are very low.

### Who is ARIA and PPCA?

When listening to a recording, there are two important creative features to consider – the underlying musical work, and the recorded version of that work. While APRA AMCOS represent the rights of composers and songwriters who write the musical works, ARIA and PPCA represent the rights of performers and recording artists who've created a particular recorded version of a song.

For you, this means that, whenever there is music use taking place that involves an existing recording, rights administered by ARIA and PPCA come in to play as well.

### How were the new rates set?

When setting the rates for the new Eisteddfod licence, APRA AMCOS took into account a number of different things. First and foremost, we looked at existing rates and licences across the different rights management organisations. Previously Eisteddfodau were required to take out separate licences with APRA AMCOS, ARIA and PPCA. It may be that some Eisteddfods were only partly licensed. By providing one central blanket licence, we ultimately aim to make things easier for Eisteddfod organisers.

We then reviewed a range of entry fees and ticket prices at different Eisteddfodau and compared that to their entry numbers. The 'per entry' model was decided on as the most appropriate way of measuring the scale of an Eisteddfod.

At the time when the parameters and rates of the licence were being developed, the Association of Eisteddfod Societies of Australia (AESA) was the most prominent industry body, representing the largest number of Eisteddfodau in Australia. AESA and their board worked with APRA AMCOS, ARIA and PPCA over a period of time to develop this licence and were consulted for feedback on this proposal.

At the conclusion of 2017, APRA AMCOS, PPCA and ARIA conducted an in-depth assessment of data they had received from Eisteddfods and dance competitions during that year. After reviewing all of the data provided, and working with a number of AESA members to discuss the impact of the current licence scheme on their organisations, it was decided to adjust the fees.

The per entry fees:

Year	AESA Members	NonAESA Members
2018	77 cents	99 cents
2019	\$1.21	\$1.34
2020	\$1.54	\$1.71
2021+	CPI	CPI

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### What is an entry?

An entry is defined as being each performer or group of performers who have been accepted to perform a single performance within an Eisteddfod Division.

Multiple performances by the same entrant comprise multiple Entries, and performances of the same act over multiple Eisteddfodau, Divisions or days comprise multiple Entries.

### What is APRA AMCOS, ARIA and PPCA's relationship with the Association of Eisteddfod Societies of Australia (AESA)?

- APRA AMCOS, ARIA and PPCA partner with many associations in a number of different industries throughout Australia and New Zealand, from hotels and restaurants, to fitness, education and retail. By partnering with associations we are able to better ensure that association members receive accurate information, and are being correctly licensed in the easiest possible way.
- The rights management organisations' agreement with AESA means AESA's members are offered a discounted rate when taking out the new Eisteddfod licence. The lower rate for licence fees paid through AESA reflects the administrative work that AESA undertake on behalf of the licensors. AESA has opted to pass on that discount to its members.
- AESA were consulted extensively during the developmental stage of the Eisteddfod licence. However it is important to note that the rates and structure were ultimately set by APRA AMCOS, ARIA and PPCA and we believe that the rates are fair and equitable, and relevant to all Eisteddfodau.
- By engaging with an existing association like AESA, we have been able to maximise our communication avenues and ensure accurate information is sent to licensees. Through this partnership, APRA AMCOS, ARIA and PPCA aim to extend the reach to Eisteddfod organisers who previously may have been unaware of their legal obligations to have a full suite of music licences in place to mitigate risk to committees and organisations.

### Why do I have to report numbers for entries who are performing classical music or Public Domain works?

In determining the fee structure for the new licence, we took into consideration that Public Domain works (that is, works out of copyright) may feature in certain Eisteddfod and competition events.

Through consultation with AESA it was determined that it would be too burdensome for each Eisteddfod to report on whether each work was in or out of copyright.

The Eisteddfod licence does not seek to license non-copyright works and recordings but rather apply a lower rate across all performances. The per entry rate was set, taking into account that the total entry number would include performances of Public Domain works.

For example, if there are ten entries in a division, and one of the ten performances is of a Public Domain work, all entries must be counted. The entry number reported for that division is ten. Licence fees are based on a per entry rate in order to measure the scale of an Eisteddfod or competition, rather than to reflect exactly how many times a piece of music gets performed. It is about gauging audience size.

However, a decision was made to exclude entire Divisions of Public Domain music from being counted. For example, if a Division within an Eisteddfod uses entirely Public Domain music (e.g. an under 18 Bach Sonata event) those entries do not need to be counted. However, if a Division contains both copyright-protected and Public Domain works, then all entries must be counted.

### Where does the money go?

APRA AMCOS manages this licence scheme on behalf of itself and both ARIA and PPCA. All four organisations distribute your licence fees, minus the costs of administration, to their members, licensors and overseas affiliates.

### How do you know which songwriters and artists to pay royalties to?

Rights management organisations have to balance out the desire for 100% accurate distributions with the costs of administration and any over-burdensome obligations on Eisteddfodau. So that we can accurately distribute royalties to the right people, we ask specific events to provide us with a full list of what is performed. For those events, we are able to directly distribute those licence fees to the songwriters and artists. We understand that for a number of Eisteddfodau and Competitions, providing detailed information is not possible.

The licence fees we receive from these types of events go in to royalty pools that are distributed based on different sources of data. Of course, we encourage music use reporting (setlists) on a voluntary basis from any event organiser.

### When will I be invoiced?

The licence term commences on 1 January each year and incorporates all Eisteddfod and competition events that take place in that coming calendar year. In the first year of this new licence scheme, we have been flexible with invoicing to allow organisers to prepare the necessary information and entry numbers required.

We will be moving into a pattern of invoicing in May/June of each year using the Eisteddfodau entry numbers from the previous year. That way, it will be one simple transaction at the same time each year.

If you need assistance to calculate the fees required, please contact your Account Manager at APRA AMCOS and they can help.

### We haven't kept records of our entry numbers before. What figure would we provide you with?

We understand that some Eisteddfod and competition organisers may not be prepared with their entry numbers for the first licence year. If you do not have an accurate figure available to calculate the fee in your first year, please contact your Account Manager at APRA AMCOS who can help.

### What about entrants that don't show up on the day, do we still include them in our total entry number?

By using the previous year's figures, organisers are able to budget in advance for the fees they'll be paying the following year. They are also able to exclude those entrants who did not show up on the day. With this process in place, the fees will consecutively reflect the changes in the event's scale and music use.

If for some reason a change needs to be made to the number of entries you have reported, we can always process an adjustment for you.

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### Dance schools also pay for a licence, isn't the copying of backing tracks already covered by their music licence for other events like Eisteddfodau?

In some instances the Proposed Dance School Scheme and the new Eisteddfod Scheme may license the same use – that is the right for a dance school to make a reproduction of a track for the purpose of use at an event licensed under the Eisteddfod Scheme. However, we note that many entries, if not most to eisteddfodau, are not dance schools. Nonetheless, in the medium term this has been addressed in the proposed OneMusic dance school licence scheme and in the short term is acknowledged within the more favourable pricing and phase-in structure outlined above. APRA AMCOS propose to address this issue through a variation to the Proposed Dance School Scheme.

### Why do I need a licence if I have already paid for the music on iTunes or bought a CD?

When you purchase a piece of music, whether that be a digital file, or a CD, you are granted the right to listen to that recording in a domestic setting (house, car, hospital bed, hotel room, etc). For any use in a business or event setting, further permission or licensing is always required.

### How are dance competitions, calisthenics or cheerleading competitions licensed?

The Eisteddfod licence was originally intended to cover those events that fall under the definition of an Eisteddfod.

That is:

- a competition in the arts;
- organised and presented by an incorporated not for profit association using primarily volunteers; and
- advertised or promoted as an Eisteddfod.

At the beginning of 2018, we proposed to remove, for the majority of events, the distinction between for-profit and not-for-profit Eisteddfodau. The Eisteddfod licence has been expanded to include all dance competitions, calisthenics and cheerleading competitions. Rates will be the same as those set out above, however for any Eisteddfodau or competitions where either the ticket price to attend, or entry free to enter the competition exceeds \$40 (including GST), then that event will be licensed:

- initially with APRA and PPCA separately according to their relevant, existing event rate; and
- on the launch of **OneMusic** under the relevant OneMusic event rate.

### What happens when a theatre or concert venue already holds an annual licence?

Some venues hold an annual APRA licence that covers certain eligible events. Eisteddfodau are not eligible to be covered by these licences due to their pricing structure and the additional rights involved – such as copying of print music and backing tracks, and making recordings of the events for entrants and adjudicators.

If an Eisteddfod is being held in a venue that already has a licence, the venue simply excludes it from their reporting. A venue with an annual licence reports on box office takings and artist expenditure at events that don't hold their own licence. Because an Eisteddfod is not eligible to be covered under a venue's annual licence, a venue would never include an Eisteddfod in their reporting. Venues will contact us when they are unsure of what they should include in their reporting.

### What happens if I don't take out a licence?

We will ask you to cease and desist unlawfully using any copyright protected music. APRA AMCOS may then decide to commence proceedings in the Federal Court. We always provide ample time for licensees to settle a dispute before escalating. Attending court may result in organisers having to pay the original fees as well as legal costs and debt recovery fees. While we are not a strongly litigious organisation, we do from time to time commence proceedings against infringing businesses and organisations. We find that most businesses and organisations we contact to make aware of their need for a licence are readily compliant.

### If APRA AMCOS isn't a Government organisation, what power do you have?

Copyright law is federal law, established by the Australian Parliament. When a copyright owner's rights are infringed they may choose to take action in court.

### Who should I contact if I organise a small Eisteddfod and I am worried I cannot afford the new licence fee?

The new licence fee represents a relatively small increase per entry, which if passed onto participants is unlikely to represent more than a tiny part of the total cost of Eisteddfod participation when you consider what is spent by entrants on costumes, travel, photos, hair and make-up, lessons and instruments. If you are considering the best way to introduce this to your participants, please contact your Account Manager at APRA AMCOS.



"I've been performing and writing music almost all my life. Those early opportunities to perform to a crowd were priceless! Hats off to all the Eisteddfod organisers and the teams of parents behind them that keep this amazing series of showcases alive in Australia.

We teach our kids they need to seek permission before using something belonging to someone else. By signing up for a music licence, you are continuing to set a positive example to the kids that copyright protection is important, it represents respect for individual ownership of work and that music has value."

John Foreman, pianist, composer and musical director