

MUSIC IN DRAMATIC CONTEXT: THEATRE, DANCE AND SHOWS



Dramatic Context Enquiries 03 9426 5223 theatre@apra.com.au www.apraamcos.com.au

These guidelines outline the new Dramatic Context definition and how it will apply to music played or performed in shows.

These music uses include music featured in the show, curtain change, scene change and incidental music, overture and exit music when the house lights are down and encores are played when the house lights are up.

The change is intended to make APRA's definition of Dramatic Context simpler and easier to apply in practice, and is more in line with the approach taken in larger overseas theatrical markets so that, where possible, international and local shows are licensed consistently when touring.

Dramatic Context means the performance of musical works:

- a) in conjunction with a presentation on the live stage that has: (i) a storyline; and (ii) one or more narrators or characters; or
- b) as a Ballet.

Ballet means a choreographic work having a story, plot or abstract idea devised or used for the purpose of interpretation by dancing and/or miming. Ballet does not include country or folk dancing, tap dancing or precision dancing sequences.

This document is a guide only. You should also carefully read the terms of APRA's Dramatic Context licence scheme.

The key features in determining whether the use of music in a production is Dramatic Context are whether the production has a *storyline* and *one or more narrators or characters*.

Any genre of show - cabaret, pantomime, comedy - could be classified as Dramatic Context if it has a storyline, and one or more narrators or characters. Equally, just because a production is a cabaret, pantomime or comedy show does not automatically mean it is Dramatic Context.

What is a storyline?

A storyline is a chain of events (whether factual, fictional or a combination of both), told in an interrelated sequence or arc (presented in or out of chronological order) within a show (even if the storyline is not written down).

In other words, the portrayal of a cohesive plot of events with a beginning, middle and end (even if the portrayal of events is not in chronological order) about one or more characters or events.

This may include the story of the life or work of a particular composer, artist or other music figure or event.



Angus Evans, David Jeffrey, Emily Dreyer, Kaitlyn Thor in *The Big Meal* by Dan LeFranc, The Depot Theatre, 2017. Photo Katy Green Loughrey

What is not a storyline?

Any of the following would not constitute a storyline on their own:

- The expression of a theme, idea or topic;
- Anecdotes or ad-libs between the performance of songs, or;
- A planned sequence of song performances.

References

Controversial Themes means references to violence, political, sexual themes, drug or other substance abuse;

Dance School does not include any school or training facility associated with a professional dance company;

Gross Sums Paid for Admission means the total amount paid for admission to the show, excluding booking fees charged by unrelated third parties, credit card charges, and government taxes, duties and charges;

Gross Box Office Estimate means ticket price multiplied by the venue capacity multiplied by the number of scheduled shows. To be eligible for the less than \$20,000 Box Office Threshold, you must include all planned and scheduled performances (including holds/options) in the Box Office calculation, calculated at 100% venue capacity;

Owner Referred Work means that the work may be available for use in a Dramatic Context show, but requires individual approval from the copyright owner including as to the licence fee for the work;

Owner Restricted Work means that the work is not available for use in a Dramatic Context show;

Potted Production means the performance of no more than three works, and no more than two sequentially, from an existing musical, revue, operetta, pantomime for which the works were purpose written.

How much does it cost?

ANY SHOW SEASON OR TOUR WHERE GROSS BOX OFFICE IS LESS THAN \$20,000. THIS ALSO APPLIES TO DANCE SCHOOLS, TERTIARY AND FOR SECONDARY SCHOOLS EXCEPT WHERE AN ADMISSION FEE IS CHARGED AND THE PRODUCTION IS ADVERTISED OUTSIDE THE SCHOOL COMMUNITY.

APRA can license all musical works it controls, except for Owner Restricted works for Dramatic Context shows:

- With a Gross Box Office per show season or tour of less than \$20,000;
- Produced by Dance Schools;
- Produced by Tertiary Institutions;
- Produced by Secondary schools **EXCEPT** where an admission fee is charged **AND** the production is being advertised outside the school community,

without having to get permission from its members for **Owner Referred** works, as long as the show:

- does not tell the story of the life or work of a particular composer, artist or other music figure or event;
- do not contain Controversial Themes and;
- is not a Potted Production.

If your show has any of these features then the music in your show will be **subject to clearance**, which will be managed by APRA in consultation with the relevant copyright owner(s).

Owner Restricted works conditions will still apply. These works are not available for use in Dramatic Context productions.

Licence Fee is the greater of:

6.6% of Gross Box Office pro-rated	\$16.50 per work	\$99 minimum fee per show season or tour licence
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ANY SHOW SEASON OR TOUR WHERE GROSS BOX OFFICE IS BETWEEN \$20,000 AND \$100,000.

For show seasons or tours where the Gross Box Office is **between \$20,000 and \$100,000**:

- **Owner Referred** and **Owner Restricted works** conditions apply.
- Shows telling the **story of the life or work of a particular composer, artist or other music figure or event**; or **containing Controversial Themes**, or **that are Potted Productions** will be subject to clearance, which will be managed by APRA in consultation with the relevant copyright owner(s).

Licence Fee is the greater of:

6.6% of Gross Box Office pro-rated	\$16.50 per work	\$99 minimum fee per show season or tour licence
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Example 1.

If a group is playing the songs of a band they admire, including dressing in the style of the original band members and they introduce the songs with ad-lib in between those songs, this would **not** be Dramatic Context. However, if a storyline and a narrator/character were added, the show will be classified as Dramatic Context.

Example 2.

Sisterly Love - The Jones sisters' story - growing up in a regional town and busting Nashville. The production is told in the third person by well known singers and in chronological order. The songs written by the Jones sisters are interspersed throughout, also some songs appear out of the order in which they were written and produced. This qualifies as a Dramatic Context show as it has a storyline and narrators.

Example 3.

MIA FEVER is a show by Jo Walker recreating on stage the talents of an Australian songwriting maestro. It includes 90 minutes of uplifting dance tracks and ad lib to the audience between the performance of songs. This does **not** qualify as a Dramatic Context show as it has a character but it does not have a storyline.

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ANY SHOW SEASON OR TOUR WHERE GROSS BOX OFFICE IS \$100,000 OR MORE.

For show seasons or tours where the Gross Box Office per tour is **\$100,000 or more**:

- Shows telling the **story of the life or work of a particular composer, artist or music figure or event**; or **containing Controversial Themes**, or **that are Potted Productions** will be subject to clearance which will be managed by APRA in consultation with the relevant copyright owner(s).
- Owner Referred** and **Owner Restricted works** conditions apply and may differ for each copyright owner according to different Gross Box Office tiers, including the right to set the licence fees for their work.
- Above \$100,000 Gross Box Office, the copyright owner may set the licence fee for the use of their work.

Unless the copyright owner has set the fees for the use of their work, the Licence Fee is the greater of:

6.6% of Gross Box Office pro-rated	\$16.50 per work
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Subject to minimum fees of:

Gross Box Office	Minimum show season or tour fee
More than \$100,000 to \$250,000	\$165.00
More than \$250,000 to \$500,000	\$275.00
More than \$500,000 to \$750,000	\$550.00
More than \$750,000 to \$1,000,000	\$825.00
More than \$1,000,000	\$1,100.00

PRIMARY AND SECONDARY SCHOOLS.

Licence arrangements and fees are covered in the **schools blanket licence**. For secondary schools, if admission fees are being charged **AND** the production is being advertised outside of the school community, you need to contact APRA AMCOS to discuss.

SPECIAL PHASE-IN CONDITIONS.

Existing shows previously licensed as concerts or events which will meet the new definition of Dramatic Context will not be subject to clearance by the relevant copyright owners if satisfactory evidence is given to APRA that performances for 2018 have been booked.

The following 12 month phase-in of fees is:

Licence Fee is the greater of:		
Period 1 January – 31 December 2018	4.4% of Gross Box Office pro-rated	\$16.50 per work
Period 1 January – 31 December 2019	6.6% of Gross Box Office pro-rated	\$16.50 per work

Subject to minimum fees of:

Gross Box Office	Minimum show season or tour fee
Less than \$20,000	\$ 99.00
Between \$20,000 and \$100,000	\$ 99.00
More than \$100,000 and up to \$250,000	\$165.00
More than \$250,000 and up to \$500,000	\$275.00
More than \$500,000 and up to \$750,000	\$550.00
More than \$750,000 and up to \$1,000,000	\$825.00
More than \$1,000,000	\$1,100.00

The conditions and licence fees are the same for both Australia and New Zealand, subject to different GST rates. All rates are given in AUD with 10% GST.

Are all musical works available?

Some musical works are not available to be licensed for Dramatic Context performances (these are called Owner Restricted works). Some works must be referred by APRA to the copyright owner for approval on a case by case basis (these are called Owner Referred works). This is a decision made by the copyright owner and not by APRA AMCOS.

Grand Right Performances

APRA AMCOS does not have public performance rights for Grand Right productions (productions where **the songs have been written expressly for the production**) and is therefore not able to license such productions.

Producers will need to apply for a licence directly from the owner of Grand Right, usually a music publisher or agent. APRA AMCOS can assist in identifying the appropriate publisher or agent.

Grand Rights include shows such as operas, operettas, oratorios, musical plays, revues and pantomimes for which the music has been specially written. Stage musicals such as *Phantom of the Opera*, *Wicked*, *The Book of Mormon* or *West Side Story* for example, have to be licensed by the relevant music publisher or agent. Cinematic musicals, such as Disney's *The Lion King* or *Mary Poppins*, are also dramatico-musical works when adapted for the stage and narrative concept albums such as The Who's *Tommy* or Pink Floyd's *The Wall* are also Grand Right Works when performed on stage.

APRA is not able to license choral works that are more than 20 minutes long, but can assist in identifying the appropriate publisher or agent.



Photo of *North by North West* courtesy of Melbourne Theatre Company – photo Jeff Busby.

APRA AMCOS (the Australasian Performing Right Association and the Australasian Mechanical Copyright Owners Society) is a rights management organisation which licenses performing, communication and reproduction rights in music on behalf of 95,000 members and 145,000 licensees with 170 affiliated organisations worldwide.

This fact sheet is a guide only. Refer to the licence for full terms and conditions.

If my production is not defined as a Dramatic Context production, how will I be licensed?

You may be licensed as an event.

Events feature either a headline act, support acts, or a series of music performers where **admission fees** are charged. This licence may apply to a single event or a tour, or to a festival that is not eligible for the Festival licence.

The 2018 rate is 2.2% of Gross Sums Paid for Admissions, subject to a minimum annual fee of \$82.50.

You may be licensed under a 'Music Performances with no admission fee' licence.

For performances where music is performed where there is no admission fee such as a performance in a park.

The 2018 rate is 2.2% of gross expenditure on live artist performers, subject to a minimum fee of \$82.50.

You may be licensed under a 'Special Purpose Featured Music' licence.

For events where music is featured, but not the primary focus of the performance such as comedy shows, and exhibitions. The 2018 rate is 2.2% of gross admission fees pro-rated by the music use percentage over the event's duration, subject to a minimum fee of \$82.50.

You may be licensed as a festival.

A festival occurs on **at least one full day** (of no less than 8 hours in advertised duration) at an **outdoor place** requiring a stage to be erected or a specific performance area to be created specifically for the event and is **advertised as a festival**, in which the staging of the event and all associated advertising is **not dependent on any one or two headline acts** and includes **at least six acts**.

What if I don't agree?

Clients can approach **Live Performance Australia** or **Resolution Pathways**, an independent dispute resolution service to resolve a dispute. Disputes regarding APRA AMCOS' application of the Dramatic Context definition for a particular production, as well as other disputes under Dramatic Context licences (other than issues regarding the availability of particular works), may be referred to Resolution Pathways by either the producer or the copyright owner. Resolution Pathways is not able to resolve disputes about whether a work is an Owner Restricted or Owner Referred work. Information about the service and how to contact Resolution Pathways is located at: apraamcos.com.au/adr.