

COMMONWEALTH OF AUSTRALIA

Copyright Act 1968

**IN THE COPYRIGHT TRIBUNAL OF AUSTRALIA
FILE NO. CT 2 OF 2022**

FREE TV AUSTRALIA LIMITED (ACN 101 842 184)
Applicant

**PHONOGRAPHIC PERFORMANCE COMPANY OF
AUSTRALIA LIMITED (ACN 000 680 704)**
Respondent

ORDER

TRIBUNAL: PERRAM J (President)

DATE: 13 OCTOBER 2023

WHERE MADE: SYDNEY



THE TRIBUNAL ORDERS THAT:

- 1 A summons in the form annexed to these orders issue to APRA AMCOS.

Date that entry is stamped: 16 October 2023

A handwritten signature in blue ink, appearing to read "Nye Perram", is written over a dotted line.

The Hon Justice Nye Perram, President

COMMONWEALTH OF AUSTRALIA

COPYRIGHT ACT 1968

**IN THE COPYRIGHT TRIBUNAL OF AUSTRALIA
FILE NO. CT2 OF 2022**

REFERENCE BY: **Free TV Australia Limited (ACN 101 842 184)**
Applicant

**Phonographic Performance Company of Australia Limited (ACN
000 680 704)**
Respondent

under section 154 of the *Copyright Act 1968*

Summons to produce documents

(pursuant to section 167(3) of the *Copyright Act 1968*)

To: Australasian Performing Right Association Limited and Australasian Mechanical
Copyright Owners Society Limited, c/- Banki Haddock Fiora, Level 10, 179 Elizabeth
Street, Sydney NSW 2000

1. You are summoned to produce to the Copyright Tribunal of Australia the documents
annexed to this summons and marked 'A'.
2. You are required to produce the documents by 30 October 2023 to the Copyright
Tribunal of Australia at Level 17, Law Courts Building, 184 Phillip St, Queens Square,
Sydney NSW 2000 or at copyright.tribunal@fedcourt.gov.au and in electronic form to the
solicitor for the Applicant at twebb@claytonutz.com.

Date this entry is stamped:

.....
The Hon Justice Nye Perram, President

Annexure 'A'
List of documents for production

A. Categories of documents required to be produced

1. For the period 1 January 2010 to date, all documents comprising any licence agreement between, on the one hand, APRA and/or AMCOS or OneMusic Australia, and, on the other hand, the entities (or any entities related thereto) listed in the Schedule.
2. For the period 1 January 2010 to date, all documents comprising each version of the APRA and/or AMCOS membership agreement.
Note: this Summons does not require the production of each signed copy of the membership agreement held by APRA and/or AMCOS, the terms of which are substantively identical, but rather requires production of the form of each membership agreement that has been operative.
3. Documents comprising each version of the APRA and/or AMCOS distribution policy, operative during the period 1 January 2010 to date, including the documents titled:
 - (a) APRA distribution practices;
 - (b) APRA distribution rules
 - (c) AMCOS distribution practices; and
 - (d) AMCOS distribution rules.

B. Interpretation

For the purposes of this Summons:

1. no category limits the ambit of any other category;
2. a word importing the singular includes the plural (and vice versa);
3. "includes" in any form, is not a word of limitation;
4. a reference to a "licence" includes a sub-licence; and
5. a licence agreement includes:
 - (a) all licence agreements that were operative from time to time during the time period specified;
 - (b) all documents recording any amendments to such agreements made from time to time during the time period specified;
 - (c) all appendices or other relevant documents attached to such licence agreements;
 - (d) all licence agreements that involve more than one service if a service provided by a relevant service provider is not licensed on a standalone basis; and
 - (e) where no formal licence agreement is documented, all documents that record the basis upon which the licensee is paying fees.

C. Definitions

In this Summons:

AMCOS means Australasian Mechanical Copyright Owners Society Limited (ACN 001 678 851).

APRA means Australasian Performing Right Association Ltd (ACN 000 016 099).

APRA AMCOS means APRA and AMCOS

Document means any record of information and includes anything on which there is writing.

Free TV means Free TV Australia Ltd (ACN 101 842 184).

OneMusic Australia means the joint licensing initiative between PPCA and APRA AMCOS described at <https://onemusic.com.au/>.

PPCA means Phonographic Performance Company of Australia Limited (ACN 000 680 704).

Service Data means:

- (a) data about the number of subscribers of a service;
- (a) data about total viewer hours of a service; and
- (b) data about the usage of music on a service, including data about the historical or expected time duration of music communicated to users of a service.

Schedule

- (a) Australian Broadcasting Corporation (ABC)
- (b) Special Broadcasting Service (SBS)
- (c) Foxtel Management Pty Ltd
- (d) FetchTV Content Limited
- (e) Telstra Corporation Ltd
- (f) Austar Entertainment Pty Limited
- (g) iiNet Limited
- (h) Optus Vision Media Pty Limited
- (i) Samsung Australia
- (j) Samsung Electronics Co Limited
- (k) Sky Channel
- (l) Filmfest Limited (Melbourne International Film Festival)
- (m) Sydney Film Festival
- (n) Amazon Commercial Services Pty Ltd (as provider of Amazon Prime)
- (o) Stan Entertainment Pty Ltd
- (p) Streamotion Pty Limited (as provider of Binge)
- (q) The Greater Union Organisation Pty Ltd (Cinebuzz On Demand)
- (r) Universal Pictures Subscription Television Ltd (as provider of Hayu)
- (s) Palace Cinemas
- (t) Virgin Australia
- (u) Meta Platforms Inc
- (v) Google LLC