



Clubs Australia

CLUBSAUSTRALIA RESPONSE TO THE PPCA'S PROPOSED TARIFF "R" INCREASE

OVERVIEW OF CLUB INDUSTRY

ClubsAustralia represents Australia's 4000 licensed, not-for-profit clubs. Clubs are community based organisations whose central activity is to provide local community, recreational and sporting facilities for their members. Clubs contribute significantly to their local communities, through employment and training, direct cash and in-kind social contributions and through the formation of social capital by mobilising volunteers and providing a diverse and affordable range of services, facilities and goods. Typically this includes the provision of entertainment such as live music acts, comedians, trivia nights, bingo and children's shows.

INTRODUCTION

Clubs play background music in club areas and pay copyright fees to PPCA for the privilege. Clubs pay a variety of tariffs depending on their activities and pay copyright fees to play recorded music in nightclubs, outdoor recreation areas, conference rooms, fitness centres, dining areas and for music played in the general club premises. Typically clubs use the same background music throughout the club in areas used for dining and in the foyer, bar area etc.

PPCA has attributed a value to the background music played in club restaurants that is unrealistic. While the value of live music and entertainment can be quantified the value added to the industry by background music is intangible and subjective.

The proposed tariff structure assumes that background music adds value and proposes that this value should be reflected in higher copyright payments. This submission will show that while live music generates business for clubs and is valued by club members, background music does not present a demonstrable value to the industry.

Considering that there is no evidence to substantiate the value of background music in clubs, the proposed increases are unjustified, as illustrated in Table 1.

Table 1: Examples of Tariff Increases

Club	Annual Current fee under Tariff R	Annual Fee under proposed Tariff R1	Percentage increase
Adamstown RSL Club	\$124.19	\$14,400.00	11,513%
Campbelltown RSL Club	\$143.66	\$13,759.20	9,478%
Forestville RSL Club	\$124.19	\$13,759.20	10,979%
Foster Golf Club	\$124.19	\$5,784.00	4,565%
Canterbury Leagues Club	\$391.84	\$49,275.00	12,475%
Belmont 16 Foot Sailing Club	\$415	\$20,422.00	4,821%
Maclean District Bowling Club	\$124.19	\$14,742.00	11,770%
Tewantin Noosa RSL Club	\$143.66	\$26,535.00	18,370%

Salisbury North Football Club	\$83.49	\$8,575.00	10,170%
Easts Leagues Club	\$150.00	\$21,000.00	13,900%
Julia Creek Town and Country Club	\$79.00	\$5,897.00	7,364%
Noosa Yacht and Rowing Club	\$409.00	\$29,720.00	7,166%
Caloundra RSL	\$1,188.00	\$54,663.00	4,501%
RACV City Club	\$785.73	\$43,945.20	5,492%

COMMENT ON SCOPE OF TARIFF R AND PROPOSED TARIFF R1

Tariff R1 applies to any establishment:

- a) that is open to the public;
 - b) whose primary business is the sale of food, with or without beverages; and
 - c) has space available to consumer the food/beverages on the premises;
- excluding** any establishment operating in a club or multi-function venue (that is, a registered club, pub, entertainment complex, hotel or motel) if that establishment does not have a seating area designated or reserved for the consumption of food.

ClubsAustralia makes the following points in relation to this definition.

1. Food service is not the core business activity of clubs

The sale of food is not the primary business activity of the vast majority of clubs. Clubs are multifunction hospitality venues offering entertainment and recreational activities designed to support the club's purpose. For example, the core activity of bowling clubs is the provision of bowling greens and organising bowling competitions for members. The club building is primarily a place to meet socially for a drink after members have finished bowling.

2. Clubs are multifunction venues

The draft tariff excludes "any establishment operating in a club or multi-function venue (that is, registered club, pub, entertainment complex, hotel or motel) if that establishment does not have a seating area designated or reserved for the consumption of food."

Most clubs have open plan layouts and some do not have areas designated for the consumption of food. Tables and chairs in open plan areas can be used while viewing television screens or when drinking beverages bought at the bar. These same tables may also be used for the consumption of food. Clubs are not like most restaurants and cafes which are self contained; music and noise from other club areas can be heard in club eating areas.

Even when clubs have a seating area reserved for the consumption of food the club often plays the same background music that can be heard in all general areas of the club including the foyer, bar, dining and lounge areas of the club.

ClubsAustralia has been contacted by clubs that play the same music throughout the entire club premises, when the music is background and not foreground music (see table 2). These clubs all currently pay Tariff R, and would be subject to the Tariff R1 increase.

Table 2: List of clubs playing the same background music throughout the whole club premises and associated fees

Club playing the same music	Proposed Tariff R1 fee
Adamstown RSL Club	\$14,400.00
Forestville RSL Club	\$13,759.20
Foster Golf Club	\$5,784.00
Canterbury Leagues Club	\$49,275.00
Belmont 16 Foot Sailing Club	\$20,422.00
Maclean District Bowling Club	\$14,742.00

PPCA has assumed that background music gives dining areas and restaurants a more pleasing atmosphere that adds to their appeal thereby increasing patronage and revenue. For clubs playing the same music throughout, the argument that dining areas are somehow different when it comes to uses of music, as compared to bar and lounge areas, can not be sustained.

Background music in clubs serves the same function whether the club member listening to the music is eating food, walking through the foyer or drinking. There is no greater value added by background music in dining areas and playing music in these areas should not attract a higher fee for clubs.

COMMENT ON STRUCTURE AND RATES SYSTEM

The structure of the fee matrix and the rates proposed by PPCA generate astronomical and unjustified increases in costs for clubs. In our view, even modest increases above the current annual CPI adjustment would be unaffordable in the current trading environment.

1. Dining in clubs is typically not-profitable

The proposed PPCA rate increase is supposedly structured to reflect the value music adds to business revenue. The value attributed to background music in dining areas should take into account the profitability of the food service. While restaurants exist solely to prepare and serve food, club food operation is an ancillary service that typically generates losses for the club. Community clubs are not-for-profit organisations and do not offer dining as a service to their members to generate a commercial profit.

Table 3 shows food service as a percentage of club profit in New South Wales.

Table 3: NSW Clubs' sources of profit (percentage of total profit), by club size (by gaming machine revenue\$)

Sources of Profit	Club Size					Total Clubs
	\$0-200K	>\$200K- 1M	>\$1M-5M	>\$5M- 10M	>\$10M	
Food	0.5%	-0.2%	-0.3%	-8.1%	-2.2%	-1.7%

Source: The Allen Consulting Group, Clubs and the Mutuality Principle, Table 1.5 March 2006 p.6

The Allen Consulting Group's analysis shows that clubs, regardless of size, lose money on their food operation.

Currently clubs pay a fee for the right to play music in a given area, and the copyright payment is reasonable and affordable. The proposed tariff R1 is based on the estimated

value of music in restaurants, and does not take into consideration how clubs operate and specifically, the role food service plays in clubs.

2. The importance of live music to clubs

In terms of music offerings, clubs are principally live music venues and do not rely on background music to encourage patronage.

Over the years, clubs have invested millions of dollars in club auditoriums, stages and the sound and lighting equipment needed to host live entertainment. According to APRA's 2008 Live Music Survey, restaurants and cafes spent \$5,788,464 on live music. Clubs in contrast spent over \$75 million, thirteen times the amount spent by restaurants and cafes. The value of live music to the club industry can be clearly seen by clubs' annual spend and the additional money spent promoting live music.

In a 2006 survey of club goers in New South Wales, 53% of respondents said that live bands were an important reason for visiting their local club. In contrast, only 1 person out of the 1109 respondents mentioned "music" as an important reason for visiting their club. When respondents were asked to comment on additional activities and services they would like their club to provide responses included:

- More live music / entertainment,
- More shows, concerts, movies, talks, exhibitions
- Have the occasional band or some sort of entertainment for younger people

No respondent mentioned that they would like high quality background music or that background music had a positive impact on their club going experience. The survey provided an opportunity for club members to mention the importance of background music to their dining experience but this specific use of music was not mentioned once. This casts doubt over the research put forward in support of the proposed tariff increase.

3. The purpose of background music

Clubs are multifunction venues and each club has facilities which align with the purpose of the club and the needs of club members. The diverse range of facilities owned and operated by clubs include auditoriums, fitness centres, restaurants, bowling greens, golf courses, sporting grounds as well as bar and gaming areas. Clubs often play music in these areas and subsequently pay a significant number of PPCA tariffs (and the companion APRA fees where applicable). Clubs could pay the following tariffs:

Tariff E1: Nightclubs

Tariff E2: Dances and Dance Parties

Tariff D: Dance Studio, Dance Instructors

Tariff HM: Music on Hold

Tariff J: Audio Jukeboxes

Tariff M: Commercial or Professional Premises

Tariff S: Sports Arenas, Race Tracks, Showgrounds, Outdoor Amusement Parks

Tariff SS: Outdoor Recreational Areas

Tariff R: Restaurants

Tariff V: Fitness Centres, Gymnasiums, Health Clubs and Similar Establishments

Tariff Y: Conference Rooms

Tariff K: Amusement Parks, Pool Rooms, Squash Courts, Swimming Pools, Ten Pin Bowling Centres and similar establishments

Most clubs pay Tariff M, in addition to other tariffs depending on how they use music in their club. Each tariff reflects a different purpose or use of music. Often the same music is played throughout the general club premises (bar areas, dining, gaming, foyer) but clubs pay a separate tariff for the restaurant.

Background music in different areas of the club serves the same purpose no matter where that music is played. A song heard in the background while eating a meal, playing keno or walking through the foyer is serving the same purpose.

Music and sound travels between separate club areas, especially in clubs with an open plan design. It is unreasonable for clubs to pay a separate tariff for the same music, or for the music that is serving the same purpose, when it can be heard in multiple club areas simultaneously.

To place the value of background music played while eating above the value of background music in other areas is illogical. The two tariffs "M" and "R", as paid by clubs, do not reflect a different use of music and are inconsistent with the other PPCA tariffs.

Clubs, compared to other businesses, are overly burdened by the arbitrary and complex system of PPCA tariffs. ClubsAustralia would welcome a genuine review of the current PPCA tariffs that considers not only the fees paid by businesses but also the purpose, implementation and performance of the tariffs.

CONCLUSION

The proposed rates of Tariff R1 do not reflect the value of recorded background music in club restaurants and clubs do not conform to the scope of the proposed tariff. The background music in club restaurants serves the same purpose as the background music in other parts of the clubs commercial premises and should not attract a higher fee.

When the use and purpose of background music in club restaurants is considered, it cannot be valued at the level that PPCA has proposed. The proposed tariff is unreasonable given the reasons outlined in this submission. The increase represents a significant increase for the not for profit, community clubs that currently pay the tariff.

For further information, please contact Diana Withnall, Research Officer, on 02 9268 3057 or by email dwithnall@clubsnsw.com.au.