

1998-1999 Operations

FINANCIAL PERFORMANCE

It is pleasing to report that, despite a difficult year operationally, we can once again confirm increases in licence coverage, revenue and distribution.

The distributable surplus increased by 1.5%, bringing this year's distribution to a record \$4,072,962. Total income increased from 6.3% to \$6,336,245 with the most substantial increases occurring in the "Public Performance" and "Commercial Radio Broadcast Fee" categories.

Once again we are happy to report continued growth in the number of public performance licences held. At the end of the financial year active licences numbered 30,285 – an increase of over 12% on the previous year. The growth in licence numbers reflects the important contribution of our licensing department, who deal with a constant flow of telephone and written inquiries.

The graphs on page 9 illustrate the overall growth achieved by PPCA over recent years.

TECHNICAL UPDATE

As reported in last year's publication, significant resources have been expended to ensure systems were upgraded and tested to ensure PPCA's readiness for the year 2000. At the time of preparing this report we are successfully operating all systems, and experienced no down time as a result of Y2K issues.

We are currently developing strategies to ensure all systems are ready to meet the demands of the new taxation regime.

COMMUNICATIONS

During the year our schedule of advertising and communications has continued expansively in an effort to increase awareness of the worth of sound recordings and music videos, and the need for equitable remuneration to be paid to the originators of these valuable musical products.

PPCA's profile has been further enhanced by our participation in a number of industry events and education based programmes. Further details on these can be found in the Communications section of this report.

The PPCA web site (www.pcca.com.au) continues to provide a conduit for the dissemination of information to artists, licence holders and other interested parties.

GST – READY OR NOT?

The introduction of "*The New Tax System*" will have a significant effect on all Australian businesses, including PPCA. Some system modifications have already been necessary, as public performance licence fees are billed annually in advance and extend beyond the GST commencement date of July 1st, 2000. In conjunction with our auditors, Deloitte Touche Tohmatsu, we are currently determining the operational and system changes required. Once procedures are finalised we will be contacting all artist members to explain any necessary changes to distribution and registration systems.

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DISTRIBUTION

During December 1998 PPCA issued many hundreds of cheques in the Direct Artist Payments process, and equally to Controlling Labels. It is pleasing to note the steady increase in both the number of artists participating in the direct payment system, and the total amount distributed to artists each year.

The distribution process is both complex and time consuming. As in prior years, the process was greatly assisted by the free access granted to PPCA by the Australian Record Industry Association (ARIA) of its extensive catalogue database. This database provides valuable information, allowing the titles in the distribution logs to be checked and matched with artist registrations.

SUPPORT ACT LIMITED (SAL)

In last year's report we advised of the formation of Support Act Limited (SAL) – a national benevolent fund established to provide assistance to Australian musicians, composers and associated workers.

PPCA continues to be closely involved with the organisation, with both our Executive Director and General Manager holding positions on the SAL Board. PPCA fully supports SAL's aim to provide financial, legal and medical assistance to those artists and families in need, and has given practical assistance with fund raising events held throughout the year.

WHAT'S NEXT?

The coming year provides a number of diverse challenges for the organisation and its staff, as we prepare for the impact of the new taxation system on our licensing and distribution systems.

Licence agreement negotiations between PPCA and broadcasters and narrowcasters are currently underway and are expected to be finalised during 2000.

With regard to broadcast income, PPCA continues to push the issue of inappropriate price capping with the Federal Government. Since the introduction of the Copyright Act 1968 (ie. the Act) owners of copyright in sound recordings have been forced to subsidise the broadcasting industry in Australia, as the maximum fee is "capped" by virtue of the Act.

It is up to the government of the day to fix this by way of amendments to the Copyright Act. The ABC and commercial radio refuse to pay proper rates and also refuse to consent to the repeal of the price capping. Clearly the broadcasters position is a sad and unsupportable one. When will the government act on this?

The ceilings set are significantly less than comparable market rates and result in extensive income reductions for PPCA's artist and record label members. Table 1 illustrates the impact of this price capping on member income, and highlights the importance of this issue for PPCA.

With the ever emerging digital technologies at work in the market place we await the finalisation and positive impacts on the recording industry of the most significant amendments to Australia's copyright law since the passage of the Copyright Act itself in 1968, this being the Copyright Act (Digital Agenda) Bill 1999.

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On this and all issues, we are committed to working to ensure that artist and label members are equitably rewarded for the use of their sound recordings and music videos through PPCA's simple licence schemes and reasonable fees.

TABLE 1 PPCA REVENUES, EXPENSES AND DISTRIBUTION

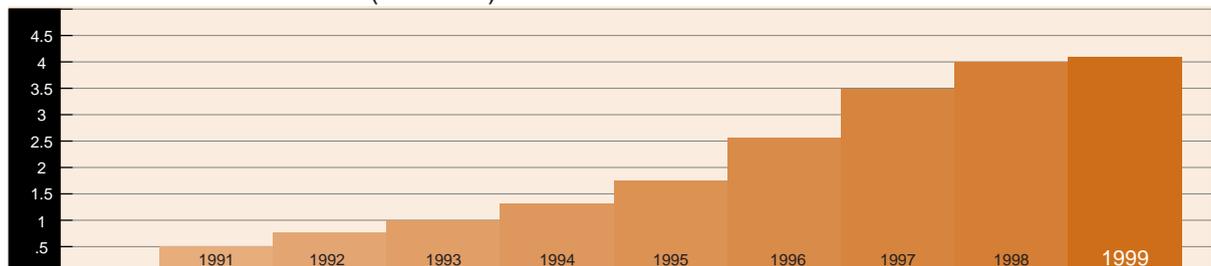
	COLUMN 1	COLUMN 2
GROSS REVENUE	\$6,336,245	\$26,403,782
AGENCY EXPENSES	\$2,263,283	\$2,563,283
AMOUNT AVAILABLE FOR DISTRIBUTION	\$4,072,962	\$23,840,499
DISTRIBUTION TO PPCA PERFORMERS' TRUST	\$62,139	\$267,371
DISTRIBUTION TO ARTISTS AND RECORD COMPANIES	\$4,010,823	\$23,573,128

COLUMN 1: 1998/1999 PPCA figures.

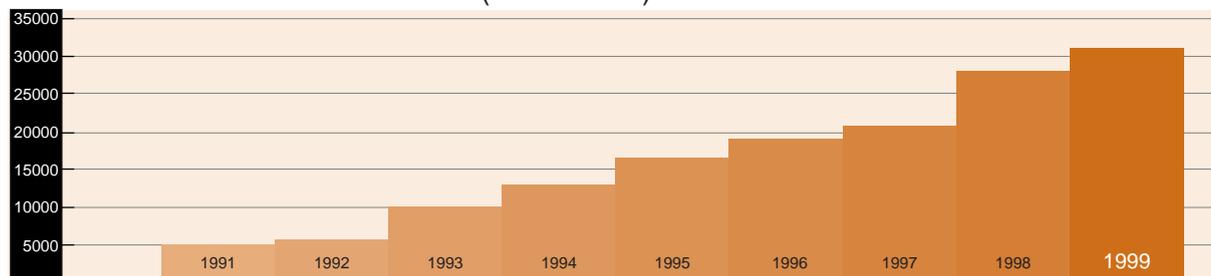
COLUMN 2: Estimated 1998/99 figures if 'anomalies' were removed.

Using UK Copyright Tribunal rates of 2% to 5% with an average of 3% for radio broadcasters and 0.24% for TV broadcasters.

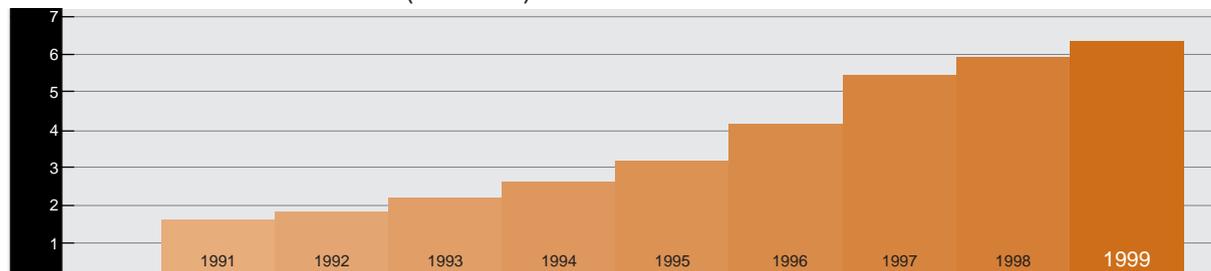
GRAPH 1 DISTRIBUTION (Millions)



GRAPH 2 NUMBER OF LICENCES (Thousands)



GRAPH 3 GROSS REVENUE (Millions)



Communications, PR &

PPCA COMMUNICATIONS

The PPCA PR & Communications program provides much needed information and resources relating directly to all aspects of music copyright licensing.

Throughout the year, PPCA continued to collaborate with other industry sectors, raising its profile as a collecting society and communicating on a regular basis with customer groups via presentations, advertising strategies and media coverage. More importantly, PPCA continued to provide Australian recording artists of all levels and music genres with access to industry support services and the organisation was encouraged to see more recording artists register directly with PPCA over the past 12 months.

The PPCA website continues to house vital materials on public performance rights with the business community able to access up-to-date information on licensing requirements. The site also provides PPCA registered artists, government bodies and the arts industries with access to resource materials as relevant to their needs and interests.

Over the past year, PPCA continued to maintain links with key trade associations and representative groups including the dance sectors, clubs, retail and small business based industries. The national PPCA advertising and media campaign continued to have the support and involvement of Australian recording artists and their labels with advertisements refined and re-designed to target specific business sectors. These advertisements, accompanied by editorial features, proved to be effective in their delivery and were more "user friendly" with regards to requirements on music licensing for the business sector. Some of these PPCA advertisements have been reproduced later on in this section for reference.

Evidence of the value of PPCA is again seen in the role it takes in the support and nurturing of local music and emerging talent - talent which is being admired more and more in overseas markets. There has been continued sponsorship and support by PPCA of such industry events as Music Business Adelaide, the Bondi Youth Wave and numerous national band competitions, as well as staff readily participating in numerous school, TAFE and community based music workshops and courses.



John Kane (Artist Director, PPCA), on right, presented the annual PPCA Most Broadcast Australian Country Recording Artist Award for 1998 to John Williamson and EMI Australia. The Award was presented at the Country Music Association of Australia (CMAA) luncheon at Star City Casino and acknowledges the outstanding broadcasting achievement of country music recording artists.



PPCA continues to stay abreast of international trends and new technologies that directly affect the recorded music industry, ensuring that PPCA members are provided with relevant information on these changes. Pictured attending a seminar, held in Sydney, for record and music publishers on new digital music trends and copyright protection infrastructures are Karen Don (Business Affairs Manager, Universal Music Australia), Peter Bond (Chairman, PPCA & President, Universal Music Australia), Emmanuel Candi (Executive Director, PPCA), Adrian Fitz-Alan (PPCA Board & General Manager New Technology & Business Affairs, Sony Music Entertainment), Paul Jessop (Director of Information Technology, IFPI), Louis Calleja (PPCA Board & Business Affairs Director, EMI Music), Marianna Annas (PPCA Board & Business Affairs Director, BMG Australia) and Gary Smerdon (Financial & Business Affairs Director, Warner Music Australia).

PPCA continues to have representation on the Board of Support Act Limited (SAL), established in mid 1997 by members of the Australian music industry. SAL is a benevolent fund designed to provide financial, legal and medical assistance to industry workers and their families, and since the appointment of a Co-ordinator for SAL, there have been numerous recipients of help and advice.

Since the inception of the PPCA Most Broadcast Recording Artist Awards (for commercial and country airplay), annual results are eagerly awaited by recording artists and their labels. This unique Award recognises and acknowledges the broadcasting success of Australian recording artists and their record labels via radio and TV airplay of their music and music videos. PPCA congratulates the joint 1998 Award winners - John Farnham (Gotham/BMG Australia) and Savage Garden (Roadshow/WarnerMusic) and John Williamson (ABC/EMI Music) in the country music category.

The year 2000 will see the PPCA PR and Communications program continue to implement ways in which to best service not only the artist and record company members it represents, but also current and future licence holders. Government bodies, media and industry will be provided with updates on all public performance right and matters as they occur with PPCA making a continued effort to increase the broadcasting and profile of Australian recorded music and talent.



Throughout 1999, emphasis was placed on promoting the growing use of music videos by businesses across Australia and the necessity for those businesses to hold appropriate licences - fitness centres, boutiques and nightclubs, just to name a few. Pictured above with a small selection of titles including Madonna and The Corrs, is Gary Smerdon, Financial and Business Affairs Director for PPCA member Warner Music Australia, one of the largest distributors of music videos.



Backstage, prior to their performance on Network Ten's 'The House of Hits' music show, Bachelor Girl and BMG Australia were presented with the PPCA Most Broadcast Australian Recording Artist Award for 1999. Pictured left to right is David Hughes (Manager), Tania Doko (Bachelor Girl), Tim Prescott (Managing Director, BMG Australia), James Roche (Bachelor Girl) and Emmanuel Candi (Executive Director, PPCA).



PPCA Staff participated in the third annual Music Business Adelaide 3-day industry conference hosted by the Arts Government of South Australia. This conference provided a unique opportunity to meet with young industry workers and recording artists, highlighting the role of PPCA, the importance of recorded music copyright and copyright protection on the Internet. Pictured with local musicians is Cathy O'Brien (Solicitor, PPCA) at the one-on-one sessions.

1998-1999 Arbitration / Court Cases / Legislation Update

In last year's publication, we outlined the process of arbitration provided under PPCA's licensing scheme: a Board of Review (BoR) process. At the time of our last Report we advised that we had received a request by five (5) Melbourne nightclubs to hold a BoR with regard to determining whether the increased PPCA licence fee for nightclubs was fair and reasonable. This matter has since been finalised and is outlined below.

CASE 1 MELBOURNE NIGHTCLUBS – BOARD OF REVIEW

The Board of Review for the five nightclubs located in Melbourne made recommendations which varied the fee and the way the 1996 increase was to be phased in. The Board of Review decision has no direct effect on the present year 2000 fees.

CASE 2 FAIR FITNESS MUSIC ASSOCIATION (FFMA)

We reported in last years publication that Mr. Evangelos Rizos, Chairman of Fair Fitness Music Association (FFMA) – a fitness centre in Victoria, had filed an application in the Copyright Tribunal to have the appropriate fee determined in relation to aerobic and fitness classes.

Unfortunately, the matter has proven to be a very tedious and time-consuming process. Whilst waiting for Mr. Rizos to provide certain information to the Tribunal, Mr. Rizos sent out a letter to all members of FFMA advising them not to pay their licence fees, effectively inducing them to breach their licence agreements. This letter also contained a number of incorrect and defamatory statements regarding the PPCA. As a result of that letter, and after numerous requests for Mr. Rizos to retract the letter and statements, we were forced to commence a Trade Practices case against Mr. Rizos and FFMA to protect the interests and reputation of PPCA.

The Court declared that Mr. Rizos had engaged in conduct that was misleading and deceptive and in breach of the Trade Practices Act.

The Court ordered that Mr. Rizos be permanently restrained from distributing the original Notice and making further false representations. Mr. Rizos was ordered to provide details of all persons/organisations receiving the Notice as well as to provide all such persons/organisations with a copy of a new Notice retracting his earlier comments.

Mr. Rizos has finally complied with the orders made by the Court.

CASE 3 FEDERATION OF AUSTRALIAN COMMERCIAL TELEVISION STATIONS (FACTS) VS PPCA

You will all no doubt recall that on 20th May 1998, the High Court determined an important question of Copyright law; that sound recordings dubbed into a sound track of a movie or television programme **did not** lose their identity. Recording artists and record companies that own sound recordings do continue to have a broadcast right once the sound recording is synchronized into a film, contrary to what was argued by the commercial television stations.

1998-1999 Arbitration / Court Cases / Legislation Update

You may also recall that this legal argument arose from the original application to the Copyright Tribunal in 1996 whereby PPCA sought to have the Tribunal determine the appropriate rate that ought to be paid by the commercial television stations for the broadcast use of sound recordings.

The question of law concluded, PPCA filed its application to renew the matter to have the appropriate fee determined by the Tribunal on the 28th May 1999.

Since that time, PPCA has been preparing affidavits and further evidence in support of our case. Detailed evidence will be provided by Emmanuel Candi, Executive Director of PPCA, as well as expert evidence from a number of artists and record companies to assist the courts with factual information pertaining to the value of sound recordings.

It is likely that we will have this case set for hearing some time in the latter part of 2000.

LEGISLATION – COPYRIGHT AMENDMENT (DIGITAL AGENDA) BILL 1999

The introduction of digital technology, especially the enhanced communication of ideas and information, has a major impact on many aspects of modern life.

PPCA, together with ARIA, have been leading the way in providing detailed submissions (both written and oral), consulting with the government and assisting to mould the most significant amendments to Australia's copyright law since the passage of the Copyright Act itself in 1968.

In November 1999 the Legal and Constitutional Affairs Committee of the House of Representatives issued an extensive report on this piece of new legislation: the Copyright Amendment (Digital Agenda) Bill 1999, which will ultimately redefine the bundle of property rights that is copyright, in the context of emerging digital technologies and the new digital environment.

PPCA was successful in having a number of key areas recommended by the Committee to be amended so that copyright owners will benefit from the use of new technologies outlined in new legislation.

The cornerstone of the legislation is the 'communication right', which will cover all (non-physical) transmissions of copyright products such as sound recordings. The basis for this right was identified in the Copyright Convergence Committee report in the mid 1990's and PPCA (with ARIA) was the protagonist for that study.

Some areas of the latest draft of the Bill still require some further amendments which we are hopeful in having changed before the Bill is passed as law, which is likely to occur later this year.

We will continue to keep you informed with regard to the developments with this vitally important new piece of Australian legislation.

PPCA Trust

PPCA TRUST ACTIVITIES

Since its inception, PPCA has funded and co-administered with the Musician's Union and the Media Entertainment and Arts Alliance (formerly Actor's Equity) the "PPCA Trust". The Trustees during the period 1 July 1998 to 30 June 1999 were Brian Harris, Emmanuel Candi, Patricia Amphlett and John McAuliffe.

In exercising their powers pursuant to the provisions of the Trust, the Trustees have the power to pay or to apply the Trust Fund to or for the benefit of such beneficiaries as the Trustees in their absolute discretion from time to time determine in respect of one or more of the following purposes:

- 1 performance at concerts at, or for, charitable institutions such as hospitals or homes for the aged; or,
- 2 scholarships for the promotion and encouragement of musical and theatrical education; or
- 3 the promotion and encouragement of the performing arts to the general public; or, in particular,
- 4 the aid or assistance of any beneficiary who in the opinion of the Trustees is unable to adequately maintain herself/himself by her/his own exertions and other income.

Total funds provided since creating the Trust have been \$1,242,563 (up to 30 June 1999).

In the 1998-99 year, three Trust meetings were held and 30 applications were put to the Trustees. Of these, 25 were approved totalling \$85,834. Of the successful applications 19 related to further education and research; and 6 to festivals, live music and local artists.

The names of the recipients are as follows:

Monte Mumford
Margery Smith
Tasmanian Arts Council
Queensland Flute Guild
Kym Purling
South Australian Council for Country Music
Tardis Music
Peter Whish-Wilson
Kayla Davis
Symphony Orchestra
Musicians Association (SOMA)
13th Annual U ARIA Music Awards
Pacific Circle Music

Launceston Jazz Club
Miriam Warren
Beverly Longhurst
Clarinet & Saxophone
Society of NSW
Aaron Geeves
Tania Bosak
Ritsuko Dalton
Launceston Branch of the
MUA
Flutes of Adelaide
Nadia Ackerman
Patrick Murphy
MEAA Federal Office

The Trust Balance Sheet can be found on page 44 of this report.

Feedback from many of the grantees has been welcome and useful. Here are some examples:

I would like to thank the Musicians Union and the PPCA for making my recent trip to study at the Musicians Institute in Hollywood California possible. Without your support it would have been difficult to come up with enough funds to make the trip a reality.

The course was ten weeks of intensive study mostly in the field of Jazz and improvisation. I spent most of the ten weeks learning these basic skills and tools as well as hoarding as much information as possible to continue my own practice with more advanced techniques and concepts. As well as study I was able to see some great players performing around the Hollywood area.

Since returning to Hobart I have begun teaching and performing again passing on as much of the information to my students as possible. I have conducted two workshops based around structuring the guitar neck in relation to jazz improvisation and hope to keep doing more

Aaron Geeves, Tasmania

I recently returned from the Ta-Ke-Ti-Na Rhythm Process training in the Portland, Oregon. As one of the four Australians training in this method I feel extremely privileged to be bringing this exciting process to the Australian music and performing arts community. I will be offering classes to Union members and hope to be conducting classes at the Tasmanian Conservatorium of music.

I am extremely grateful that the PPCA has supported me in this training which so far has greatly benefited my skills as a musician, performer and teacher of percussion and rhythm.

Tania Bosak, Tasmania

On behalf of the Organising Committee for the 10th Australian Flute Convention, I would like to sincerely thank the Trustees of the PPCA Performers Trust Foundation for their generous grant. It gives me great pleasure to report that the Convention was a great success, hailed by many delegates as the best one ever held in Australia.

It was the generous support from philanthropic organisations such as yourselves that, along with sponsorship, enabled the Convention to achieve the artistic goals that made it such a success.

Frances Farmer
10th Australian Flute Convention, Queensland

The Flutes of Adelaide group is extremely excited to have been successful with this generous (PPCA) grant. We wish to thank the Board of Trustees of the PPCA Trust Foundation for its support of our project.

Elizabeth Koch
Flutes of Adelaide, SA