



# Complaints Handling and Dispute Resolution Policy

## Overview

### *What is PPCA and what is this Policy about?*

Phonographic Performance Company of Australia Limited (**PPCA**) is a non-profit organisation established in 1969 by Australian record companies to issue licences for the broadcasting, public performance and transmission of copyright protected sound recordings and music videos.

This guide to our Complaints Handling and Dispute Resolution Policy explains how we will handle any complaints or disputes that might arise from time to time in relation to PPCA's activities. In developing and refining the procedures outlined in this Policy, we have had regard to the overriding principle that any complaints process should be accessible, fair, efficient, quick and low cost for all involved.

Our Policy has also been designed to comply with:

- the requirements of the *Code of Conduct for Collecting Societies* (the **Code**) – to which PPCA and several other major Australian collecting societies have voluntarily adhered since January 2002; and
- the standards set out in Australian Standard ISO 10002-2006 *Customer Satisfaction – Guidelines for complaints handling in organizations* (which replaced the previous Australian Standard AS 4269-1995 *Complaints Handling*).

### *What complaints and disputes are covered by this Policy?*

PPCA actively encourages feedback on our performance across all areas of our business, and we welcome comments from copyright owners, registered artists, licensees and members of the public about our service. Please contact us by one of the methods set out below if you wish to discuss any aspect of your dealings with PPCA or its staff.

The formal procedures set out in this Policy apply to complaints about matters covered by the Code from:

- Licensees and potential licensees;
- Copyright owners that have authorised PPCA to issue on their behalf licences for the use of sound recordings and/or music videos; and
- Artists who have registered with PPCA under the Direct Artist Distribution Scheme.

For example, you can make a complaint under this Policy if you think we haven't complied with one of our obligations under the Code, or if the service you have received from PPCA doesn't meet one of the standards set out in the Code.

We aim to resolve all complaints to the satisfaction of the affected person or company. However, we recognise this won't always be possible. For this reason, PPCA also offers you the option of participating in one of the following independent dispute resolution processes if you're not happy with the outcome of your complaint:

- Mediation

- Conciliation
- Neutral Evaluation

Each of these processes is explained in more detail below.

## The Complaints Process

### *How can you make a complaint?*

We aim to make it as easy as possible for you to bring complaints to our attention. For this reason, we offer a range of methods by which you can make a complaint to us:

- **By telephone (during business hours):**  
02 8569 1100 – ask for the Complaints Officer
- **By fax:**  
02 8569 1183 – mark the fax to the attention of the Complaints Officer
- **By email:**  
[complaints.mail@ppca.com.au](mailto:complaints.mail@ppca.com.au)
- **By post:**  
The Complaints Officer  
PPCA  
PO Box Q20  
QVB POST OFFICE NSW 1230

We won't charge you anything to lodge a complaint and have it considered in the manner outlined in this Policy (but note there are costs involved in referring a matter for independent dispute resolution – these are explained below).

To ensure that we can examine and respond to your complaint quickly, please make sure you:

- provide appropriate identification so we can verify whether you are a copyright owner that has authorised PPCA to issue licences on your behalf, a registered artist, a licensee or a potential licensee (as applicable);
- tell us your licence number, artist registration number or other PPCA identification number (if you know it);
- provide contact details (preferably a phone number and email address) so we can discuss your complaint with you or seek additional information; and
- give us as much detail as possible about the nature of your complaint, and attach any relevant documents and other information that support your complaint.

If you need assistance in describing or making a complaint, or if you just want to discuss your concerns informally before deciding whether to make a complaint, please feel free to contact us.

### ***How will we handle your complaint?***

Our Complaints Officer will oversee the complaints process on behalf of PPCA. That person is responsible for liaising with you and with other staff members in PPCA to ensure that the issues you have raised are fully examined, and that your complaint is handled in accordance with this Policy.

The process, and all the details of your complaint, will be treated by us in strict confidence, and we generally won't disclose any information about your complaint to anyone outside PPCA. If we do need to talk to someone else about any issues arising from your complaint, we will first obtain your consent.

We will always try to give you a fair opportunity to explain your case. You should make your initial complaint as clear as possible, and provide all the supporting material you can, but sometimes we may also need to have a phone conference or meeting with you to discuss your concerns and try to find a satisfactory solution.

Where you have made a written complaint, we will provide you with a written response explaining our decision.

### ***How long will it take?***

The length of time PPCA takes to resolve your complaint will depend on the nature and complexity of the issues you have raised, and the extent of the inquiries we have to make in deciding how to address those issues. As a guide, we have set the following time standards that we will aim to achieve in most cases.

- For complaints of a simple kind that we receive by telephone or email, we will try to deal with your complaint and respond to you **within 5 business days** of receiving the complaint. If we can't deal with the complaint in that time, for example because it is not as simple as it initially appeared, we will let you know.
- We will acknowledge written complaints **within 3 business days** of receiving them, and we will try to give you an estimate of how long it might take us to deal with the complaint.
- We will provide our response to your complaint **within 20 business days** of receiving the complaint. If you are not satisfied with this response, you should let us know, and provide us with any further material in support of your complaint. If you indicate to us that you are satisfied with our response, or if we don't hear from you within 30 business days of that response, we will consider the matter closed at this point.
- If you indicate that you are not satisfied with our response, we will reconsider it if you provide additional material to us, and we will then provide a further response **within 20 business days** of receiving the additional material from you. If you are still not satisfied with our response, you have the option at this point to escalate the matter to a dispute (see below).

We will do our best to keep you informed of progress as we examine your complaint and decide how to respond to it, especially if it looks like we won't meet any of the time standards set out above.

### ***What action will we take in response to your complaint?***

If we decide that your complaint is justified, we will then decide what action we should take in response. We will always try to match our response to the nature of your complaint and the effect it has had on you, and we will try to discuss our response with you before making any final decisions. Some of the things we might do include:

- Taking steps to rectify our mistake.
- Providing you with additional information or documents so you can understand what happened or how we have dealt with it.

- Taking steps to change our policies, procedures or systems if your complaint exposes a systemic or recurring problem in the way we do things.

### ***What if you're still unhappy?***

Sometimes it won't be possible to resolve a complaint to everyone's satisfaction, and you might want to take the matter further. Generally if you don't agree with a decision PPCA has made in relation to your complaint, you have two options:

- Where you think we have failed to comply with the obligations imposed on us under the Code, you can make a complaint to the Code Reviewer appointed under the Code. The Code Reviewer is an independent person with substantial experience and expertise in matters relevant to the operations of collecting societies. They will consider your complaint and decide whether it is wholly or partially justified. They may also make recommendations to the parties about the matters in dispute.

If you wish to make a complaint to the Code Reviewer, you should put it in writing and address it to:

The Code Reviewer  
Suite 704  
4 Young Street  
Neutral Bay NSW 2089

- Alternatively, you may wish to treat the matter as a dispute and request that it be referred for independent resolution through one of the processes outlined below.

## **Dispute Resolution Processes**

As a copyright owner, artist, licensee or potential licensee, and in many cases also a party to a contractual relationship with PPCA, there are a range of options available to you to resolve disputes, including court proceedings. In some circumstances, licensees and potential licensees may also be able to seek a determination from the Copyright Tribunal in relation to the licence fee and other terms and conditions applying to their licence. Either you or PPCA may choose to pursue these options at any time.

However, as many of these options can be very expensive and time consuming for all parties involved, PPCA offers a range of independent, low-cost and efficient dispute resolution processes to deal with disputes. The key elements of each process, and the specific rules that will apply if you proceed with one of them, are set out below, but you should feel free to contact us for further information.

There are a few important threshold principles that apply to all of the dispute resolution processes offered by PPCA:

- We will generally only agree to participate in an independent dispute resolution process if you have already made a complaint to PPCA in the manner outlined above, and you have given us sufficient time to consider the issues you have raised and provide a response.
- You may only choose one of the processes outlined below. Please make sure you consider carefully which is the most appropriate for your dispute.
- We will only agree to participate in an independent dispute resolution process if we are satisfied that there is a genuine dispute between the parties as to matters of substance and that you are committed to achieving a resolution of those matters through the chosen process. We will not agree to participate if we reasonably believe that you are merely using the process as a means to pursue other objectives (eg. to delay PPCA taking action in an infringement matter).

- We will not agree to participate in a particular form of dispute resolution if we reasonably believe that the process you have chosen is not appropriate given the nature of the matters in dispute and the previous history between you and PPCA. If we think that a different form of dispute resolution would be more appropriate in all the circumstances, we may suggest that you use that process instead.
- If you do not comply with any of your obligations in relation to a dispute resolution process (eg. you do not pay your share of the applicable security deposit (referred to below) within 30 days after the independent facilitator is appointed), or if we reasonably form the view at any time that you are no longer genuinely committed to achieving a resolution of the matters in dispute, we may withdraw from the dispute resolution process and treat the dispute as closed.

If you don't agree with the way we have applied any of these principles, and you feel this amounts to a breach of PPCA's obligations under the Code, you may raise the matter with the Code Reviewer in the manner outlined above.

### **Mediation**

Mediation is a form of structured, assisted negotiation in which the parties find their own solution to a dispute with the help of an independent facilitator (the mediator). The mediation will be administered by the Australian Commercial Disputes Centre (**ACDC**), in accordance with its *Guidelines for Commercial Mediation*.

### **Conciliation**

Conciliation is similar to mediation but the independent facilitator (the conciliator) generally plays a more active role in directing the parties towards an agreed resolution. The conciliation will be administered by the ACDC, in accordance with its *Guidelines for Commercial Conciliation*.

Further information about the ACDC is available at <http://www.acdcltd.com.au>.

### **Neutral Evaluation**

Neutral evaluation differs from both mediation and conciliation in that both parties present information to an evaluator (who will be a person with expertise in relation to the matters in dispute), who then gives their views on the relative strengths and weaknesses of each party's submissions. The evaluator may also offer an opinion as to how the dispute would be resolved if it were brought before a court or the Copyright Tribunal.

The views expressed by an evaluator are not binding on you or PPCA, but they will obviously inform any further discussions or negotiations we may have in relation to the dispute. They will also guide both of us in thinking about how to deal with any outstanding matters in dispute.

If we agree to participate in neutral evaluation, it will be conducted in accordance with the rules set out in Appendix A to this Policy.

### **Costs**

PPCA does not impose any charges for accessing the independent dispute resolution processes outlined in this Policy. We also will not seek to recover any costs we incur ourselves as a result of our participation in the processes (eg. fees for professional advice, costs of management time, etc). Similarly, you will need to cover all of your own costs of participating in a dispute resolution process.

You and PPCA will share equally all of the external third party costs involved in any independent dispute resolution (except as specified in Rule 4 in Appendix A). These costs will usually include:

- The professional fees charged by the independent facilitator, together with any travel, accommodation or other incidental costs they pass on to us.
- In the case of a mediation or conciliation – the administration fees charged by the ACDC.
- The costs of hiring a venue – although PPCA will always be happy to make available (at no charge to you) a meeting room at its offices in Sydney, as a means of helping keep your costs down.

You will be required to pay your share of the estimated external third party costs as a security deposit, either to the ACDC (as contemplated in their Guidelines for mediation and conciliation) or to PPCA (in the case of neutral evaluation). As the costs are incurred, they will be recovered from the security deposit. You may be required to pay a further security deposit if the costs look like exceeding the estimate.

At the conclusion of the dispute resolution process, either ACDC or PPCA will provide you with a statement of the actual costs incurred (and any relevant supporting documentation), together with a reconciliation against the security deposit(s) you have paid.

## **Review and Monitoring**

PPCA is committed to continually monitoring its performance in handling complaints and disputes under the Code. For this reason, we will maintain statistics (without identifying any individual) about the numbers and types of complaints received and how they were dealt with.

We also have reporting obligations under the Code, which are designed to ensure that our activities are transparent and accountable:

- We are required to include a statement in our Annual Report on our compliance with the Code.
- We have to make a report each year to the independent Code Reviewer, who is appointed to evaluate the collecting societies' performance against the standards set out in the Code.

We will also review and update this Policy as necessary. Please contact us at any time if you have any comments or suggestions in relation to the Policy.

## **Appendix A: Rules for Neutral Evaluation**

1. When a dispute is referred to neutral evaluation, PPCA's Complaints Officer will prepare a draft summary of the matters in dispute and will provide this to you for review and comment before finalising it. The Complaints Officer will also contact you to make the necessary arrangements for the neutral evaluation (including preferred times, venues, etc).
2. Disputes will be determined by one of a panel of independent evaluators appointed by PPCA. All members of the panel are former judges or barristers who have specific experience in relation to copyright licensing and have been trained in various methods of alternative dispute resolution. PPCA will be happy to consider any views you may have about the choice of available evaluators from the panel.
3. Following appointment of the evaluator, a date and time will be set for a preliminary conference (see Rule 4 below). The parties will also agree on a tentative date for the neutral evaluation which is convenient to you and PPCA. The dispute will be dealt with at a venue which is as close to your place of business as possible (usually, the capital city in your state).
4. Prior to the neutral evaluation, both parties will have a preliminary conference with the evaluator. The purpose of this conference is to clarify the matters in dispute and work out how best to handle the neutral evaluation. The parties will discuss with the evaluator how long they think it will take to deal with the dispute and evaluator will then provide an estimate of the costs involved. The parties will also confirm the date for the neutral evaluation.  
  
**NOTE:** PPCA will pay all of the external third party costs of this preliminary conference but from that point on, all costs involved in the neutral evaluation will be shared equally (as outlined in the Policy).
5. Before the date which has been set down for dealing with the dispute, you and PPCA must submit written statements, together with other documents and information which support your arguments relating to the dispute. You should ensure that your statements and supporting information are as detailed as possible because the evaluator will rely on them in forming his or her views about the dispute.
6. At the neutral evaluation, should the evaluator believe it to be useful, you and PPCA will each have an opportunity to present arguments to the evaluator. If both parties wish, they may have a legal adviser or other representative present to assist them (but not to present legal argument).
7. Following the neutral evaluation, the evaluator will provide both parties with their views on the matters in dispute. The views of the evaluator are not binding on the parties.