

COMPLAINTS PROCEDURE

&

DISPUTE RESOLUTION MECHANISM

1. Introduction

- 1.1 RAAP is a company limited by guarantee, registered in Ireland, No. 309692 on the Register of Companies. It is constituted on a not-for-profit basis and is owned by its performer members.
- 1.2 RAAP is registered as a licensing body with the Controller of Patents, Designs and Trade Marks (“the Controller”) pursuant to section 280 of the Copyright and Related Rights Act 2000, as amended (“the Act”) in respect of performers’ property rights.
- 1.3 RAAP is a collective management organisation (“CMO”) within the meaning of the European (Collective Rights Management) (Directive 2014/26/EU) Regulations 2016 (“the CRM Regulations”).
- 1.4 RAAP collects revenue for performers in respect of the exploitation of their rights in Ireland, and, through reciprocal agreements with CMOs in other countries, for Irish performers in those countries.

2. Complaints Procedure

- 2.1 RAAP undertakes to deal with the following types of complaint:
 - 2.1.1 A complaint by a member of RAAP about any decision, act or practice of RAAP.
 - 2.1.2 A complaint by a performer rightholder, not a member of RAAP, about any decision, act or practice of RAAP.
 - 2.1.3 A complaint by a CMO, on whose behalf RAAP manages rights under a representation agreement, about any decision, act or practice of RAAP.
 - 2.1.4 A complaint by a member of the public about any decision, act or practice of RAAP.
- 2.2 RAAP undertakes to seek to resolve any such complaint in an effective, timely and fair manner, in accordance with this procedure; its Constitution; Rules and Regulations; Membership Agreements; Bilateral Agreements with other CMOs and the terms of the CRM Regulations, as the same shall apply in the circumstances.

- 2.3 Complaints shall be made in writing, addressed to the Chief Executive Officer of RAAP marked "Complaint" and sent by post or email to RAAP at its postal or email address. Thereupon:
- 2.3.1 RAAP will acknowledge receipt of the complaint within five working days.
 - 2.3.2 RAAP will investigate the complaint and endeavour to resolve the same to the satisfaction of the complainant within twenty working days of issuing the acknowledgement of complaint, informing the complainant within that period, by post or email, of the manner in which it is proposed to resolve the complaint. In the event that the proposed resolution of the complaint involves action that cannot be taken within the said period, RAAP will propose the period of time within which the necessary action will take place.
 - 2.3.2 Where the response of RAAP to a complaint involves, after investigation, a rejection of the complaint, RAAP shall give reasons therefor.
 - 2.3.3 In the event that the complainant notifies RAAP in writing, by post or email, within ten working days of the issue of the proposed resolution of the complaint (or of the date by which RAAP proposes to take action to resolve the complaint, as the case may be) that he or she is not satisfied that the complaint has been adequately addressed and/or with the manner in which it is proposed to resolve the complaint and/or that the complaint has been rejected, then the complainant shall have the option of having the matter dealt with as a dispute, by means of the dispute resolution mechanism described below.

3. Dispute Resolution Mechanism

- 3.1 RAAP undertakes to deal with the following types of dispute:
- 3.1.1 A dispute declared by a person who has made a complaint against RAAP, which RAAP has failed to resolve in accordance with its complaints procedure ("Type 1 Dispute").
 - 3.1.2 A dispute between members of RAAP concerning the entitlement of the respective performers to receive royalties for their performances ("Type 2 Dispute").
 - 3.1.3 A dispute arising under a Bilateral Agreement with another CMO concerning the entitlement of a member of that CMO to receive royalties for their performances ("Type 3 Dispute")
- 3.2 RAAP undertakes to seek to facilitate the resolution of every dispute in an effective, timely and fair manner, in accordance with this procedure; its Constitution; its Rules and Regulations; Membership Agreements; Bilateral Agreements with other CMOs and the terms of the CRM Regulations, as the same shall apply in the circumstances.

- 3.3 RAAP shall put into effect the procedure outlined hereunder upon the happening of one of the following events:
- 3.3.1 RAAP shall be informed of a Type 1 Dispute, by notice in writing in accordance with paragraph 2.3.3 herein that a person who made a complaint to RAAP is not satisfied with the outcome of the complaints procedure and wishes to pursue the complaint further, as a dispute.
- 3.3.2 RAAP shall be informed of a Type 2 Dispute, by notice in writing addressed to the Chief Executive Officer of RAAP marked "Dispute" and sent by post or email to RAAP at its postal or email address.
- 3.3.3 RAAP shall be informed in writing or by email of a Type 3 Dispute, by a CMO with which RAAP has a Bilateral Agreement.
- 3.4 Every notice of a dispute shall outline the nature of the dispute.
- 3.5 Upon receipt of notice of a dispute, RAAP will acknowledge receipt of the same within seven working days. In the event that the notice of dispute does not disclose a genuine dispute, RAAP shall inform the party attempting to invoke the dispute resolution process accordingly, explaining the reason and inviting the party in question to provide more information to justify the notice, if this is appropriate. In the event that the notice of dispute discloses a genuine dispute (or when sufficient information is obtained by RAAP to identify a genuine dispute), the following steps shall be taken within twenty working days:

4. Type 1 Dispute

- 4.1 Phase 1: RAAP shall appoint a Dispute Settlement Committee ("the Committee"), consisting of the following persons:
- A person nominated by the complainant, who may or may not be a member of RAAP;
 - A person nominated by the Board of Directors of RAAP, who shall be a member of RAAP, but not currently serving as a director of RAAP;
 - A person jointly nominated by agreement between the complainant and the Board of Directors of RAAP, who may or may not be either a performer or a member of RAAP, but who shall have some knowledge of music licensing.
- 4.2 Phase 2: The Committee shall, within ten working days of its appointment, invite the parties to a meeting, to receive their oral submissions. If it shall consider it necessary, the Committee shall ask for written submissions and/or other information necessary for it to assess the issues involved in the dispute. The same shall be furnished by the parties within a reasonable time limit specified by the Committee and shall otherwise be discounted.
- 4.3 Phase 3: No later than fifteen working days after the meeting, or, if applicable, the date fixed for the provision of written submissions and/or other information, the

Committee shall propose to the parties, in writing, by letter or email, terms of settlement of the dispute.

- 4.4 Phase 4: Where the parties accept the proposed terms of settlement, an agreement reflecting the same shall be signed by them and the dispute shall be resolved in accordance with its terms. The Board of Directors of RAAP shall be informed that the dispute has been settled.
- 4.5 Phase 5 (if applicable): Where one of the parties to the dispute does not accept the proposed terms of settlement, or fails to sign an agreement reflecting the same within the prescribed time, the matter shall be referred to the Board of Directors of RAAP. In such event, the Board shall review the decision of the Committee and shall take such expert or other advice, as necessary, to arrive at a proposed solution that meets the requirements of paragraph 3.2 above. Within twenty working days of the matter being referred to it, it will draft a reasoned proposal for a resolution and furnish the same to the parties by registered post. If the parties do not notify the Board that they agree to the proposal within ten working days of receipt of the same, the Board will issue a finding on the matter and notify the parties thereof, which shall conclude the dispute resolution effort.

5. Type 2 Dispute

- 5.1 Phase 1: RAAP shall appoint a Dispute Settlement Committee (“the Committee”) consisting of the following persons:
- One person nominated by each party to the dispute (who shall be members of RAAP)
 - One person nominated by the Board of Directors of RAAP (who shall be a member of RAAP, but not a current or former director of RAAP)
- 5.2 Phase 2: The Committee shall, within ten working days of its appointment, invite the parties to a meeting, to receive their oral submissions. If it shall consider it necessary, the Committee shall ask for written submissions and/or other information necessary for it to assess the issues involved in the dispute. The same shall be furnished by the parties within a reasonable time limit specified by the Committee and shall otherwise be discounted.
- 5.3 Phase 3: No later than fifteen working days after the meeting or, if applicable, the date fixed for the provision of written submissions and/or other information, the Committee shall propose to the parties, in writing, by letter or email, terms of settlement of the dispute.
- 5.4 Phase 4: Where the parties accept the proposed terms of settlement, an agreement reflecting the same shall be signed by them and the dispute shall be resolved in accordance with its terms. The Board of Directors of RAAP shall be informed that the dispute has been settled.

- 5.5 Phase 5 (if applicable): Where one or more parties to the dispute does not accept the proposed terms of settlement, or fails to sign the agreement reflecting the same within the prescribed time, the matter shall be referred to the Board of Directors of RAAP. In such event, the Board shall review the decision of the Committee. Within twenty working days of the matter being referred to it, it will draft a reasoned proposal for a resolution and furnish the same to the parties by registered post. If the parties do not notify the Board that they agree to the proposal within ten working days of receipt of the same, the Board will issue a finding on the matter and notify the parties thereof, which shall conclude the dispute resolution effort.

6. Type 3 Dispute

- 6.1 Type 3 disputes shall be dealt with in accordance with the terms of the Bilateral Agreement entered into between RAAP and the other CMO party to the dispute. The standard Bilateral Agreement of SCAPR* adhered to by all members of SCAPR provides as follows:

“By negotiation the Contracting Parties shall make every effort to settle any dispute that might arise from or in connection with this Agreement or its application.

Such disputes shall be settled, first and foremost, in accordance with the SCAPR Complaint Procedure. However, if the application of this Agreement should lead to legal proceedings, the said dispute shall be submitted to and governed by the law of the Defendant's court of law.

* SCAPR is the international umbrella body representing the interests of performers' CMOs

- 6.2 A copy of the SCAPR Complaint Procedure (“Procedure for settlement of disputes”) adopted by the 30th General Assembly of SCAPR in Vienna, 19-20 May 2005, is appended hereto.

7. All Complaints and Disputes

- 7.1 The parties to all complaints and disputes, and, where applicable, those nominated to represent them, shall be obliged to treat all information exchanged within the respective processes as confidential.
- 7.2 Nothing in either the Complaints Procedure or the Dispute Resolution Mechanism shall prevent any party to any complaint or dispute from seeking at any stage in the process any relief available at law, including by bringing proceedings in a court of law or by prosecuting a complaint to the Controller, inter alia concerning non-compliance with the CRM Regulations.
- 7.3 Performers rights under the Act shall not be affected by the processes described herein.

Annex

The Societies' Council for the Collective Management of Performers' Rights

Procedure for settlement of disputes Adopted by the 30th General Assembly in Vienna, 19-20 May 2005

1. The complaint is sent to the Chairman of SCAPR including:
 - ☐ an explanatory note
 - ☐ attached documents.

2. The complaint is communicated to:
 - ☐ the members of the Board
 - ☐ the other partyno later than 4 weeks after reception by the Chairman.
3. The other party, invited to reply, must do so not later than 4 weeks after reception of the complaint, notes and documents being sent to the Chairman.

4. These notes and documents are sent to:
 - ☐ the members of the Board
 - ☐ the other partyno later than 4 weeks after reception by the Chairman.
5. The complaining party can reply according to the rules of 3. and 4. The other party may reply under the same conditions.

6. At any moment, the Board may ask the parties for additional information or documents.

7. The Board will then decide:
 - ☐ to meet both parties in order to find a proper solution to the complaint through mediation,
 - ☐ to express a written opinion on the complaint to be communicated to the parties.

8. If the conflict remains unsolved, and if the Board considers that the Statutes of SCAPR or its Code of Conduct have been violated by a party, it may decide, as the last option, to propose to the next General Assembly of SCAPR, on the basis of article 5.2 of the statutes, its exclusion.

9. The parties and the members of the Board are obliged to treat all information exchanged within the procedure confidential.

10. If a member of the Board is representing one of the parties, he/she cannot take part to any discussion or decision regarding the dispute within the Board.