



The peak body for the Australian **Accommodation** Industry

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14 August 2009

Mr Stephen Peach  
Chief Executive Officer  
Phonographic Performance Company of Australia Ltd  
19 Harris Street  
PYRMONT NSW 2009

Dear Sir

## **REVIEW OF TARIFF "R" – PPCA AND HMAA**

### **Introduction**

I make this submission on behalf of the Hotel Motel & Accommodation Association (HMAA) and its national membership regarding the impact of the new PPCA pricing tariff.

The positions taken by HMAA are informed by data from a number of public and private sector sources, as well as information from HMAA members. It should be noted that all references to "accommodation" in this document should be taken as referring to tourist accommodation.

### **HMAA and its Membership**

HMAA is the peak national body for the Australian accommodation industry.

HMAA represents a range of accommodation establishments including 5, 4 and 3 star hotels, resorts, motels, motor inns, serviced and holiday apartments, bed and breakfasts, guesthouses, backpackers and time share establishments, combining a membership base of over 2,000 properties and 60,000 guest rooms.

Over 90% of these businesses are SMEs, and all are part of Australia's dominant services sector which represents over 80% of our national economy. HMAA is the only organisation representing this full range of accommodation types and interests nationally, and in rural, regional and metropolitan Australia as well as the major cities.

### **HMAA's Information Sources**

This HMAA submission has been informed by data and information from a number of public sector, private sector and industry sources, including:

- the Australian Bureau of Statistics;
- Tourism Australia, including Tourism Research Australia;
- the Sustainable Tourism CRC;
- various state and territory Tourism Commissions; and
- the National Tourism Alliance and various states and territory Tourism Industry Councils
- AAA Tourism STAR rating guidelines
- Colmar Brunton
- Tourism Forecasting Council

Additionally, HMAA has utilised information from a number of internal sources including:

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- the 2007 and 2008 Annual Surveys of HMAA Membership;
- other HMAA Member and Industry surveys including regional information sessions; and
- general documentary and anecdotal information from HMAA members.
- PPCA July 2009 Member Survey to HMAAA members.

### **The Tourism Sector and the Accommodation Industry - background**

Tourism is worth \$85 billion annually to Australia; it earns Australia more than \$22 billion in exports (adding over \$9 billion to GDP). Over 75% of the tourism industry is accounted for by domestic tourism.

Tourism is different to most industries: it is highly labour intensive; it requires the input of many service providers into a single “product” to the end consumer; it is dominated by a significant number of small businesses; tourism competes against all other discretionary expenditures for the “hearts and minds” and expenditure of the consumer; it operates in a highly complex environment requiring significant compliance skills and costs.

Tourism is more labour intensive than most industries, providing over 500,000 direct jobs including 14,000 new jobs in the last financial year. Tourism is the point of entry for many entrants to the job market and provides significant number of jobs in regional communities as well as capitals, cities and tourist centres. Accommodation accounts for well over 120,000 direct jobs in the sector.

In recent years, local consumers have reduced discretionary spending due to high fuel prices and rising interest rates and of course more recently the Global Financial Crisis and Swine Flu. Additionally, research from Tourism Research Australia suggests that tourism is losing its share of this spend to other expenditures: travel’s “share of wallet” has declined from over 16% to 13% in the last decade.

The tourism industry, due to its diverse nature and high proportion of SMEs, is exposed to the full gamut of taxation policies and approaches, business and other legislation, regulation and policy of all three tiers of government. The capacity of these small businesses to deal with the cost and skill requirements of compliance is low and the consequences costly (and, for some, fatal).

### **The Investment Climate for Accommodation Businesses**

Whilst all business investment decisions are made on the basis of many factors, the key financial measure is return on investment. Most tourist accommodation properties require significant financial investments with longer break-even periods than many other capital investment options, making investment (and reinvestment) in tourist accommodation a relatively unattractive option in the current climate.

A relatively unstable global travel market (due to factors such as terrorism, fuel costs and disease epidemics), compounded by the decline in domestic travel and (until recently) minerals-boosted dollar, add to the unpredictability and relative unattractiveness of his investment option.

### **Tax Measures Unfairly Target Tourism Businesses**

The tourism industry, and the accommodation businesses within it, have historically been an “easy target” for revenue-raising tax increases, on the basis apparently that tourists do not vote, and that these are therefore “victimless taxes”.

For example, the 2008-09 Federal Budget as delivered (but since softened through amendment), included the following retrograde tax changes targeting tourism:

The Passenger Movement Charge increased by \$9 to \$47, raising nearly \$460 million over four years, and adding a serious new burden to an already struggling inbound tourism sector;

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- the visa application charge for tourist visas increased by \$25 to \$100, at a time when many regional and global competitor destinations re lowering or scrapping visa fees; and
- the luxury car tax increase which disproportionately impacted (in its original form) tourism operators requiring four wheel drives and other large, expensive vehicles.

It should also be noted that tourism remains the only export industry which is fully exposed to GST payment. Despite the promises made to the industry at the GST implementation phase, every inbound tourist pays GST on all purchases, and the systems in place to reclaim these payments appear to be deliberately difficult, administratively complex, and obfuscatory. Whilst this may appear to be another “victimless tax”, in reality it is a ten percent penalty on the Australian tourism industry in the massive globally competitive tourism market.

### **The Labour and Skills Shortage**

Whilst one impact of the global economic downturn has been a shift in focus away from the issue of labour and skills shortages, there is no doubt that most important longer-term issue facing many businesses in the accommodation sector is the difficulty in attracting and retaining appropriate staff.

This problem occurs not simply for skilled occupations in limited supply: the problem strikes across the full range of positions required in an accommodation business, including semi and unskilled jobs.

For many workers, tourism is the “job of entry” into the workforce and therefore, in an environment where new workers are an increasingly scare resource, tourism is likely to be amongst the most drastically impacted sectors.

These and many more challenges face the accommodation sector in the years ahead and have been clearly outlined in the recent Long Term Tourism Strategy further to a comprehensive study known as the Jackson Report.

HMAA members at this point do not need any additional tax, financial or red tape burdens. Further evidence of impacts on accommodation operators by economic and external challenges will be highlighted again.

Your letter relating to a review of the tariff now applicable has caused grave consternation amongst our members. Before reviewing the position of our members in relation to the review, may I set out for your consideration certain provisions of the [Copyright Collectors Society Code of Conduct](#).

### **Copyright Collectors Code of Conduct**

#### **1.3 Objectives**

The objectives of this Code are:

- (a) to promote confidence in Collecting Societies and the effective administration of copyright in Australia;
- (b) to set out the standards of service that Member and Licensees can expect from Collecting Societies; and
- (c) to ensure that Members and Licensees have access to efficient, fair and low cost procedures for the handling of complaints and the resolution of disputes involving Collecting Societies.

#### **1.4 Licensees**

- (a) Each Collecting Society will treat Licensees fairly, honestly, impartially, courteously and in accordance with its Constitution and any licence agreement;

- (b) Each Collecting Society will ensure that its dealings with Licensees are transparent;
- (c) Licence fees for the use of copyright material will be fair and reasonable. In setting or negotiating such licence fees, a Collecting Society may have regard to the following matters:
- (i) the purpose for which, and the context in which, the copyright material is used.

### **Inadequate Research**

On the 31<sup>st</sup> of July last that you provided to my office references to the various academic studies upon which the PPCA relies in relation to this review.

It is noted that the only Australian study referred to in your correspondence is that prepared by Stephanie Wilson from the University of New South Wales. That study is entitled "The Effect of Music on Perceived Atmosphere and Purchase Intentions in a Restaurant".

Without going into the detail of the study, which is perhaps unnecessary at this stage, it is noted that Ms Wilson in her concluding statement on Page 101, states interalia:-

*"The variation in sales figures in the weeks before and after the testing period made it difficult to determine the influence of intervening musical conditions on the amount of money spent..."*

*This suggests that the number of people dining in a restaurant was largely responsible for differences in sales figures...*

*It is impossible to draw conclusions regarding the relationship between the type of music played and the amount of money patrons actually spent".*

We raise for your consideration, particularly in relation to your complying with the code of conduct, the following issue:-

### **Does not the Wilson study raise issues that require appropriate expert research?**

In the Wilson study, the author seems to intimate that music hurries diners along and enables the restaurant to make more sales by offering a vacated table to a new customer. This may indeed be true depending on a number of factors such as the time of day the tables are actually vacated, etc. But music that encourages a diner to linger longer may also result in more beverages or even dessert being ordered and hence greater sales.

So when does 'hurry along' music help sales and when does it contribute to missing out on sales?

When does 'linger longer' music help sales and when does it contribute to missing out on sales?

It may also not be fair, even if there was research that established the complicated nature of when and how music influenced customer spend, to assume that unqualified and uneducated restaurant owners, who do not have PhD's in the psychology of commercial music, should be charged an increase in licencing fees based on the assumption by PPCA that managers know when to play jazz, when to play classical music, when to play popular music or when to have no music in order to increase wine sales etc. Proprietors cannot be expected to have the same level of skill in understanding the complex interactions of music and customer spend that only a handful of academics throughout the world seem to have.

At the very least, if PPCA is to charge higher licencing fees because of this potential for proprietors to make more sales, then PPCA should at least, as part of the fee increase, provide free training to every person who pays the licencing fee so that they can make commercial use of the music.

This is an important issue because in Wilsons study (p 107) she acknowledges that if a proprietor plays music that the customer perceives as inappropriate that “this suggests that there may be some discrepancy between the amount of money patrons indicated they would be prepared to spend, and the amount of money actually spent”! So skill/expertise of the staff involved in understanding the likely impact of music should be a factor taken into account in this review.

We would also stress that the findings on this topic in the international literature is not at all consistent. This is referred to in the Wilson introduction.

It would also be our suggestion that some of the assumptions made by PPCA are extraordinarily unfair. For example your proposed fee structure, at least in part, is based on the assumption that restaurant seating capacity always averages 50%.

This is certainly not the case in the current climate.

Your suggested rule of one thirds, seems extraordinarily arbitrary. Precisely what research do you rely on to support your contention that this split is fair to licensees?

We would have thought that for you to have appropriate academic research on which to rely, that you would be able to provide research from an experienced professorial academic expert in social psychology research. The studies should be able to identify whether or not the link between perception of spend and actual spend has been demonstrated in the international literature or whether your proposition is simply based on circumstantial review evidence.

**HMAA will not support or accept any attempt by PPCA to have a revised tariff based on economic valuation modelling.**

#### **HMAA Members Issues**

May we now turn to our members concerns relating to the proposed tariff review. At the moment the industry is undergoing a review of the Australian Star Rating Scheme. **Attached** for your assistance is a copy of a brochure prepared by AAA Tourism relating to that review.

Our members derive their principal source of revenue from selling accommodation. Restaurants within our members’ properties are **a service sector and a “must have”** for certain star ratings. If we may direct your attention to the minimum requirements to maintain a particular star rating set out at Pages 3 and 4 of the AAA Tourism brochure.

May we also direct your attention to Page 5 of the summary of proposed changes and in particular to the findings of research undertaken by Colmar Brunton. These issues raised for those participating in the research related to rating the **“most important aspects when choosing accommodation”**. You should note that the last issue in priority is at Point 6 ‘Facilities at the Property’.

You will note that references to **restaurant facilities is not a significant requirement**, within a number of star rating categories.

A recent study prepared by the Tourism Forecasting Committee was made available to the Industry. At the outset of the report, the following statement appears:-

**“The Decline of Domestic Tourism”**

**Domestic tourism activity and expenditure in Australia is currently at its lowest level since at least 1998 when the current data series began (the National Visitor Survey or NVS).**

**Domestic visitor nights are also falling at their fastest rates since 1998, though this is partly due to seasonal factors.**

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The report continues

"In the March quarter 2009 (compared with the same quarter in 2008), domestic visitor nights declined 14%. However, this result was exacerbated by a negative Easter effect (Easter occurred in April this year, but in March in 2008) and a leap day in the base period. Tourism Research Australia estimates that by removing these effects, domestic visitor nights declined 9%. This still sharp fall followed large falls in the September quarter 2008 (down 5.1% compared with September quarter 2007) and the December quarter 2008 (down 6.9%).

In the year to March 2009, compared with the previous year (which was boosted by two Easter periods and the leap day), domestic visitor nights in Australia decreased 9% to 260 million nights. This is 39 million nights below the peak of annual domestic visitor nights as set in 2002 (of 299 million nights, though the 2002 peak was slightly influenced by declines in outbound travel following the September 11 terrorist attack.

Another measure demonstrating the decline over time in domestic tourism is the fall in domestic visitor nights per person. Between 2002 and 2008, the average number of tourism-defined visitor nights decreased from 19 nights per person to 16 nights per person. All age groups have reduced their propensity to travel, the largest from the 25–44 age group (from 19 to 14 nights, representing a fall of 24% during the 2002 to 2008 period), with the smallest decline in the older travellers (65 years and older, down by 6%). Domestic tourism's weak performance so far this decade has contrasted with the generally strong growth in the Australian economy.

In the March quarter 2009 (compared with the same quarter in 2008), domestic overnight trips decreased by 13% (a similar decline to nights, indicating little change in the length of trip). Day trips in Australia in the past quarter performed better than overnight travel: rising by 0.1%, boosted by cheaper petrol prices and some possible switching from one-night-trips.

Some extraordinary weather events also contributed to the decline in domestic travel in the March quarter 2009. Extreme wet weather and flooding during the key holiday January–March 2009 period in Queensland and Northern NSW reduced domestic visitor nights. In addition, February's extreme heat and devastating bush fires in Victoria suppressed total domestic travel.

#### **Industry Financial Information Survey Data**

As you will see from the report quoted above, the accommodation sector is certainly feeling the downturn in revenue across the entire country. Clearly the downturn in accommodation impacts on the restaurant turnover within our members' properties.

May I turn now to the specifics of our members.

**Attached** is a copy of an email I sent to Jim Adams our solicitor, in which I set out a pie chart showing sources of revenue across the accommodation sector for the 2008 year.

You will note that meals and liquor and other beverages make up 20% of the sales figures for that year.

In addition, a number of our members do not have restaurants and are only open for breakfast. Thus while the larger operations may well have a fully serviced restaurant, many of our smaller operators, do not.

Thus to fix a fee based on the seating capacity of a restaurant has no regard to the actual use of that section of a property on a day to day basis.

As a result of receiving substantial expressions of concern from our members, a survey was prepared which was sent out to a number of members.

The justification of such a basis upon which the levy is suggested, is more fully rebutted by the results of the survey recording the responses of our members to various questions. Our questions were simply put and

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the slides demonstrate the nature of the questions put to our members and their responses.

The most pertinent slides relating to this very topic are beneath the following questions:-

#### **PPCA Review – HMAA Survey**

Question: Do you have a restaurant café at your premises?

85% of respondents confirmed that they did operate a restaurant at their premises.

Question: Is your restaurant/café licensed?

82% of respondents confirmed that they were a licensed venue.

Question: Do you play sound recordings (tapes/CD's/MP3 or similar) in your restaurant?

77% of respondents confirmed that they did play music of a description.

A significant slide pertinent to our present discussions is beneath the heading, "Please indicate which meal sessions you are open for?"

You will note that only **27% of respondents** are open for dinner on six evenings, **37% on seven evenings**. More significantly **60% of respondents indicated that breakfast was their main session** at which they catered to the needs of their patrons.

In response to the question, "where else do you play music at your property?" resulted in 24% indicating that music was played other than in the remaining area specified, with 38% indicating that music was only played in the restaurant/café. The most significant area within which music is played is within the lobby/reception area which clearly is not an area from which additional revenue is gained in their business.

Our members have clearly indicated that they will cease playing recorded music in the event that a tariff such as that suggested in your correspondence was introduced.

#### **Summary**

It would be our position in relation to tariff increases, that they should be in line with more recognised and easily measured data. We recognise that there has not been an increase in tariff for some time, this is of course an issue that is of concern to the PPCA.

Is not a more reasonable approach to introduce a method of measuring a potential increase such as a CPI measurement or adopting some other more acceptable level of increase?

The inequities in the current era of technology changes that have impacted on the music industry, should not be rectified at the expense of our members.

There is no question that a review is justified, however any revised tariff should be adopted not only in strict accord with the clear wording of the Code, but also by taking into account the current economic circumstances effecting the hospitality sector.

Yours sincerely



**LORRAINE DUFFY**  
**Chief Executive**  
**HMAA**

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