

GUIDE TO MUSIC IN DRAMATIC CONTEXT



Enquiries 0800 69 2772 nz@apra.co.nz www.apraamcos.co.nz

This document is a guide only. You should also refer to the Dramatic Context Agency Appointment.

APRA AMCOS normally licenses concerts and other non-dramatic performances of musical works. In the theatrical context music can be used in a number of different ways; some performances can be licensed by APRA AMCOS, while others cannot.

APRA AMCOS can assist publishers in theatrical licensing when a production satisfies the definition of Dramatic Context. When APRA AMCOS licenses musical works for use in Dramatic Context, it acts as an agent on the publisher's behalf.

Dramatic Context means the performance of musical works:

- a) in conjunction with a presentation on the live stage that has:
 - (i) a storyline; and
 - (ii) one or more narrators or characters; or
- b) as a Ballet.

When determining whether a production is defined as Dramatic Context, APRA AMCOS will examine the show (including the script and the programme notes) for evidence of a presentation on the live stage having a storyline, and one or more narrators or characters. If a storyline is present, and it has one or more narrators or characters, the show would be considered a show in Dramatic Context.

APRA will license the use of musical works under its Dramatic Context licence scheme provided the show;

- a) is not a **Biographical Production**
- b) does not contain **Controversial Themes** and;
- c) is not a **Potted Production**.

If a show has any of these features then APRA AMCOS will consult the copyright owner(s) to gain clearance for use in the production.



A *Streetcar Named Desire*, Silo Theatre. Pictured: Nicole Whippy and Fasilitua Amosa. Andi Crown Photography.

While APRA AMCOS acts as a publisher's Dramatic Context agent, publishers retain the right to approve licensable repertoire by maintaining two lists: **Owner Referred** and **Owner Restricted**.

Publishers advise APRA AMCOS of works and catalogues for which they are required to review all requests before a licence is granted. This is known as Owner Referred. Similarly, publishers advise APRA AMCOS of works and catalogues that cannot be licensed by APRA AMCOS. This is known as Owner Restricted. Please note that there are conditions where the Owner Restricted and Owner Referred lists do not apply. Please see the table on page 4 for more details.

Publishers can also implement further restrictions by requesting that when a show or tour exceeds a certain Gross Sums Paid for Admission (GSPFA) value, that all the publisher's works become Owner Referred for the purpose of that particular show or tour. This is done by selecting a restriction threshold under Schedule 2 of the Dramatic Context Agency Appointment.

GRAND RIGHT PERFORMANCES

APRA AMCOS does not have public performance rights for Grand Right productions (productions where the songs have been written expressly for the production) and is therefore not able to license such productions.

Producers need to apply for a licence directly from the owner of the Grand Right, usually a music publisher or agent. APRA AMCOS can assist the client in identifying the appropriate publisher or agent.

Grand Rights include shows such as operas, operettas, oratorios, musical plays, revues and pantomimes for which the music has been specially written. Stage musicals such as *Phantom of the Opera*, *Wicked*, *The Book of Mormon* or *West Side Story* for example, have to be licensed by the relevant music publisher or agent. Cinematic musicals, such as Disney's *The Lion King* or *Mary Poppins*, are also dramatico-musical works when adapted for the stage and narrative concept albums such as The Who's *Tommy* or Pink Floyd's *The Wall* are also Grand Right Works when performed on stage.

Furthermore, APRA is not able to license choral works that are more than 20 minutes long, but assists in identifying the appropriate publisher or agent.

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FREQUENTLY ASKED QUESTIONS

WHAT'S THE BENEFIT OF APPOINTING APRA AMCOS AS MY DRAMATIC CONTEXT AGENT?

APRA AMCOS has specialist teams in New Zealand and Australia dedicated to licensing theatrical performances. In addition to being experts in their field, this team relieves publishers from the administrative burden of processing licensing requests, negotiating licence fees, implementing a licence and ensuring payment is made by licensees.

IF I COMPLETE AND SIGN THE AGENCY APPOINTMENT FORM, WOULD APRA AMCOS HAVE EXCLUSIVE RIGHT TO LICENSE MY REPERTOIRE FOR DRAMATIC CONTEXT?

No, APRA AMCOS would be a non-exclusive agent. You can negotiate a direct licence for the use of repertoire controlled by you in a dramatic context performance.

HOW DOES DRAMATIC CONTEXT WORK?

The client applies to use musical works in their show. APRA AMCOS researches the works and identifies if any Owner Restricted or Owner Referred conditions apply and advises the client (please refer to table below to see where Owner Restricted and Owner Referred conditions apply).

- APRA AMCOS will submit a request to the publisher for clearance of Owner Referred works on the client's behalf. Additionally, APRA AMCOS will consult the publisher if the show is a Biographical Production, contains Controversial Themes; or is a Potted Production.
- The publisher advises APRA AMCOS the outcome of the requested Owner Referred works which may include setting the licence fee where the GSPFA is over \$100,000.
- Once the final list of works has been confirmed, APRA AMCOS will issue a Dramatic Context Licence Agreement and invoice for the show dates.
- APRA AMCOS collects the licence fee and distributes as outlined in the **Distribution Rules and Practices** documents.



The Lighthouse Keeper's Lunch, Tim Bray Productions. By Ronda and David Armitage, adapted for the stage by Tim Bray. Pictured: Rutene Spooner and Paul Norell. Photo by David Rowland, One-Image.com



WHAT DOES IT MEAN TO MAKE WORKS OR CATALOGUES OWNER REFERRED?

Listing a work as Owner Referred means it is available for use in a Dramatic Context show, but requires individual approval from the copyright owner (please see table on page 4 and clause 3 of the Dramatic Context Agency Appointment for exclusions).

WHAT DOES IT MEAN TO MAKE WORKS OR CATALOGUES OWNER RESTRICTED?

Listing a work as Owner Restricted means you do not allow APRA to license the work in a Dramatic Context show (please see table on page 4 and clause 3 of the Dramatic Context Agency Appointment for exclusions).

WHAT IS A BIOGRAPHICAL PRODUCTION?

A production which tells the story of the life or work of a particular composer, artist or other music figure or event.

WHAT IS A CONTROVERSIAL THEME?

Any theme that APRA reasonably believes to be controversial, which includes drug or other substance abuse, sexual activity, or political comment.

WHAT IS A POTTED PRODUCTION?

The performance of more than three works, or more than two sequentially, from an existing Grand Right production.

WHAT IS A STORYLINE?

A storyline is a chain of events (whether factual, fictional or a combination of both), told in an interrelated sequence or arc (presented in or out of chronological order), within a show (even if a storyline is not written down).

This may include the story of the life or work of a particular composer, or artist or other music figure or event.

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WHAT IS GROSS SUMS PAID FOR ADMISSION (GSPFA)?

The total amount paid for admission to the relevant season of the production, calculated using the maximum capacity of the venue and the highest ticket price and excluding booking fees charged by unrelated third parties, credit card charges, and government taxes, duties and charges.

WHAT IS NOT A STORYLINE?

Any of the following, on their own, do not constitute a storyline:

- The expression of a theme, idea or topic;
- Anecdotes or ad-libs between the performance of songs;
- A planned sequence of song performances.

WHAT DOES BALLET MEAN UNDER THE DRAMATIC CONTEXT LICENCE?

The performance of musical works as a ballet can be licensed as Dramatic Context. Ballet means a choreographic work having a story, plot or abstract idea devised or used for the purpose of interpretation by dancing and/or miming. Ballet does not include country, tap or folk dancing or precision dancing sequences.

CAN A PUBLISHER CONTROL THE USE OF PARTICULAR WORKS OR CATALOGUES IN A DRAMATIC CONTEXT?

As outlined throughout this guide and the table on page 4, APRA AMCOS' Dramatic Context scheme allows publishers great flexibility in the exploitation of works in the dramatic context.

Schedule 1 of the Dramatic Context Agency Appointment allows a publisher to outline Owner Restricted works.

Schedule 2 allows publishers to select a GSPFA threshold where if a tour or show meets that value, the publisher requests that all works they control is referred to them for approval.

Schedule 3 allows a publisher to outline Owner Referred Works.

Additionally, for any show or tour which has a GSPFA value of over \$100,000, a publisher has the option to allow APRA to license the use of their work(s) under APRA's set fees under the Dramatic Context Scheme (see page 4), or to set its own fee for the use of its work(s).

Finally, the Agency Appointment is completely non-exclusive, and publishers are not prevented from licensing directly.

Example 1.

If a group is playing the songs of a band they admire, including dressing in the style of the original band members, and introducing the songs with improvised dialogue in between those songs, this would not be considered Dramatic Context. However, if a scripted storyline and a narrator/character were included in the performance, the show would be classified as Dramatic Context.

Example 2.

Productions which include a storyline and narrators qualify as Dramatic Context. For example, a production titled *Sisterly Love*, which details the true story of the Jones sisters growing up in a regional town attempting to make it in Nashville, is told in third person (narrator) by well-known singers and in chronological order. The songs, written by the Jones sisters themselves, are interspersed throughout, occasionally appearing out of the order in which they were written and produced.

Example 3.

If a production includes a character, but does not have a storyline, it is not Dramatic Context, and can be licensed by APRA as a non-dramatic performance of musical works.

Mia Fever is a show by Jo Walker which recreates the talents of an Australian song writing maestro, including 90 minutes of uplifting dance and ad-libbed dialogue between the performances of songs, however, does not follow a scripted narrative.



COMMENTS AND COMPLAINTS

We care about the service we give you and we welcome your feedback. If you'd like to comment on our service, email nz@apra.co.nz.

Read about our [formal complaints procedure here](#).



NEED MORE INFORMATION?

Contact our office on freephone 0800 69 2772 or email nz@apra.com.au

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WHEN DO MY OWNER RESTRICTED AND OWNER REFERRED LISTS APPLY?

	PUBLISHER'S OWNER RESTRICTED LIST APPLIES	PUBLISHER'S OWNER REFERRED LIST APPLIES	FEES EXCL GST *												
Primary Schools OR Secondary Schools (provided there are no admission fees and the production is not advertised outside the school community)	x	x	Licence arrangements and fees are covered by the schools blanket licence												
Any Show Season or Tour where the GSPFA is less than \$20,000 OR Secondary Schools (where an admission fee is charged and the production is advertised outside the school community) OR Tertiary Schools OR Dance Schools	✓	x	Licence Fee is the greater of: <ul style="list-style-type: none"> • 6% of Gross Box Office pro-rated • \$15 per work pro-rated • \$90 minimum fee per show season or tour licence 												
Any Show Season or Tour where GSPFA is between \$20,000 and \$100,000	✓	✓	Licence Fee is the greater of: <ul style="list-style-type: none"> • 6% of Gross Box Office pro-rated • \$15 per work pro-rated • \$90 minimum fee per show season or tour licence 												
Any Show Season or Tour where GSPFA is greater than \$100,000	✓	✓	Unless the copyright owner has set the fees for the use of their work(s), the licence Fee is the greater of: <ul style="list-style-type: none"> • 6% of Gross Box Office pro-rated • \$15 per work pro-rated Subject to minimum fees of: <table border="1" style="margin-top: 10px;"> <thead> <tr> <th>GSPFA</th> <th>Minimum show season or Tour fee</th> </tr> </thead> <tbody> <tr> <td>\$100,000 - \$250,000</td> <td>\$150</td> </tr> <tr> <td>\$250,000 - \$500,000</td> <td>\$250</td> </tr> <tr> <td>\$500,000 - \$750,000</td> <td>\$500</td> </tr> <tr> <td>\$750,000 - \$1,000,000</td> <td>\$750</td> </tr> <tr> <td>\$1,000,000 +</td> <td>\$1,000</td> </tr> </tbody> </table>	GSPFA	Minimum show season or Tour fee	\$100,000 - \$250,000	\$150	\$250,000 - \$500,000	\$250	\$500,000 - \$750,000	\$500	\$750,000 - \$1,000,000	\$750	\$1,000,000 +	\$1,000
GSPFA	Minimum show season or Tour fee														
\$100,000 - \$250,000	\$150														
\$250,000 - \$500,000	\$250														
\$500,000 - \$750,000	\$500														
\$750,000 - \$1,000,000	\$750														
\$1,000,000 +	\$1,000														

*The conditions and licence fees are the same for both New Zealand and Australia, subject only to the different GST rates of 10% for Australia and 15% for New Zealand. The rates quoted above are in each territory's local currency and exclude GST.