

National Cultural Policy Submission

The Tote Hotel and Bar Open

Submitted: On behalf of a for-profit arts business and as an individual

First Nations

The Tote Hotel and Bar Open wholeheartedly endorse the elevation of First Nations to a position of centrality and priority in Australian Cultural Policy.

The indigenous notion that culture is linked to place is profound and follows for its embedding in other more technocratic areas of a national cultural policy, such as a focus on the importance of protecting and facilitating cultural land use. It follows both that if culture, music and art have intrinsic value, then the need to facilitate and protect cultural spaces needs to be balanced against and not subservient to the 'highest and best' economic value and therefore, use of the land. This applies as much to the heritage of places such as the Barret Peninsular resisting resource exploitation at the expense of rock art as it does for small music venues or other performance spaces threatened by redevelopment in our cities.

Although much of these policy areas are within the statutory domain of state governments, the federal government has a leadership role to play.

Such notions of cultural value flowing from land use also flow the other way in terms of economic value to both First Nations peoples and also the broader Australian communities. Cultural Practices can only exist if dedicated spaces exist for these practices to occur and thrive. In the case of Live Music this means greater statutory protection for live music venues, theatres, festival sites and performance spaces. The creation of musical works is enduring and only comes into being if performed or recorded. Once they exist, they continue to derive economic value as intellectual property.

As such it is only logical that such notions also underpin economic, environmental, and cultural value from both native title and other land uses more broadly.

Cultural Sovereignty.

Currently copyright value is only extended to its owner. It follows that if the federal government is truly committed to concepts such as indigenous sovereignty, there need to be consideration within areas such as copyright law to serious reform. Specifically, mechanical royalties of sound recordings collected from the use of recordings and moving image.

As sound recordings and film/video are a product of industrial production, they are not in the same category as a creative (cognitive) work, such as the composition of music and lyrics of a song. Australian sound recordings and film/video are produced on land of which sovereignty was not ceded. The right to copyright royalties of sound recordings was originally justified because of the extremely high cost of production. However, this is no longer the case. In the case of sound recordings, the cost of creation has migrated from requiring expensive specialist recordings studio spaces to the realms of DIY laptop based studios often located in homes and bedrooms. The justification for such a generous and long lasting (70 years) claim on the revenue stream should now be revealed and diminished by corporate entities.

Therefore, there is room to rebalance royalty distribution to both service the existing copyright owners as well as the sovereign traditional owners on whose land it was created by forming a new class of sovereign copyright ownership.

To be fair to the existing copyright owners, individual creator/owner of the sound recordings should be considered excepted from this proposal as it should only apply to incorporated organisational

ownership such as companies, trusts and not-for-profit organisations. Small recording labels or small production companies, who often exist for the love and belief in the artform should also be exempt by applying a \$5m (arbitrary) annual turnover cap on the exception. Other criteria should be considered.

Such sovereign wealth copyright funds for both indigenous and possible other non-indigenous groups representing the broader community of musicians, could be used in a myriad of ways. A wider conversation is needed to explore this proposal. It could be used to fund superannuation for musicians, cultural and arts funding programs, and many, many, other possibilities decided upon outside of government and managed directly by stake holders.

The Centrality of the Artist

One of the great myths of the music industry is the notion of a sustainable arts practice. Of course, there are independent musicians who manage to earn a living in Australia (ABS suggests \$6000) however these individuals are the exception rather than the rule. The notion of sustainable artists has been propagated by the education sector, peak bodies and all level of governments. When the pandemic hit in March 2020, artists and musicians were one of the groups hardest hit as was the entire extended music industry. The myth, at this point in time, was well and truly exposed by the reality of the quantum of lost work (See "<https://ilostmygig.net.au/>") and the design of JobKeeper that excluded almost all practicing artists and musicians.

As the Music Industry rebuilds in the post-COVID era, it is vital that artists and musicians are able to earn a living. It is central that the music industry and government address this contradiction as artists are the foundation of the Australian music industry that is built upon it.

The solutions to the problems of musician career and economic sustainability are not simple. An understanding of the contradictions, economic tensions between the stakeholders and the economic constraint of law is central to addressing and designing policy solutions.

Culturally practicing (Amateur) musicians vs professional musicians.

People play music for very different reasons. These reasons can and often do overlap and musicians can sometimes belong to both groups depending on the context. So, in describing these two groups, some definitional flexibility is required.

1. Many musicians play music to participate and connect with their culture, sub-culture or social groups. One of the great attributes of playing music is the ability to inter-connect and bridge cultural and social groups that otherwise may not necessarily interact. Hence the motives for playing music are often about social inclusivity. The act of playing music creates community and contributes to the social fabric by participating in the culture.

Many musicians are motivated by this and with financial considerations considered secondary to socio-cultural and artistic outcomes. For the purposes of discussion, let us call this group Amateur Musicians.

2. On the other end of the spectrum are the professional musicians. They are prepared to play music as directed. They play to be paid. Mostly these players are employed by arts companies and orchestras under award conditions. There are also independent musicians who have gained enough cultural capital to make a living by playing in festivals line-ups or have a following capable of reliably filling large venues with a premium ticket price to sustain their careers. The ABS estimates that there are about 6,000 fulltime musicians.

The difficulty is the first group (amateur musicians) often undermines live music show ticket price for the second group (professional musicians). Amateur bands typically prioritise audience accessibility and numbers over revenue. This places downwards price pressure on ticket prices that undermines the viability of musicians seeking to shift to or sustain a professional music career.

The right and desire of amateur musicians to practice and participate in their culture is often in conflict with the financial viability of the context in which they play.

Such a right is underpinned by **“The right to take part in cultural life guarantees the right of everyone to access, participate in and enjoy culture, cultural heritage and cultural expressions”** which is Article 27 of the Universal Declaration of Human Rights of which the Australian Government is a signatory.

The pricing of tickets is the sole domain of the live music promoter or the bands organising the show, not the Live Music Venue hosting the event. Venues cannot dictate a minimum ticket price in the Australian market, or they would breach the Competition and Consumer Act by participating in price fixing.

What is needed is to balance these competing interests in the form of a ‘minimum recommended retail price’ that is independently set. This would send a price signal to live music audiences, bands, promoters and venues that tickets prices under this threshold are not acceptable or sustainable for musicians.

Such a move would go a long way to financial underpin the viability of musician’s careers.

Musicians Australia is campaigning for a minimum fee of \$250 for a gig to set.

They say “a minimum fee is a recommended minimum – a fee floor – for any musician, playing anywhere, for any audience”.

Whilst this call is applicable for musicians who are directly employed (orchestras, musicals, professional arts companies, theatre restaurants, government contracted events, etc) and also appropriate when gigs are funded through direct Government grants, it is not necessarily appropriate to be extended into the developmental or amateur context of live music.

It is not needed for the upper echelon of bands as they return much greater than a \$250 minimum / player.

Such a universal application of a minimum payment would decimate all live performance in opportunities for musicians in venues under about a 400-500 capacity room. The economic realities will disproportionately impact emerging and amateur musicians.

For example, a typical three band line up comprised of four piece bands is comprised of 12 musicians. This equates to \$3000. Add \$800 to cover OneMusic fees, the venue fee and the sound engineer. The show cost is now equal to \$3800. If a typical ticket price is assumed to be between \$15-\$20 (based Victorian Live Music Survey 2016 indexed for inflation), a minimum sized paying audience of 200-250 is required to cover the show cost (breakeven point). No venue or promoter sizes a room at the breakeven point, so a typical viable band room capacity would be 400-500. Most independent Live Music Venues fall under this size.

So universally extending a minimum of \$250 per musician as “a fee floor – for any musician, playing anywhere, for any audience” would effectively create a situation that anybody other than professional musicians or bands with existing and reliable audience sizes of 400 and above could not play in a live music venue and is simply dictated by the economics. Such a scenario would create a cultural elite reinforced by high economic and cultural capital costs of entry to all musicians outside of this elite.

This would mean no punk scene, no reggae or latin scene, no grind-core scene, most jazz, folk, funk gigs, and importantly no developmental gigs for emerging and independent musicians of all genres as

small independent venues would have to close. In Victoria, only venues such as The Gershwin Room (The Espy), The Corner, Max Watts, The Forum, The Croxton could survive whilst The Tote, The Old Bar, Bar Open, The Northcote Social Club, The Curtin Hotel, Whole Lot of Love, Night Hawks, The Vineyard, The Dogs Bar, Cherry Bar, The Jazz Cat, Jazz Lab, etc would no longer be viable commercial operations.

The responsibility of whom is the employer or who is responsible for financially underwriting the gig is not clear in the Musicians Australia call/proposal for the extension of a \$250 minimum performance fee.

Currently, when a show is staged at a live music venue it is done on the basis of a room hire to the headline band or a promoter. The promoter or the headline band is responsible for setting the ticket price and therefore by extension, the live music shows financial context under which the gigs is conducted.

The band (or promoter) is their own financial entity not an employee of the venue. They play under their own brand (Band name), play mostly their own compositions (or repertoire of their own choosing), promote and sell their own recordings and merchandise, and choose whom they play with. Importantly they decide the ticket price and invoice the venue with an ABN (mostly) indicating that they are organised as an enterprise.

Tickets are sold, usually by a ticketing company and/or on the door by the venue staff acting as an agent on behalf of the headline band (or promoter).

The venue typically provides the room, PA and lighting infrastructure for a designated time in exchange for a small venue fee. The band (or promoter) receives the majority of the ticket revenue (80-90%) and is also responsible for paying the support bands, sound and lighting technicians.

The proposal to set a universal guarantee simply could not function under the way the industry currently operates.

The responsibility for paying the ME proposed minimum guarantee remains unclear. Is it the headline band, promoter, the venue, or a combination? Typically, live music shows are similar to a joint venture negotiated on a show by show basis between the parties.

Venues are in no position or state of health to guarantee shows which would mostly be unviable in band rooms under a 400 capacity. Above this capacity size a guarantee is unnecessary anyway.

A final consideration relating to a universal minimum per head guarantee would be its impact on certain types of bands.

For example: Latin band, choirs, amateur orchestras, big bands, etc. simply would become unbookable. The lower the musician headcount, the more viable the show would be, so single electronic artists and DJ, singer song writers would prosper at the direct expense of the former larger ensemble examples.

Punk bands and Grind-core bands typically can't play longer than 20m because of the strenuous nature of the genre or their lack of material (songs). This leads to a larger band count on a line-up which would disadvantage these types of bands against bands with larger two or three set repertoire.

To sum up, we believe that the right to play as a cultural participant must be respected and balanced against professional musicians right to be paid a minimum guarantee. The definition and lines of demarcation between what constitutes a profession and amateur (cultural participant) musician and the context in which they operate needs to be clearly defined or the impact on the music scene of the proposed extension of the universal \$250 gig guarantee to all situations, is likely to be dire.

Certainly, we support a universal minimum fee for musicians in the current legal context of direct employment but believed this should not be extended to an amateur context unless specifically underwritten by Government funding. The consequence to the independent band scene would be devastating.

As it stands the current proposal for a universal minimum guarantee is flawed, ill-conceived and should not be supported by Government however as a priority, clearly fair musicians remuneration and career sustainability should be.

We also propose that a recommended minimum ticket price (non-binding in an amateur situation but binding when funded by Government) should be considered along with other measures detailed below.

The Gig Economy.

It is often said that the Music Industry is the original gig economy. One of the great challenges is for a musician to cross over from being a successful amateur musician to becoming a professional musician with a sustainable and secure career. This pathway is currently fraught with risk due to the many precarities of being a musician in Australia.

We believe Government initiatives could assist in easing these difficulties to career pathways. The following is proposed:

1. To establish a number of fully funded multi-year creative fellowships dedicated to musicians. A number of about 100-200 would make a significant impact and also help many artists whose careers were derailed by the pandemic. Such a proposal should be open to all music genres, not just those educated in the university sector such as classical musicians. The awarding of these fellowships should be done by industry peers. It is also important that a travel component be included so these musicians can network and have the opportunity to perform and collaborate internationally. A similar proposal for the wider arts sector is presented in *Creativity in Crisis: Rebooting Australia's Arts and Entertainment Sector* (Eltham and Pennington, 2021).
2. The Government to consider co-funding of an employment insurance for practicing musicians who perform more than 100 days a year and earn greater than a weekly income of \$750 as musicians (averaged over a 12 week period). The insurance could be drawn upon when a musician experiences a period when working as a performer is not possible for a number of weeks. Such a system would assist in securing the careers of many professional musicians, most of whom experience periods where work is scarce. Such a system could be modelled on the French system *régime salarié intermittent à employeurs multiples* (system for intermittently salaried workers with multiple employers) taking into account its achievements, strengths and weaknesses.

In conclusion, we believe that there is no single solution to the precarity of artists and musicians and that the nature of their both cultural and economic contribution to Australian society means that government policy development and implementation to address fair career remuneration and sustainability requires a bespoke multifaceted and prioritised approach.

Please tell us how each of the 5 pillars are important to you and your practice and why. Feel free to respond to any or all that are applicable to you:

Strong Institutions

Before the pandemic arrived, Live Music Venues located in pubs and bars were marginal businesses at best. Revenues were derived primarily from drink sales whilst ticket revenues were predominantly received by bands or the show promoter.

When the pandemic hit and the lockdowns occurred, live music venue revenues totally dried up.

Survival of venues is a direct result of government funding from all levels and significantly included:

- Federally - JobKeeper, RISE, Live Music Australia, Cashflow boost,
- State (Vic) - Licenced hospitality Venue Fund, Live Music Venues Grants, gig cancellation claims, funding for tables and chairs, ventilation, etc and,
- private refinancing and asset liquidation.

As the post-pandemic economic environment unfolds, new challenges and headwinds are appearing that threaten the medium to long term survival of Live Music Venues.

These include:

- The rapid increase of inflation feeding through to increases in alcohol excise, and the cost of goods of beverages and food, utilities,
- The Spike in cost and availability of Public Liability,
- Labour shortages,
- Increase of interest rates feeding through to either property rental or the servicing of finance or both,
- A shortage of band available to play due to the impact of natural attrition, lockdowns and 2 years of no gig activity not facilitating the creation of new bands to replace their natural attrition,
- About a 50-70% reduction in turnover compared to pre-pandemic ticket, food and beverage sales due to a combination of working from home, customer COVID fear, shrinking customer disposable incomes (mostly under 30) and changes in people's habits particularly during the week nights.
- Loss of expertise and organisational memory, and
- The drying up of available pandemic recovery government funding assistance.

Although Live Music Venues are no longer locked down and subject to capacity constraints, they are still in a financially positioned in terms of profitability but also because they carry accumulated debt from the pandemic period that will take a long time to pay off.

Government needs to rethink its arts funding options for all creative enterprises and in particular Live Music Venues in terms of their importance in delivering important cultural/artistic outcomes, their contribution to Australian culture, and therefore their access to Government funding. Such funding access should not be on the basis of how cultural enterprises (e.g. live music venues and business) are incorporated (not for profit, or a private company).

Consideration should be given to program delivery and importantly, core funding should be part of the mix to address the elevated post-pandemic cost of operation.

If Live Music Venues continue to exist (and this is not a given) musicians and bands will continue to play gigs to audiences, generate cultural and economic wealth and continue to grow Australian intellectual property assets. The role of live music venues is central to the creation and development of musicians and bands. No artist goes from bedroom to stadium. Live Music Venues are the crucible that forge the careers of Australian musicians. Their health is strategic to both Australian culture and the music industry.

Live Music Venues need to be inside the arts tent, alongside other publicly fund arts organisation.

Refer to The Victoria Live Music Census 2017 and Creativity in Crisis: Rebooting Australia's Arts and Entertainment Sector After COVID

By Alison Pennington and Ben Eltham

for figures and analysis for an industry overview.

A proposal to financially strengthen Hospitality based Live Music Venues.

This concept was originally submitted to the Parliament of Australia's enquiry into "Australia's creative and cultural industries and institutions" titled "A proposal for an Alcohol Excise and Wine Equalisation Tax rebate scheme for Live Music Venues and Festivals to address the sectors future financial sustainability and COVID pandemic recovery" on the 1st October 2020 by Jon Perring.

It is just as relevant now.

The COVID-19 pandemic's impact on licensed live music venues and festivals was catastrophic because of the lockdowns and extended periods operating at very limited capacities causing mass audience and business disruption, and many cancelled or postponed shows. All these organisations are operating close to or under their financial viability levels and have accumulated significant debt during the pandemic period. Their existence today is the result of the significant financial intervention by all levels of Government (eq. JobKeeper, RISE, Live Music Australia Fund, The Victorian Government's Live Music Venues Grant, Cashflow boost, etc).

Funding programs such RISE and Show Starter loans do not address the core operational losses sustained by venues and festivals. Loans are a dangerous instrument when financial planning speculative and any loan can't be repaid when live music venues and festivals face uncontrollable cost increases in areas such as public liability insurance (up 1100% in some cases - See below), spiking interest rates that flow through to debt repayment and property rental, spiking inflation and beverage, food and ticket sales that have not recovered to pandemic levels.

Project based grants such as RISE although promoted as COVID recovery programs under the JobMaker banner, do not address core costs or include programs to assist an organisation to maintain liquidity.

What venues and festivals desperately need is a **direct injection of money into working capital and without this, live music venues and festival will continue on a trajectory of economic attrition unless Government acts!**

This is an industry that contributes annually in excess of **\$15.7 billion to the economy and sustains 60,000 jobs.**

<https://livemusicoffice.com.au/research/>

This is a simple proposal that would be easy to implement, would address struggling live music venues and festivals core costs and is likely to be **revenue neutral.**

Alcohol Excise and Wine Equalisation Tax rebates proposal for Live Music Venues and Festivals.

The Federal Government could create a rebate scheme on alcohol excise and the Wine Equalisation Tax (WET) currently collected by the Federal Government, that legitimate grassroots live music venues and live music festivals could apply for. It would not need to be permanent and would only need to last for the a set recovery period (say 4 years) to assist these culturally vital organisations financially recover from the COVID lockdown.

This would be achieved by targeting their critical financial problem of organisational reduced or lack of profitability in the ramp-up recovery period when they are carrying the added weight of

accumulated debt generated during the lockdown whilst operating at substantially reduced income levels.

It would operate as follows:

- The alcohol excise is based on alcohol volumes, not sales value but can easily be accounted for by licensed venues and festivals. The summation of alcohol purchase quantities organised by the Excise Tariff sub-item category could easily form the basis of the rebate calculations by using invoice from the licensed venues or festivals suppliers as the documentary evidence basis to validate claims.
- The WET is based on 29% of the wholesale price of wine so the invoiced amount from licensed venues or festivals suppliers would also suffice for a claim with invoices forming the evidence base.

Although there is an administrative overhead for this scheme, this is well outweighed by the beneficial financial impact of the proposal. The rough value of alcohol excise represents around 15% of a live music venue's turnover. This would turbo charge the profitability of venues and festivals bar sales. The increased cashflow would address disproportionate operating costs caused by accumulated lockdown debt and other inflationary headwinds.

The eligibility criteria for this rebate proposition is simple. A history of staging live music or other performance activity such as comedy. Proof could be the presentation of details of the appropriate OneMusic licence, records of door reconciliation sheets or proof live music programming, and the presentation of a valid liquor licence.

Implementation of this proposal would not require any new or amended legislation in parliament.

Live Music Venues pay more tax, levies and licencing fees than almost any other sector of the economy. These taxes include the Wine Equalisation Tax, Alcohol Excise, Liquor License Fees, Land Tax, PAYG, Payroll Tax, Council Rates, Heath Licenses, Fire levies, GST, water and waste charges, and Company Tax. Although not a tax, live music venues and festivals are also responsible for paying the levy that is the OneMusic music copyright license fees.

Government should consider that if licenced live music venues and festivals fail or cease operation, then this is taxation revenue that the government would not raise anyway. As such this proposal is likely to be or close to revenue neutral.

Furthermore, Live Music Venues and Music Festival employ and contract a substantial proportion of Australian bands and musicians. Live music venues and festivals are the conduit for musician's careers. Live music venues and festivals are the cauldron of the music industries 60,000 jobs.

The Federal Government has historically under-invested in contemporary live music comparative to other industries of similar size and even in terms of the shrinking arts funding pool.

Although a direct injection of working capital into live music venues and festivals by Government is preferable (targeted grants), this rebate proposition could equally work to address live music venues and festivals sectors future economic and employment sustainability.

Are there any other things that you would like to see in a National Cultural Policy?

Public Liability Insurance

This specific issue has come to a head in the last year and directly threatens all venues (Theatres, Live Music Venues, Bars, Concert halls, etc.) and events (Festivals, small outside one-off events, etc.).

Anecdotally we have heard from our industry colleagues that several Live Music Venues have not had the option of obtaining any Public Liabilities at all, others have received increases of 1100% of their premiums and specifically, others received quotes in the range of \$250,000 to \$600,000, and some with a policy excess of \$75,000. We have not listed the specifics as the conversations were given in confidence. However, horror stories are widely documented in the press and by organisations such as the ALMBC, state music peak bodies and APRA/AMCOS.

The insurance premium price rise is not only unreasonable but also not based on substantive evidence to assist in the corresponding risk assessment of live music use and events. Greater Government regulatory oversight is required of the insurance industry to prevent price gouging and to ensure the transparency of insurance risk assessment is correlated to relevant policy payouts and policy revenue income pools. This is necessary to justify insurance policy pricing, availability, and conditions.

At the very least, a parliament inquiry into public liability and event insurance should be considered by the Federal Government. Such an inquiry should also examine the fairness and appropriate determination of payouts by courts to claimants and whether statutory precision of the relevant provisions intended to guide such payouts can be improved.

The Live Music office.

Public liability Insurance is an issue in a long line of unreasonable policy impediments that have faced live music venues over the last 25 years. Others include: the State Government's imposition of ill-considered liquor licencing regulations (lockouts, lockdowns, license freezes, inflexible variation requirements, irrational live music conditions including inflexible security requirements), overly prescriptive building code and planning/development application requirements and laws, the impact of inadequate planning protection from inappropriate residential encroachment to live music venues and festival sites, over-policing because of political 'law and order' fashion imperatives, unworkable, complex and overly onerous sound/noise controls, then during the pandemic badly construed and impractical health regulations. Festivals have had to endure over policing, strip search of festival goers in NSW, and impractical and delusional drug policy responses.

On the federal level, funding such as RISE and Live Music Austral has become available and is widely welcomed and acknowledged as critical to music business survival and revival during and post-pandemic, including live music venues and festivals. However, the precision of the grant criteria could have been better directed so events with little or no Australian artistic or cultural value could have been excluded from these funding programs, thus extending these precious program financial resources to where they are needed.

Surely, it's time that there was a properly funded voice in the national government to assist in easing and reforming these regulatory burdens and to try and create a regulatory context live music could properly reach its social, cultural and economic potential. The Live Music Office was created with this vision in mind, but its resources have slowly been stripped away to a point where it now sits in APRA/AMCOS.

Industry respect for the LMO is widespread across Australia and within all levels of government. One example is Live Performance Australia statement to the Federal Parliamentary "Inquiry into the Australian music industry that "the LMO has 'delivered significant benefits in support of growing live music in Australia...producing key economic research, successfully working with state and local governments on regulatory initiatives and providing expert advice'.

The Tote and Bar Open whole heartily endorse this statement and sites its many regulator and statutory reform successes on the Live Music Offices website (<https://livemusicoffice.com.au/news/>).

Proper funding for this body should be seriously contemplated by the Federal Government, considering its many achievements performed on a shoestring budget.

Copyright law in the music industry.

There needs to be a proper review of copyright law, its foundation principles, its revenue collection, and distribution in Australia.

As indicated in above, there need to be consideration of the collection of mechanical royalties of sound recordings collected from their use.

As sound recordings are a product of industrial production, they are not in the same category as a creative (cognitive) work such as the composition of music and lyrics of a song. Sound recordings are produced on land of which sovereignty was not ceded. The right to copyright royalties of sound recordings was originally justified because of the extremely high cost of production. However, this is no longer the case. The cost of creation of sound recordings has migrated from requiring expensive specialist recordings studio spaces to the realms of DIY laptop based studios often located in the home or bedroom. The justification for such a generous and long lasting (70 years) claim on the revenue stream should now be re-evaluated, diminished, and redistributed. Particularly because the enduring monetary value of this intellectual property is a by-product of the land dispossession of the original inhabitants and the lands subsequent economic re-use. As indicated above an indigenous sovereign wealth fund controlled by indigenous people could be one area of consideration. Other areas of consideration could be for revenues to fund a superannuation scheme for musicians, and an unemployment insurance scheme for working musicians and live music performers, as outlined elsewhere in this submission.

Problems with the current distribution of song writing (words and music) composition royalties.

The distribution of these royalties is extremely complex and governed by the APRA/AMCOS distribution rule book. Anecdotally, our observation of the royalties collected compared to the distributions received by bands who have played at our venues, does not seem to be equitable. Although we should emphasise that we have no hard data to present, a transparent independent review or audit of Australian copyright collection would go a long way to ensuring these revenue streams are distributed to where they should. Little or no data is available in the public domain to evaluate the efficacy and fairness of the distribution of these royalties by collection agencies.

Areas of concern include:

- With the introduction of OneMusic licencing, there has been a shift from music use to venue and room capacity as the basis to calculate One Music license fees (not the case for live music). This is a regressive increase and a cost burden on the venues because of charges levied on unused patron capacities. This is the case mostly for recorded music licences under OneMusic.
- How are royalty revenues are distributed for Live Music performance by OneMusic based on venues/promoters/festivals/etc returns when Live music shows band names are not listed? Almost all bands that play in the music scene in inner-city Melbourne in independent music venues play their own material. Cover bands are the exception not the rule. This is likely to be the case in most other Australia capital cities. Little or no data is available on the percentage of original material performed live in the independent Australian music scene and therefore on the fairness of revenue distributions to independent bands and musicians vs the large national and international corporate copyright holders.

Many of these bands are not APRA/AMCOS members or if they are, don't submit their returns of their live performance activity and therefore don't receive or maximise their copyright royalty payments. Only in the case where venues on-cost OneMusic fees in their returns are royalty allocations more accurately accounted.

The APRA Distribution rule book states:

"It is the practice of some live music venues to 'on-cost' their APRA live music licence fee to artists performing at their venue by deducting the APRA licence fee from the settlement payments to artists. This practice may cause a disconnect between the amount deducted from members by the venue and the amount paid to the same members by APRA from the Performance Report (PR) pool.

To overcome this, members or their managers are able to provide APRA with details of the on-costed deductions with accompanying setlists. This information is used to allocate a share of the on-costed amounts to the works performed by that artist (excluding covers). Each work is paid in accordance with the number of performances it has received

If relevant, multiple on-costed amounts are aggregated on a quarterly basis per member and distributed to a single setlist (with additional works added if performed at subsequent on-costed events) so as to avoid the workload that would be required by setting up separate amounts and setlists for each event."

Furthermore, in our experience information collected from live music venues in the 'on costed' scenario only covers headline bands. It does not cover support bands.

Government should consider incentivising Ticket Companies (OzTix, MoshTix, Ticketek, etc) to collect the OneMusic license return data for Live Music Performance for tickets sold. This could be done by work on agreed 'OneMusic collection data format standards' involving the Ticket Companies, APRA/AMCOS and PPCA. This would include a complete list of performers on the bill, gross ticket sales, date of performance and playing times. Government financial incentives (tax relief, grants, etc.) could drive the adoption of such standards.

Coupled with a campaign to encourage independent musicians to register and submit their playing performance returns, the increased accurate data would lead to a direct and tangible improvement in musician income.

- As indicated above, support band's song writing copyright are likely not distributed equably compared to headline band revenues when distributed. This situation needs to be corrected and could easily be done as proposed above.
- Australian session musicians have had no economic claim to their recorded performances beyond a basic session fee and is one of a handful of developed economies that does not do this. In the UK, royalties are split 50/50 with the labels and performers. This situation requires correction by Government.
- Finally, royalty revenue distribution from streaming platforms such as Spotify, Apple Music, Facebook, YouTube, etc to Australian artists is notorious for its lack of and pitiful financial return to artists (Spotify pays approximately 0.4c per play). Only a proper inquiry that follows the money and analyses the complex distribution rules can properly propose an equitable solution to the current inequities. Australian Music steaming revenues where equal to about \$1b in 2022 (Statistica). The trickle down of the royalties requires better transparency, research

and attention by Government to help address the continued viability of Australian music career for musicians, composers and songwriters (about 110,000 APRA/AMCOS members).