

Senate Standing Committee on Environment and Communications

NATIONAL CULTURAL POLICY



Submission by the Media Entertainment and Arts Alliance

March 2023

MEAA welcomes the opportunity to make this submission to the Senate Standing Committee on Environment and Communications. MEAA represents approximately 10,000 performers (actors singers, musicians) and crew across Australia.

MEAA considers *Revive* to be a landmark document. It is our nation's first consolidated cultural policy in a decade. It follows what many in the arts community consider a decade of lost opportunity. The actions proposed across *Revive's* five pillars are the result of considerable thought and sector consultation.

As the key union representing Australia's cultural workers, MEAA especially welcomes the prominence of First Nations' cultural practice and endeavours. The initiatives under First Nations First, while overdue, accord our original artists the respect and resources needed to confidently ply their artistic trade.

Revive contains important new funding for a range of initiatives – including First Nations, a refashioned Australia Council, with new units devoted to workplace practices and building the music industry's footprint and new infrastructure. There is however, much detail to be developed to ensure these promises are fully discharged. MEAA and its members stand ready to assist in this process.

This submission does not comment on all of the actions proposed in *Revive*. It instead nominates and then comments upon the actions that MEAA considers will be of most consequence to its members.

Pillar 1 First Nations First

Establish a dedicated First Nations-led Board within the newly established Creative Australia to invest in, create and produce First Nations works of scale and with priorities and funding decisions determined by First Nations leaders.

MEAA applauds the planned establishment of a dedicated First Nations-led Board within the newly established Creative Australia to invest in, create and produce First Nations artistic works. *Revive* says that 'Extensive consultation will take place ahead of the creation of the First Nations body.' MEAA anticipates that as the key registered trade union representing workers in the cultural and entertainment industries, and with an active First Nations caucus, it will be duly consulted on the formation and policies that underpin the operation of this important new body.

It is envisaged that this commitment will provide important financial backing to First Nations artistic works. The policy also acknowledges that self-determination is essential to these works being realised. The principle of self-determination featured in *Creative Australia*, the implementation of which was curtailed due to the change of federal government in 2013. The release of *Revive*, early in the life of a progressive government, will hopefully see the principle of self-determination become entrenched in First Nations artistic decision-making.

As to the composition of the autonomous Board driving First Nations artistic development and practice, MEAA believes that the Board should include First Nations cultural workers who are members of the union.

Develop a First Nations Creative Workforce Development Strategy

Revive says little about how (and by whom) this strategy will be determined. MEAA requests that at the appropriate time, those charged with framing the strategy consult with the union about workforce development for its members in the performing arts and screen production. Part of this work will be identifying areas of work in which First Nations practitioners are under-represented and comprehending the reasons for this situation.

Regard must also be had to the essential elements of workforce planning. These include a supply and demand analysis, gap analysis, provision for equity, diversity and inclusion, proposals to resolve identified supply issues and ongoing monitoring. These are substantial pieces of work in and of themselves.

Support professional development and training for First Nations' peoples to ensure that artists are treated ethically and receive a fair return for their work.

MEAA concurs with the observation in *Revive* that:

There is an ongoing problem of training and skills shortages in First Nations arts jobs, including management, technical and administrative positions, whether that be curators, lighting technicians or sound engineers, which provides limitations for the growth of First Nations arts and related organisations, and contributes to a lack of autonomy.

Career pathways need to be supported at all career stages through access to culturally appropriate training and skills development across a range of technical, administrative, production and artistic professions, including leveraging the use of technology and new digital platforms.

The provision of professional development and training must be culturally safe and cost-effective.

The core elements of cultural safety must be embedded into the training and professional development frameworks. Training delivery will require knowledge and respect for the diversity of First Nations peoples, communities and cultures. It will also require the capacity to adapt as training evolves.

The adequacy and reach of training will also rely on a renewed compact with the States and territories to revive cultural training opportunities. Vocational training has been progressively devalued and downgraded over a decade or more by the states and the Commonwealth. A reversal of this state of affairs is required for the training solutions ventilated in *Revive* to be achieved.

To draw in sufficient numbers of trainees across the craft areas, training must not be confined to major city centres. It should also be subsidised to ensure reasonable levels of uptake. Without cost-effective and regionally available vocational training opportunities, the cultural and socio-economic diversity of Australia's artistic talent pool, especially with respect to First Nations practitioners, will not increase.

Finally, MEAA notes that training and professional development is expensive. It is hoped that the federal government will commit to providing additional dedicated resources as its workforce development, training and professional development planning evolves.

Pillar 2 A Place for Every Story

Develop an Arts and Disability Associated Plan, under Australia's Disability Strategy 2021–31, to enable people with disability to access and participate fully in the cultural and creative life of Australia.

The lack of action in updating the *National Arts and Disability Strategy* has been dispiriting. MEAA welcomes the recognition in *Revive* of these delays and the promise to advance work in this critical area. MEAA welcomes the commitment of \$5 million to prepare an Arts and Disability Associated Plan, under Australia's Disability Strategy 2021–31.

With between 10 and 20 per cent of cultural workers possessing a disability, it is plainly urgent that government moves to address barriers to participation in cultural endeavours – for practitioners and audiences.

It is commonplace that arts workers are frequently less than well remunerated. Earnings from creative activities for performers (and others) with a disability are lower still.

Cultural workers with a disability also have fewer opportunities to practice their craft. Their professional development is often at a standstill. It is a vicious cycle that must be arrested through government standard setting and requiring cultural organisations to demonstrate their ability to remedy long-standing barriers to access.

Arts Access Australia reported in 2019 that less than 40% of arts and cultural organisations have a current Disability Action Plan. It ought to be a requirement that cultural organisations must have an effective disability action plan (or equivalent measures) in place in order to receive public funds.

Pillar 3 Centrality of the Artist

Mandate minimum remuneration for professional musicians and performers contracted by government entities to perform at Australian Government events and functions.

MEAA notes the commitment in *Revive* to ‘mandate minimum remuneration for professional musicians and performers contracted by government entities to perform at Australian Government events and functions.’

While a welcome first step, more is needed from government to ensure that musicians are accorded reasonable rights to payment.

It is well known that the majority of musicians are precariously employed. Many gigs go unpaid, and contracts are often undermined. MEAA believes that the government has a clear role to play in setting standards. MEAA has recently secured the support of most state governments for a minimum \$250 payment per call for musicians *where performances are part or fully supported by government funding.*

MEAA restates the need for such a commitment at the federal level. MEAA does not believe that the \$250 fee should be compromised by ephemeral and unmeasurable elements such as artists being ‘paid’ in kind through ‘exposure’.

Establishing effective minimum payments to be observed by government entities and those funded by government sets an example to those who engage artists more broadly.

Include Award coverage of the arts sector and minimum standards as part of the upcoming Review of Modern Awards.

A significant proportion of performing artists (actors, musicians, dancers), crew, entertainment venue and cultural services workers are presently covered in modern awards, in particular the *Live Performance Award 2020* and *Broadcast, Cinemas and Entertainment Industry Award 2020*.

Where extensions of award coverage are proposed, MEAA would welcome the opportunity to be heard to ensure that newly covered workers are properly represented by a registered industrial organisation and that appropriate protections and remuneration are provided.

Develop information about the flexibility available for artists looking for work or working in the creative arts sector, and to have this recognised as part of their mutual obligation requirements for unemployment payments. This will assist artists and other creative workers to work with job providers so that they can continue their creative practice while connecting to paid work.

Although *Revive* does not elaborate upon this commitment, MEAA takes it to mean that cultural workers will be permitted to count cultural job seeking as a means of establishing their eligibility to receive income support payments. (A practical example is an actor auditioning for a role and being unable to include this job seeking as part of acquitting their mutual obligation responsibilities.) This is an important and commonsense reform that will ensure cultural workers are not indirectly penalised for seeking work in their chosen profession.

Establish a Centre for Arts and Entertainment Workplaces (in pillars three and four), within the newly established Creative Australia, to provide advice on issues of pay, safety and welfare in the arts and entertainment sector, refer matters to the relevant authorities and develop codes of conduct and resources for the sector.

MEAA supports the establishment of this office within Creative Australia. We particularly note the observation in *Revive* that the Government recognises that artistic and cultural work is a professional activity and that fair pay and conditions for arts and cultural workers are essential.

Together with the federal government's planned (2023) industrial relations reforms, the implementation of this commitment will be key to addressing longstanding concerns about the remuneration and safety of cultural workers.

As MEAA observed in its national cultural policy submission in 2022, 'creative workers face a persistent three-headed challenge: their work is almost always insecure; creative occupations are not seen as 'real'; and there are few enforceable minimum standards for their pay and conditions.'

MEAA believes the new Centre for Arts and Entertainment Workplaces should:

- establish pay standards for creative workers and apply these standards to both employees and non-employees (i.e. contractors);
- develop and publish codes of conduct with respect to sexual harassment and assault;
- develop a tripartite industry-based approach to workplace health and safety in temporary workplaces such as screen production;
- monitor compliance with these standards and annually report on matters of significance, including breaches of standards (or laws) and actions arising from such breaches;
- have standing in the Fair Work Commission and other relevant tribunals of fact;
- be governed by a small board of management that includes relevant union nominees; and
- seek to monitor and report on cultural workers' earnings by professional areas.

As MEAA also noted in its national cultural policy submission, 'artistic industries ... rank highly in terms of the incidence of sexual assault, intimidation and exploitative work practices'.

In this regard, MEAA notes – and welcomes – *Revive's* commitments with respect to the *Respect@Work* report's recommendations. The *Respect@Work* reforms, especially the introduction of a positive duty requiring employers to take reasonable and proportionate measures to eliminate unlawful sex discrimination, including sexual harassment, undeniably strengthen the legal and regulatory arrangements relating to sex discrimination. These new duties and allied changes, including more effective avenues to progress complaints in the Fair Work Commission, will help address long-held concerns about harassment in the industries in which MEAA's members work.

With respect to the administration of the Centre for Arts and Entertainment Workplaces, it is critical that MEAA be provided with a position on the governing Board. MEAA is the only registered industrial organisation with a substantial history of advocacy for the rights of cultural workers.

Establish Music Australia (\$69.4 million), to support the Australian music industry to grow, including through strategic initiatives and industry partnerships, research, skills development and export promotion.

There is considerable merit in the key objectives of the proposed Music Australia. MEAA is particularly drawn to the following objectives:

- grow the market for contemporary Australian music;
- increase development of original music through investment in artistic creation;
- deliver songwriting and recording initiatives in schools;

- develop new strategic partnerships within and beyond the music sector, including to undertake research and data collection around key issues, including festivals and venues;
- support industry professionals to learn business and management skills;
- provide central coordination around access to live music venues for bands and solo artists;
- create Community Music Hubs in high density living areas.

While supportive of the establishment of Music Australia, MEAA submits that the new entity should not be a vehicle to subsidise or otherwise sustain major recording companies. It is also vital that working musicians are represented on the Music Australia Board and that such representatives be drawn from the union.

MEAA strongly supports the objective of developing original music to recognise the contribution and output of musicians from all sectors and segments of the industry. It will be vital that development opportunities (and resources) are made available for both original performance and recorded product, and for independent artists and community-based practitioners.

The development of original music will be the outcome of whole of sector efforts to foster music creation and will entail a wide range of co-ordinated initiatives to build our music culture. These efforts should avoid the pitfalls associated with the production of music for mass markets, such as ‘churning and burning’ of artists through highly commercialised parts of the industry.

We agree with the need to improve knowledge and industry insights, including through research partnerships, to allow improved outcomes from public and business investment. In particular, MEAA favours measures that will improve market and business model information and knowledge to assist musicians develop and steer their career and artistic development.

Music Australia must be seen as an ally of the music industry in its entirety. It should foster new art and play a role in confirming musical work as a legitimate, safe and durable profession. MEAA envisages that considerable work will be required of the new Centre for Arts and Entertainment Workplaces in realising these aims.

Over time, MEAA would also seek that Music Australia conducts an analysis of artists’ earnings in the context of what their share of creative revenue is. Across streaming and record deals,

artist earnings and rights are marginalised in favour of streaming service platforms and recording companies. A recalibration of this reality is required.

Of course, it is not simply the earnings and success of artists that Music Australia should be concerned with. MEAA also foresees Music Australia playing a dynamic role in improving the availability of music education throughout Australian schools. As is noted in *Revive*:

The pathway to a career in the cultural and creative sector begins with arts education. Arts education develops artistic and creative skills, and fosters cultural appreciation and participation in Australia's cultural life.

Introduce conditional funding that requires government-funded artistic and cultural ventures to adopt and adhere to minimum workplace safety standards, and meet legislated minimum employment standards.

MEAA's national cultural policy submission asserted that 'artistic and cultural ventures involving receipt of government funds must adhere to credible employment and safety standards. Non-adherence to such standards should result on the return (or forfeiture of such funding).' This *Revive* commitment appears to be consistent with the union's submission.

MEAA nonetheless requires clarity about what funded 'artistic and cultural ventures' are. Does this include scenarios where governments provide partial funding for the venture in question or does the obligation arise only where government is the sole or majority funder of cultural works?

MEAA also requires clarification as to whether the term 'minimum employment standards' encompasses minimum rates of payment. Where such rates are not prescribed in a modern award, what is the appropriate reference point to determine minimum payment levels? In addition, what minimum rates of payment should be observed where cultural workers are contractors – as opposed to employees?

MEAA submits that minimum standards of payment should be provided to all workers, irrespective of their classification.

Work with the arts and culture sector to undertake a scoping study to understand current and emerging workforce challenges and skills needs across the cultural and creative sector, and inform the development of industry-driven solutions by the Arts, Personal Services, Retail, Tourism and Hospitality Jobs and Skills Council, to address identified issues.

MEAA considers this scoping study – and the matters that arise from it – to be critical to the future sustainability of the performing arts and screen sectors. MEAA would be pleased to assist the scoping study process.

MEAA welcomes the recent establishment of the Arts, Personal Services, Retail, Tourism and Hospitality Jobs and Skills Council (JSC). MEAA has hitherto been concerned by the utter lack of attention the creative sector has received from predecessor skills-related bodies. Notwithstanding the extensive remit of this Council, MEAA is hopeful that it will have the capacity and resources to identify skills and workforce needs for the creative, including the development of training pathways to ensure the sector's viability.

MEAA notes that there is a dearth of reliable information about the ebb and flow of specialised cultural jobs in the creative sector outside the collection of general ABS data. This data measures overall job numbers in certain subdivisions of Divisions J, Information Media and Telecommunications, and Division R, Arts and Recreation Services. These subdivisions capture a range of specialised work areas, but do not identify jobs in meaningful detail. It will be critical that the ABS be engaged to assist in identifying particular positions and track the rise and fall in the number of positions.

Pillar 5 Engaging the Audience

Continue support for investment in large-scale screen productions in Australia through film tax offsets and location-based production incentives.

The chief area of ongoing anxiety about the scale of assistance to the Australian screen industry is the future of the Location Incentive Fund. Large-scale international productions drive vital investment in equipment, provide a spur for on-the-job training, and the research and development needed to deliver high quality content across the whole industry.

Substantial funding (\$540 million) has been provided for Location Incentives (in addition to the 15 per cent Location Offset) since 2018. This funding was intended to last until 2026-27. It is believed that as of early 2023, Location Incentive funds have been exhausted.

MEAA submits that the federal government must move urgently to ensure that Location Incentive funding is increased so that Australia – and its screen workforce – can continue to attract large scale international productions.

MEAA also requests that consideration be given to converting the Location Incentive into an overall Location Offset where up to 30 per cent of eligible production costs can be claimed. Such a reform would ensure that funding shortfalls are avoided and that the screen industry would have confidence that an important part of screen funding was permanent, rather than discretionary. This would undoubtedly encourage increased long-term investment alongside individual productions.

Introduce requirements for Australian screen content on streaming platforms to ensure continued access to local stories and content in the third quarter of 2023 and to commence no later than 1 July 2024, with the Minister for the Arts and the Minister for Communications to undertake further consultation with industry in the first half of 2023 on the details of actions to be taken and implementation as part of the Commonwealth's broader reforms to media legislation.

As Revive says:

In 2020–21, for the first time, Australians were more likely to have watched an online subscription service than live or recorded free-to-air television. The Australian subscription video on-demand market grew nearly fifty per cent in 2021, with estimated total earnings exceeding \$2.4 billion.

The Australian content rules that applied to free-to-air (FTA) broadcasters were effectively gutted over 2020 and 2021. Since those changes, it is clear that FTA broadcasters are scaling back their commitments to the production of Australian drama, in both the adult and children's drama categories. Over time, this will deprive Australian audiences of seeing their own stories on screen and lead to substantial reductions in the amount of work available for screen performers, creatives and crew.

An essential means of ensuring satisfactory levels of production is to make streaming services of scale contribute a set proportion of their Australian revenues to the production of Australian content. Despite massive increases in subscriber numbers and swelling profits, streaming services remain outside the regulatory net.

MEAA and other industry groups strongly support the immediate introduction of a requirement that streaming services of scale make binding contributions of no less than 20 per cent of their annual Australian revenues to the production of Australian programs.¹

¹ MEAA note that the Standing Committee on Communications and the Arts' October 2021 report, *Sculpting a National Cultural Plan - Igniting a post-COVID economy for the arts*, supported this measure.