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# COMMONWEALTH GOVERNMENT COVID- 19 RESPONSE INQUIRY

SUBMISSION OF THE MEDIA, ENTERTAINMENT AND ARTS ALLIANCE

14/02/2024

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**BUILT ON INTEGRITY, POWERED BY CREATIVITY**

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## Introduction

MEAA welcomes the opportunity to make a submission to this inquiry. This submission relates to the Commonwealth Government COVID-19 Response Inquiry terms of reference, in particular, financial support for individuals (including income support payments).

MEAA is the largest and most established union and industry advocate for workers in the creative and cultural industries, with a history going back more than 110 years. This submission is directed at the arts, entertainment and media sectors, where MEAA has more than 16,000 members. Our members in these industry areas include people working in television, radio, theatre, film, entertainment venues, sporting stadia, journalists, actors, dancers, sportspeople, cartoonists, photographers, musicians, orchestral and opera performers as well as people working in public relations, advertising, book publishing and website production.

The arts, entertainment and media sectors are significant generators of economic activity and employment. For example, the arts and entertainment sectors employ approximately 230,000 people and contribute an estimated \$17 billion in value added (GDP).<sup>1</sup> The sector is 'jobs-rich': for every \$1 million in turnover six jobs are created.<sup>2</sup> In addition to these significant economic benefits, the arts, entertainment and media sectors are essential for the public good. Public interest journalism, for example, helps to expose corruption, uphold transparency of government, inform the public, and contribute to public debate.<sup>3</sup>

Despite the critical role that media, arts and culture play in Australia's economy and society, they still suffer from systemic under-recognition. Over the past four decades, political commitment to media, arts and culture has been unpredictable, inconsistent, and often insufficient.<sup>4</sup> For example, between 2007-08 to 2017-18 the Federal Government's per capita investment in arts and culture declined by nearly 19%.<sup>5</sup> Historical cuts to public broadcasters have also forced them to wind back their reach and scope.

Market factors have also undermined conditions for the sector. The collapse of the commercial business model for media, for example, resulted in widespread job losses. In total, between 2006 and 2016, the number of Australians working in journalism-related occupations fell by 9%. The ramifications were worse for traditional print media, where the number of journalists fell by 20% between 2014 and 2018.<sup>6</sup>

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<sup>1</sup> As of 2018-19. Pennington and Eltham (2021) *Creativity in Crisis*, p 6, <https://futurework.org.au/report/creativity-in-crisis-rebooting-australias-arts-and-entertainment-sector-after-covid/>

<sup>2</sup> See above, p 13

<sup>3</sup> Sweet et al (2020) 'Converging crises: public interest journalism, the pandemic and public health', *Public Health Research and Practice*, p 1, <https://www.phrp.com.au/wp-content/uploads/2020/12/PHRP3042029.pdf>

<sup>4</sup> Pennington and Eltham (2021) *Creativity in Crisis*, p 16, <https://futurework.org.au/report/creativity-in-crisis-rebooting-australias-arts-and-entertainment-sector-after-covid/>

<sup>5</sup> A New Approach (2019) *The big picture: public expenditure on artistic, cultural and creative activity in Australia*, p 16, <https://newapproach.org.au/insight-reports/the-big-picture-public-expenditure-on-artistic-cultural-and-creative-activity-in-australia/>

<sup>6</sup> Australian Competition and Consumer Commission (2019) *Digital Platforms Inquiry*, p 18, <https://www.accc.gov.au/system/files/Digital%20platforms%20inquiry%20-%20final%20report.pdf>

Funding challenges in the sector have led to a proliferation of insecure and low-paid work, including freelance, contract, casual and gig work. This situation left workers especially vulnerable to the impacts of COVID-19, which were further exacerbated by restrictions to JobKeeper, which left many workers in these industries impoverished and out of work.

## Impact of COVID-19

The pandemic devastated Australia's arts and entertainment sectors. The arts and entertainment industry was, of necessity, one of the very first to cease normal operations once the threat of the pandemic was realised and social distancing measures were put in place. The impact was profound and debilitating. Live entertainment venues closed; TV and film productions were shut down. Allied workplaces, from ticket-sellers to post-production facilities had no work. In the case of the entertainment sector output in terms of hours worked was virtually frozen as contracts were cancelled and new work opportunities disappeared.

ABS labour force figures revealed the extent of the impact. From February 2020 to May 2020, total Creative and Performing Arts employment fell from 45,300 to 30,900 – a fall of 32%. Similarly, in Motion Picture and Sound Recording, total employment fell from 35,000 in February 2020 to 22,100 in May 2020 – a fall of 37%.<sup>7</sup> It is estimated that over 50% of businesses in arts and entertainment had ceased operating as of April 2020.<sup>8</sup> A survey of MEAA members undertaken in April 2020 added to this picture. A staggering 68% of respondents said they had no paid work, while 24% reported having some paid work but that their hours and opportunities had been reduced. Sixty per cent said they had no significant income, while 30% said their income had been significantly reduced.<sup>9</sup>

## Government support for individuals

On March 30, 2020, the Government announced measures to roll out support for workers in the form of JobKeeper. The scheme worked by providing a wage subsidy of \$1,500 per fortnight per employee to eligible employers who had been significantly affected by COVID-19. The scheme began on 30 March 2020 and was originally due to end on 27 September 2020, however, a modified form of the scheme was extended until 28 March 2021.<sup>10</sup>

Despite the JobKeeper wage subsidy being available to the sector in theory, few arts and entertainment workers received the support because the insecure reality of employment practices in the sector made them ineligible. Eligibility for JobKeeper was too restrictive, especially relating to casuals and freelancers. In particular, freelance employees – people whose work is episodic and from

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<sup>7</sup> ABS (2020) *Labour Force, Australia*, <https://www.abs.gov.au/statistics/labour/employment-and-unemployment/labour-force-australia>; MEAA (2020) *Australia's creative and cultural industries and institutions: MEAA submission*, p 17, <https://www.aph.gov.au/DocumentStore.ashx?id=23d7cd98-b5de-49e5-9740-64d2d639ceb5&subId=694882>

<sup>8</sup> Pennington and Eltham (2021) *Creativity in Crisis*, p 5, <https://futurework.org.au/report/creativity-in-crisis-rebooting-australias-arts-and-entertainment-sector-after-covid/>

<sup>9</sup> MEAA (2020) *Government needs to back up its claims about support to arts and entertainment workers*, <https://www.meaa.org/mediaroom/government-needs-to-back-up-its-claims-about-support-to-arts-and-entertainment-workers/>

<sup>10</sup> Fair Work Ombudsman (n.d.) *Former JobKeeper scheme overview*, <https://library.fairwork.gov.au/viewer/?krn=K600681>

gig to gig – were excluded from receiving the wage subsidy. For example, any performer who works as a contractor would be ineligible for JobKeeper due to the nature of their work being that they are often engaged gig-to-gig. So, while the length of engagement with one particular company may only be for a couple of months, their employment in the industry is ongoing with multiple different companies.

A survey of MEAA members in April 2020 revealed the extent of the exclusion. Of more than 1,000 MEAA members surveyed, almost one-in-five said they had been declined access to both JobKeeper and JobSeeker. A similar number had been unsuccessful in claiming for JobKeeper, but would be able to claim the lower JobSeeker support. In total, 35% of members surveyed had been told they were ineligible for JobKeeper. If those survey results were replicated across the entire arts and entertainment sector, it would equate to tens of thousands of workers who were ineligible for JobKeeper.<sup>11</sup> In short, the restrictions around eligibility for JobKeeper meant that thousands of workers were forced out of the sector, neglected by workforce wage subsidies, and forced to rely on welfare and charity. The scheme was simply not fit for purpose in the arts and entertainment sectors.

## Recommendations

The Australian Government's response to the impact of the COVID-19 crisis on the arts and entertainment sectors was deeply inadequate. In particular, the restrictive nature of JobKeeper eligibility meant that large numbers of workers in the arts and entertainment sectors were excluded from the program. In the future, measures designed to support workers in Australia should be attentive to the realities of employment practices in different sectors and the potential that constrained eligibility conditions have to exclude certain groups.

We recommend that the inquiry consider recommending to government that, in the development of schemes of support which might be made available in the event of some similar emergency in the future, consideration be given to having regard to identifying categories of workers to whom such support might be extended, without artificially restricting that category to 'employees' at law.

There is useful work already done in identifying relevant categories of worker. The most recent and substantial such work is the new definitions of 'employee-like' worker, or 'regulated worker', to be introduced into the Fair Work Act 2009 by amendments recently adopted by way of the Fair Work Amendment (Closing Loopholes No 2) Bill 2023.

The new definition of 'employee-like' worker (section 15P of the Fair Work Act 2009) provides a meaningful starting point to identify vulnerable workers, employed other than directly as employees, who might reasonably and properly be extended forms of aid and assistance, alongside employees, in a future emergency.

The definition of 'employee-like' workers, as it appears in new section 15P, is restricted (among other restrictions) to persons who perform 'digital platform work' (s 15P(1)(c)). That element arises by reason that, in this amendment to the principal legislation, the Parliament's intention had been to

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<sup>11</sup> Survey undertaken by MEAA of MEAA members. Total number of respondents to the first survey was 1039. Total number of respondents to the second survey was 131. See MEAA (2020) *Government needs to back up its claims about support to arts and entertainment workers*, <https://www.mea.org/mediaroom/government-needs-to-back-up-its-claims-about-support-to-arts-and-entertainment-workers/>

support the making of a new jurisdiction specifically for the making of orders to protect the rights of employee like workers in the 'gig economy' who perform work for 'digital platforms'.

If the inquiry were to adopt the recommendation that 'employee-like' workers be the subject of inclusion in provision of support to workers generally, it would be neither necessary nor appropriate that that recommendation be restricted to employee workers who perform digital platform work. The usefulness otherwise of the s 15P definition is that it captures a reasoned and principled set of criteria for identifying vulnerable workers.

Last, the pandemic revealed many of the existing problems with the sector and serves to reiterate why sufficient and continued funding is needed to support good, secure, robust jobs. While MEAA welcomes the Albanese Government's and Arts Minister Tony Burke's renewed commitment to a national cultural policy, history shows that such efforts can only be productive if sustained across multiple electoral cycles. To this end, MEAA recommends that current support for the arts and entertainment industries be sustained and broadened, including measures to legislate local content quotas to support the Australian screen industry, and by instituting minimum fees for freelance musicians. This will in turn help to build a robust entertainment and arts sector that can better navigate future challenges, including potential future pandemics.