LIVE PERFORMANCE AUSTRALIA

24 August 2020

The Hon Michael Sukkar MP
Minister for Housing and Assistant Treasurer
C/- The Treasury
Langton Crescent
PARKES ACT 2600

Dear Minister,

2020-21 Pre-Budget Submission

As the peak body for Australia's $4 billion[1] live performance industry, Live Performance Australia (LPA) welcomes the opportunity to make a further submission to the 2020-21 Budget.

In 2018, Australia's live performance industry generated $2.2 billion in ticket sales, and attracted more than 26 million people to shows in capital cities, regional centres and country towns – which is more than the combined attendance at events of our major sporting codes.[2,3]

Our industry is a significant economic and social contributor and a direct driver of economic activity, jobs, and cultural tourism. The broader creative industries generate valuable economic activity and contributed $111.7 billion, or a 6.4 percent share of Australia's GDP, to the national economy in 2016-17.[4] In 2016-17, the live performance industry alone contributed $4.1 billion to the Australian economy and directly employed almost 40,000 workers, plus tens of thousands of freelancers, sole traders and casuals.[5,6] Our industry comprises a diverse range of art forms and supports more than 500 performing arts companies around Australia and a range of businesses (i.e. producers, promoters, ticketing companies, technical suppliers, venues, and other service providers). Business of all sizes (i.e. freelancers, sole traders, small to medium businesses, not-for-profit companies, and commercial entities) form an interdependent industry where all parts of the industry are needed to thrive.

The Federal Government's JobKeeper Program and $250 million JobMaker plan for the Creative Economy included welcome support to help our industry reactivate and rebuild from the unprecedented impact of COVID-19. In the fortnight following the Prime Minister's first announcement on 13 March 2020 to ban public gatherings of more than 500 people, the industry was swiftly shut down. Government directives to close entertainment venues and restrict public gatherings have had an immediate and catastrophic effect. The repercussions of this are wide-ranging and include loss of industry capability and jobs; permanent closure of performing arts and commercial companies and venues; compromised community arts access; and reduced diversity of Australian works.

[1] Bureau of Communications and Arts Research (2018), *Cultural and creative activity in Australia 2008-09 to 2016-17* (Working Paper)
[2] Ernst and Young (2019), *2018 Ticket Attendance and Revenue Report*, Report for Live Performance Australia
[3] Stadiums Australia (2018), *Australian Sporting Attendances*, 2018
[4] A New Approach (2019), *The Big Picture: public expenditure on artistic, cultural and creative activity in Australia*, p. 16
[5] Bureau of Communications and Arts Research (2018), *Cultural and creative activity in Australia 2008-09 to 2016-17* (Working Paper)
[6] Queensland University of Technology (2018), *The Creative Economy in Australia: Cultural production, creative services and income – Fact sheet*

The shutdown of events and venues has cost the jobs of tens of thousands of performers, artists, creatives, technical and production crew and an estimated $1.1 billion in lost ticket sales over the last six months. For every subsequent month of closure, the industry loses over $180 million dollars per month in ticket revenue. The flow on impact of a decimated live performance industry is being felt across many other industries that depend on us to generate activity, most obviously the hospitality, tourism, and transport sectors.

LPA wants to ensure Australia continues to present and establish events that create jobs, engage local and interstate audiences, increase patronage and benefit all Australians. Government investment in the industry is critical to stimulating the economy, strengthening the social and cultural vibrancy of Australia, and maintaining our nation's standing as a global leader in arts and entertainment. This is especially critical when considering the reopening of international borders in an increasingly competitive market.

We understand this Government is committed to recovery from the impacts of the COVID-19 pandemic and focused on growing the economy and creating jobs for Australians. Our submission offers proposals on how, with targeted and strategic investment from Government, Australia's live performance industry can support these objectives. We urge the Government to consider our four budget requests below.

Summary of LPA Budget Requests

1. Establish an Events Contingency Reserve in partnership with state and territory governments, or extend the Temporary Interruption Fund to the live performance sector ($50 million);
2. Extend tax incentives on pre-production costs to live productions to assist Australian producers attract investment in an internationally competitive market – economic analysis shows this proposal is cost neutral;
3. Waive subclass 408 (entertainment activities) visa fees for 24 months after international travel bans are lifted ($5 million); and
4. Provide an additional $100 million over four years to the Australia Council, specifically to support strategic priorities that drive economic and social recovery post COVID-19.

A vibrant live performance industry is critical to Australia's economic, social and cultural wellbeing and we encourage Government to further support and promote investment in our industry.

Once again, we thank you for the opportunity to present this submission for consideration in the Budget process. Should you have any queries regarding the information provided, please do not hesitate to contact Kim Tran (ktran@liveperformance.com.au) via email or telephone.

Yours sincerely,

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LPA SUBMISSION

2020-21 Pre-Budget Submission

1. EVENTS CONTINGENCY RESERVE

Budget Request 1:
Establish a $50 million Events Contingency Reserve in partnership with state and territory governments, or extend the Temporary Interruption Fund to the live performance sector.

Loss of box office revenue, coupled with the burden of unrecoverable sunk costs, presents a genuine and ongoing threat to the survival of many individuals and businesses in the live performance industry. The reintroduction of lockdown measures in Victoria has highlighted that COVID-19 remains a persistent threat, which may undermine efforts and confidence to restart our industry and to plan for events. This is underlined by the ongoing requirement for physical distancing and the risk of sudden venue or event closures which may be required to respond to further outbreaks.

The longer-term sustainability of many arts companies and commercial businesses remains in jeopardy. There is very significant commercial risk involved with restarting or scheduling new events while there is potential for venue and event closures or implementation of restrictions to deal with further outbreaks of COVID-19. It is currently not commercially viable for many productions to resume with existing physical distancing requirements. In the event these are relaxed, the prospect of future disruption for production or touring seasons remains a major obstacle to being able to confidently restart and rebuild our industry.

LPA presented an industry recovery plan to the Federal and state and territory governments in June 2020. The plan included a recommendation for a $50 million Events Contingency Reserve comprising emergency support funding if venues are closed and events are cancelled or postponed due to a COVID-19 outbreak. LPA has since written to Minister Fletcher and every state and territory Arts Minister requesting governments establish a shared risk fund for this purpose.

On 6 August 2020, the Western Australian Government announced a $76 million arts and culture package to assist the sector's social and economic recovery from COVID-19. As part of the package, $15 million has been allocated to a 'Getting the Show back on the Road' shared risk package to support the reactivation of live performances and touring activities. The shared risk package includes venue hire waivers for local performing arts companies for free access to state government venues, and up to $9 million to help underwrite COVID-19 related financial risks for live music and performance.

In June 2020, the Federal Government announced a $50 million Temporary Interruption Fund (TIF) for Screen Australia to support local film and television producers to restart filming. Given we face very similar challenges to the screen industry in securing insurance against future COVID-19 related disruptions, LPA proposes the Federal Government consider extending the TIF to the live performance sector, or establish an Events Contingency Reserve similar to that of Western Australia. We would propose this could be established on a shared risk basis in partnership with state and territory governments, given the need to invest in the rebuilding of every jurisdiction's arts and entertainment industry.

2. TAX INCENTIVES

Budget Request 2:
Extend tax incentives on pre-production costs to live productions to assist Australian producers attract investment in an internationally competitive market. This proposal is cost neutral to government when tax incentives are set between 25 – 40 percent.

It is becoming increasingly challenging for Australian theatrical producers to finance the staging of new live productions due to the high costs of pre-production and difficulties in attracting the required level of investment in an internationally competitive and risk-averse market. This is especially apparent now. The investment pipeline has evaporated locally and internationally. Re-started productions must manage the significant debt incurred from shutting down and re-start costs, in addition to covering weekly operating and transfer costs. It is currently even more difficult for Australian producers to find the upfront capital to stage new productions. Therefore, opportunities for developing new ambitious Australian content with Australian-owned intellectual property and job creation are lost.

A commercial musical typically requires $10-15 million upfront, with some requiring up to $20 million (i.e. *Hamilton*), to mount a production. More than 80 percent of financing for a production comes from offshore investors. However, disruption to the global investment pipeline is on an unprecedented scale, and the two biggest international markets, Broadway and the West End, are facing similar, significant challenges. Industry investors have been impacted by COVID-19 and lost hundreds of millions of dollars across all the major markets. As those markets reactivate, competition for investment funding will be fierce and markets that incentivise to attract investment will have a significant competitive advantage.

Australia must ensure it can secure investment for both licensed productions that bring significant multiplier effects (i.e. *Harry Potter and the Cursed Child*), and capitalise on the opportunity to invest in new Australian intellectual property, which can drive local economic activity, create jobs and be exported. *Moulin Rouge* is a classic example of a production that should have been developed locally by the Australian company but was instead developed in the USA due to its tax incentives on pre-production costs.

Within Australia, theatrical producers compete against other industries, notably film and TV, where the Federal Government provides tax incentives that allow screen producers to offset pre-production costs on qualifying expenditure. The Producer Offset provides:

- a 40% producer tax offset for feature film production; and
- a 20% producer tax offset for TV and other projects.

Screen Australia's study from November 2017 found that 91 percent of screen producers surveyed reported that the introduction of the Producer Offset has provided a range of benefits critical to their business such as:

- significantly increasing the equity stake retained by screen producers to sustain their business and consistently produce content;
- making it easier to raise finance and increasing business revenue;

- providing a measure of security and confidence to attract investors.[7]

Australian theatrical producers also compete for investors in international jurisdictions that offer significant tax incentives (i.e. UK and USA). The UK Theatre Tax Relief (TTR) scheme, in effect since September 2014, entitles live performance production companies in the UK to claim 20 percent of total qualifying pre-production costs for non-touring productions, and 25 percent for touring productions. Both commercial and publicly funded (subsidised) productions are eligible and can benefit from the scheme.

Theatrical producers in the UK have reported that the TTR scheme improved their ability to finance new productions, resulting in more investment, employment and innovative risk-taking.[8] It also helped maintain a thriving performing arts sector at a time where public funding was under pressure.[9] Over 12,000 live productions have benefited from the scheme since its introduction, receiving back £280 million of pre-production expenditure, which was reinvested into developing more new work and supporting more jobs.[10]

Australia's live performance industry needs a similar regime of tax incentives to attract the level of investment required to produce and stage world-class shows, support more Australian jobs and drive industry growth. Without internationally competitive tax incentives for our industry, Australian live performance risks being left behind in what is now a highly competitive global industry. As the industry looks to production beyond 2021, it will require investment incentives to ensure capital comes into Australia. Without tax incentives, the risk of commercial theatre production significantly declining is very real. As the second largest revenue generator and significant creator of jobs in Australia's live performance industry, this would be a massive blow to an already severely impacted industry.

Economic analysis undertaken by Ernst & Young (EY)[11] found that investment incentives would encourage commercial producers and subsidised organisations to produce more work, and therefore increase economic activity. The level of economic activity generated increases as the level of investment incentive increases (see Table 1).

The EY modelling estimates that:

- a 10% tax incentive would support 22 new productions, generating an additional $229.5 million in industry turnover, an additional $100.1 million in industry value add and 863 additional jobs
- a 25% tax incentive would support 347 new productions, generating an additional $760.6 million in industry turnover, an additional $337.2 million in industry value add and 2,906 additional jobs
- a 40% tax incentive would support 555 new productions, generating an additional $1.2 billion in industry turnover, an additional $540.1 million in industry value add and 4,650 additional jobs.

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[7] Screen Australia (November 2017), *Skin in the Game: The Producer Offset 10 Years On*, p.3-17

[8] Society of London Theatre, Media Release (11 May 2016), Ticket Relief News, accessed online: < https://uktheatre.org/theatre-industry/news/tax-relief-news/>; The Stage (21 July 2017), Theatre tax relief brings savings to nearly 2,000 shows, accessed online: < https://www.thestage.co.uk/news/2017/theatre-tax-relief-brings-savings-nearly-2000-shows/>.

[9] Arts Professional (27 July 2018), *Theatre tax relief payouts rise by two thirds*, accessed online: <https://www.artsprofessional.co.uk/news/theatre-tax-relief-payouts-rise-two-thirds>

[10] UK HM Revenue and Customs (August 2020), *Creative Industries Statistics, August 2020, Official Statistics on Film, High-End Television, Animation, Video Games, Children's Television, Theatre, Orchestra and Museums & Galleries Exhibition Tax Reliefs*, p.27

[11] Ernst and Young (2016), *Investment support for the live performance industry*, Report for Live Performance Australia

Table 1: Change in economic activity (incremental to base case) resulting from tax incentives

Incremental to base case	10% tax incentive	25% tax incentive	40% tax incentive
New productions	22	347	555
Industry output (industry turnover)	$229.5m	$760.6m	$1,216.9m
Industry value add (wealth generation)	$100.1m	$337.2m	$540.1m
Employment (FTE)	863	2,906	4,650

While there is a cost to government in providing incentives to producers, these expenses will be recouped through taxes earned on increased economic activity. **The EY economic analysis found that there is a net positive return on investment to government by providing investment incentives on pre-production costs for live productions when tax incentives are set at a level between 25 and 40 percent** (see Table 2).

Table 2: Government return on investment

	10% tax incentive	25% tax incentive	40% tax incentive
Investment incentive outlay by government (Incentives provided to producers)	$37.7m	$94.3m	$150.9m
Additional tax revenue received by government	$28.5m	$95.9m	$153.4m
Net (cost)/revenue to government	**($9.3m)**	**$1.6m**	**$2.5m**

Further details on this budget proposal can be found at Appendix A (p. 7). LPA can also provide the detailed business case to support this proposal.

Tax incentives for live productions should be considered as part of a holistic tax package supporting creative work. The UK, for example, offers tax relief for the creative industries, which covers film, animation, high-end television, children's television, video games, theatre, orchestra, and museums and galleries. Further information can be found at: https://www.gov.uk/guidance/corporation-tax-creative-industry-tax-reliefs. The UK Government is also considering extending tax relief to live music venues.

3. 408 VISA FEES

Budget Request 3:
Waive subclass 408 (entertainment activities) visa fees for 24 months after international travel bans are lifted ($5 million).

The live performance industry brings many performers, artists, creatives and technical support into Australia using the Temporary Activity visa (subclass 408) Entertainment Activities stream. When the government introduced restrictions on events and gatherings as well as travel bans into Australia, all forms of live entertainment ceased. This presented, and continues to present, many challenges for the industry, including the status of workers on a 408 visa, incurred costs for approved unused 408 visas and future viability.

As restrictions were introduced quickly, there was limited opportunity for sponsors (i.e. event organisers) to withdraw visa applications. In addition, many 408 visas were approved and paid prior to the restrictions on public gathering and subsequent travel restrictions taking effect. Therefore, many sponsors incurred significant costs for visas they were ultimately unable to use, and they were not reimbursed.

Many businesses in the live performance industry are currently experiencing significant financial pressure. When live events and touring can recommence, LPA expects that consumer confidence and economic conditions will be weak. There are significant upfront costs involved in bringing a tour to Australia. Given event organisers are currently not deriving revenue from events due to government bans, the ability to meet future upfront costs will be extremely difficult. As such, LPA seeks a waiver on 408 visa fees for 24 months after international travel bans are lifted, to support recovery efforts and help rebuild Australia's live performance industry. LPA has estimated this measure would cost $5 million ($330 per visa and 8,000 visas per annum for two years).

4. AUSTRALIA COUNCIL

Budget Request 4:
Provide an additional $100 million over four years to the Australia Council, specifically to support strategic priorities that drive economic and social recovery post COVID-19

The Australia Council is the principal agency through which the Federal Government funds and supports arts and cultural activity in Australia. In recent years, funding to the Australia Council has been significantly reduced in real terms, and therefore has limited its capacity to support creativity and sector development. In a COVID-19 environment, companies and industry are looking to reactivate, rebuild and actively support our national economic and social recovery. There is a significant opportunity for the Australia Council and the companies and artists it funds to pay an integral part in this recovery process. Through some targeted, strategic investment priorities, the Australia Council could play a very important role in enabling new economic and community-based activities.

LPA seeks an additional $100 million (or $25 million per annum over four years) to the Australia Council to drive economic and social recovery post COVID-19, further unlocking Australia's creative and cultural potential. Specifically:

- Expanding the National Performing Arts Partnership Framework to allow new entrants and foster greater cross-sector collaboration between small to medium and larger companies;
- Building digital capability to ensure greater community access to and engagement with arts and culture post COVID-19, particularly in regional and remote areas; and enabling embedding of First Nations arts and culture opportunities in particular; and
- Building a Cultural Tourism Map and curating activities for local audiences and 'travel bubble' target markets i.e. New Zealand.

ABOUT LPA

LPA is the peak body for Australia's live performance industry. Established over 100 years ago in 1917 and registered as an employers' organisation under the *Fair Work (Registered Organisations) Act 2009*, LPA has over 400 Members nationally. We represent commercial producers, music promoters, major performing arts companies, small to medium companies, independent producers, major performing arts centres, metropolitan and regional venues, commercial theatres, stadiums and arenas, arts festivals, music festivals, and service providers such as ticketing companies and technical suppliers. Our membership spans from small-medium and not-for-profit organisations to large commercial entities.

LPA has a clear mandate to advocate for and support policy decisions that benefit the sustainability and growth of the live performance industry in Australia.

INVESTMENT SUPPORT FOR THE LIVE PERFORMANCE INDUSTRY: Tax incentive proposal

Rationale

The live performance industry contributes over $4 billion annually to the Australian economy. It employs almost 40,000 people nationally, supports more than 500 performing arts companies around Australia plus hundreds of venues, producers and music promoters. It also attracts more than 25 million people to shows in capital cities, regional centres and country towns. However, it is becoming increasingly more difficult for Australian producers to stage new productions due to the high costs of pre-production and difficulties in attracting the required level of investment.

Australian producers are now competing for investors in international jurisdictions that offer significant tax incentives (e.g. UK and USA). Within Australia, live performance producers compete against other industries, notably film and TV, where a 40% producer tax offset for film and 20% tax offset for TV production exists. These tax incentives allow producers to offset pre-production costs on qualifying expenditure. There is an urgent need for live performance producers to access tax incentives to attract the level of investment required to produce and stage world-class shows, support more jobs and drive industry growth.

Benefits of investment incentives

Stimulating investment in new live productions

= Stimulates direct and indirect economic activity

= Licensing and export opportunities

= Provides employment and skills development opportunities

= Improves producers' equity share and builds sustainable businesses

= Contributes to cultural vibrancy

= Improves social cohesion and wellbeing through community participation and attendance

Economic impact of investment incentives

Investment incentives will stimulate economic activity. The level of economic activity generated increases as the level of investment incentive increases.

- ↑ up to 73% Number of new productions
- ↑ up to 54% Additional industry output
- ↑ up to 53% Additional industry value add
- ↑ up to 59% Additional employment

Incremental to base case	10% tax incentive	25% tax incentive	40% tax incentive
New productions	22	347	555
Industry output (industry turnover)	$229.5m	$760.6m	$1,216.9m
Industry value add (wealth generation)	$100.1m	$337.2m	$540.1m
Employment (FTE)	863	2,906	4,650

Source: EY (2016), Investment support for the live performance industry, Report for Live Performance Australia, August 2016

Government return on investment – cost neutral

There is a small net positive return on investment to government by providing investment incentives on pre-production costs for live productions.

	10% tax incentive	25% tax incentive	40% tax incentive
Investment incentive outlay by government (Incentives provided to producers)	$37.7m	$94.3m	$150.9m
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Net (cost)/revenue to government	**($9.3m)**	**$1.6m**	**$2.5m**

Source: EY (2016), Investment support for the live performance industry, Report for Live Performance Australia, August 2016

LIVE PERFORMANCE AUSTRALIA

Live Performance Australia (LPA) is the peak body for Australia's live performance industry. LPA represents commercial and independent producers, music promoters, major performing arts companies, small to medium companies, venues (performing arts centres, commercial theatres, stadiums and arenas), festivals, and service providers such as ticketing companies and technical suppliers.
Economic analysis on the impact of investment incentives was undertaken by Ernst & Young (EY) for LPA.

Tax incentive schemes

UK Theatre Tax Relief

20% Tax relief for non-touring productions

25% Tax relief for touring productions

- Following the economic and cultural success of creative sector tax relief in the UK, particularly in film, TV and video games, the Theatre Tax Relief (TTR) scheme was introduced as part of the Finance Act 2014 ("Act") and came into effect on 1 September 2014.
- The TTR scheme is intended to encourage and support investment in the production and touring of UK live dramatic works (including plays, operas, musicals, ballets and circus), with the objective of maintaining the sustainability of live performance in the UK.
- This model provides a clear policy precedent for the extension of tax-based incentives into the live performance industry.
- The TTR scheme entitles production companies to claim 20% of its total qualifying pre-production costs for non-touring productions, and 25% for touring productions.
- Both commercial and publicly-funded (subsidised) productions are eligible and can benefit from the scheme, as trading subsidiary arrangements effectively enable not-for-profit organisations to access the scheme.
- Return on costs can be re-invested into new works, or passed on to investors.
- In 2019-20, a total of £71 million of theatre tax relief was granted in relation to 1,115 claims.
- Since the introduction of the TTR scheme in 2014, over 12,000 live productions have benefited, receiving back £280 million of pre-production expenditure.

USA Tax Relief for live theatrical productions

100% Federal deduction for investment

20 – 35% State based tax relief

- The UK Government is not the only country to have recognised the need to remain globally competitive. The US has a legacy of state-based tax incentives for theatrical productions. These apply in Illinois, Louisiana, New York State (not including New York City), and Rhode Island.
- The provisions range from 20% - 35% tax credits for qualifying expenditure by production companies.
- The common purpose of these incentives is primarily to increase jobs and economic outputs by increasing the State's competitive position for incentivising theatrical producers to bring productions to their state.
- In December 2015, the US government passed federal legislation that establishes equal tax treatment for live theatrical productions as is provided for film and TV.
- It allows a 100% deduction for investment in live performance by the investor from their income in the year of the investment.
- The legislation allows investors to immediately recoup their investments prior to taxes being assessed on profits earned. This is intended to deepen the pool of interested investors in commercial theatrical productions.

Film and TV Producer Offset

40% Tax relief for feature films

20% Tax relief for non-feature films (TV, mini-series, documentaries)

- In 2007 the Producer Offset was introduced as part of the Australian Screen Production Incentive (ASPI), a package of measures to boost support for the Australian film and television industry.
- It provides a refundable tax offset (rebate) for producers of Australian feature films, television and other projects.
- Feature films are eligible for a 40% rebate of qualifying expenditure, and other programs such as TV, mini-series and documentaries are eligible for a 20% rebate.
- Screen Australia conducted a review of the Producer Offset in 2017, ten years after it was introduced. The report found that the Producer Offset "unquestionably" provided critical financial support for addressing the challenges of raising revenue to meet production budgets.
- Additionally, the report found that the Producer Offset improved the equity share retained by producers in their film and television projects.
- Improved equity share has allowed producers enhanced leverage to attract private investment from new and existing sources. This directly supports producers building sustainable production businesses.

Source: Screen Australia (Nov 2017), *Skin in the Game: The Producer Offset Ten Years On*