

15 September 2021

Senate Environment and Communications Legislation Committee
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Committee,

Live Performance Federal Insurance Guarantee Fund Bill 2021

As the peak body for Australia's \$4 billion¹ live performance industry, Live Performance Australia (LPA) welcomes the opportunity to make a submission to the inquiry into the Live Performance Federal Insurance Guarantee Bill 2021.

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 350 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.

LPA's objective is to support reactivation of the live entertainment industry and a pipeline of live arts and entertainment events that create jobs; engage local, interstate and international audiences; increase patronage; and benefit all Australians.

¹ Bureau of Communications, Arts and Regional Research (2018), *Cultural and creative activity in Australia 2008-09 to 2016-17* (Working Paper)

EXECUTIVE SUMMARY

Size and Scope of Australia's Live Performance Industry

- 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 2016-17²
- The live entertainment industry contributed \$36.5 billion to Australia's economy and 122,000 FTEs in 2019 (EY pre-COVID figures) which includes revenue from ticket sales and expenditure by fans/audiences on accommodation, food and beverage, transport, airlines, merchandise, and retail.

Impact of COVID-19 on Australia's Live Performance Industry

- Business confidence has collapsed; \$1 billion plus revenue lost; 36,000 jobs lost across the sector; thousands of events cancelled across the country in 2020/21; inconsistent ticket sales revenue
- Outbreaks associated with the COVID-19 Delta variant have significantly disrupted the industry's reactivation and recovery; our two major markets (NSW and Victoria) are currently locked down; major disruption to touring due to border closures and varying restrictions across the country
- Significant reactivation time lag following easing of restrictions; industry needs long lead times to plan, reopen and activate productions and tours
- Timelines and revenue for live music activities (all concerts and music festivals) in Q4 2021 and Q1 2022 deferred until Q4 2022
- Without the ability to insure against cancellation or business interruption, there is no appetite to plan and book tours; industry requires 6-24 months lead in, pushing major events into late 2022-early 2023
- Loss of live music content and revenue (concerts and major music festivals with international line-ups) until late 2022
- Loss of international content for arts centres/venues (metropolitan and regional) and arts festivals
- Significant skills shortage and erosion of competitive environment with fewer companies and skilled personnel; in 6 months we may lose our major production companies plus lose talent to overseas markets where shows have restarted in countries that have reopened; retraining costs will be significant
- Consumer confidence is significantly eroded, fatigue with constant event cancellations, and a reluctance to attend crowded events.

Barriers to Trading, Reactivation and Recovery

- **Changing government restrictions** – particularly in relation to:
 - **COVID-19 outbreaks and associated lockdowns** – resulting in events having to be cancelled (or postponed)
 - **venue density and format restrictions** – which impacts on the commercial viability to present events
 - **interstate and international border restrictions** – which affects touring shows, concerts, and festivals; as well as events that rely upon talent or product from other Australian jurisdictions
- **Mandatory 14-day quarantine for artists and crew** – irrespective of vaccination status

² A New Approach (2019), *The Big Picture: public expenditure on artistic, cultural and creative activity in Australia*

- **Aligning the National Plan to Transition Australia's National COVID-19 Response with Industry Recovery Plan** – and the lack of state and territory alignment in managing eight sovereign nations
- **High commercial risk** – leading to a reticence by event organisers to mount shows, thereby affecting the events pipeline and limiting opportunities for other businesses in the live performance ecosystem (e.g., suppliers) to reactivate
- **Lack of insurance** – COVID-19 is no longer covered as an insurable event in insurance cover and therefore increases risks for event organisers. This is a market failure within the insurance industry and there is a critical role for governments to intervene and address the gap by underwriting insurance for the live performance industry

Industry Reactivation and Recovery

Two priority areas where government intervention and support is required:

- i) Industry is seeking a co-ordinated national package from State and Federal Governments to establish, in partnership with industry, a **Live Entertainment Events Insurance Scheme** to give industry certainty to commence planning live events in 2022; and
- ii) Industry is also seeking a **Business Sustainability package** to ensure stabilisation and skills capacity, with a focus on a targeted wage subsidy or a business support package.

Proposal for a Live Entertainment Events Insurance Scheme

- LPA has advocated throughout the COVID-19 pandemic for the establishment of, in partnership with industry, a Live Entertainment Events Insurance Scheme (the Scheme)
- The Scheme would offset risks associated with event cancellations or postponements due to a COVID-19 outbreak or re-introduction of COVID-19 related government restrictions, with industry contributing a percentage of cost exposure to the fund (1-2% of the level of coverage required)
- The Scheme needs to be based on a fixed user nominated declared value, which can be either the irrecoverable lost costs and profit or the estimated lost potential revenue; the event organiser would select its preferred option
- Premium should be based on sum insured, 1-2%, no excess
- A cap could be placed on the level of cover. Industry feedback suggests that the ideal level of cover ranges from \$25,000 to \$20 million, with larger grossing events not excluded, but capped at that maximum level of recovery
- Both the Federal and State/Territory governments could co-contribute to the Scheme. Alternatively, the Scheme could operate as a standalone Federal or State/Territory government program.

In November 2020, LPA presented the Federal, state and territory governments with a detailed proposal for a Live Entertainment Business Interruption Fund, estimated at **\$100-\$500 million** based on six risk scenarios. LPA reviewed costings for the three-year period (2021-2023) based on two risk scenarios with an estimated range of **\$130-\$200 million (Attachment A)**.

SIZE AND SCOPE OF AUSTRALIA'S LIVE PERFORMANCE INDUSTRY

Our industry is a significant economic and social contributor and a direct driver of economic activity, jobs, and cultural tourism. The cultural and creative industries have higher multiplier effects on other industries in terms of total output, value-add and employment.³ 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, the total cultural and creative workforce (including embedded creatives working in non-creative industries) was 868,098 people, or 8.1 percent of the total Australian workforce. Within that, the cultural and creative industries employed 645,303 people, or 6 percent of the total workforce.⁵ 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.^{6,7}

Our industry comprises a diverse range of art forms and supports more than 500 performing arts companies around Australia and a wide range of commercial businesses (i.e. producers; promoters; ticketing companies; technical suppliers, such as those that provide stage lighting, special effects, staging, audio, audio-visual and other performance technologies; venues; and other service providers, such as crewing companies). 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 IMPACT OF COVID-19 ON AUSTRALIA'S LIVE PERFORMANCE INDUSTRY

In the fortnight following the first announcement on 13 March 2020 to ban public gatherings of more than 500 people, Australia's live performance industry was swiftly shut down. Government directives to close entertainment venues and restrict public gatherings to no more than two people had an immediate and catastrophic impact on the industry. The repercussions of this (which have persisted for over 18 months and will continue for some time) have been wide-ranging and include loss of revenue, industry capability and jobs; significant restructure and resizing of the industry; compromised community arts access; and reduced diversity of Australian works.

The Economic Cost of COVID-19 on Australia's Live Entertainment Industry report prepared by EY quantifies the total economic output of live entertainment in Australia, at an **estimated \$36.5 billion in total contribution to Australia's economy and 122,000 FTEs in 2019**. EY estimates that COVID-19 has led to a fall of approximately 64 percent in the economic output of the industry to \$12.8 billion in 2020 because of COVID-19 restrictions. This equates to \$23.7 billion in lost economic output. Likewise, the total value add by live entertainment has led to a projected fall by 65 percent from \$16.7 billion in 2019 to \$5.8 billion in 2020, a fall of \$10.8 billion.⁸ Live music shows and events were estimated to suffer the loss of approximately

³ A New Approach (2020), *Australia's cultural economy: A 21st century guide* (Working Paper)

⁴ A New Approach (2019), *The Big Picture: public expenditure on artistic, cultural and creative activity in Australia*

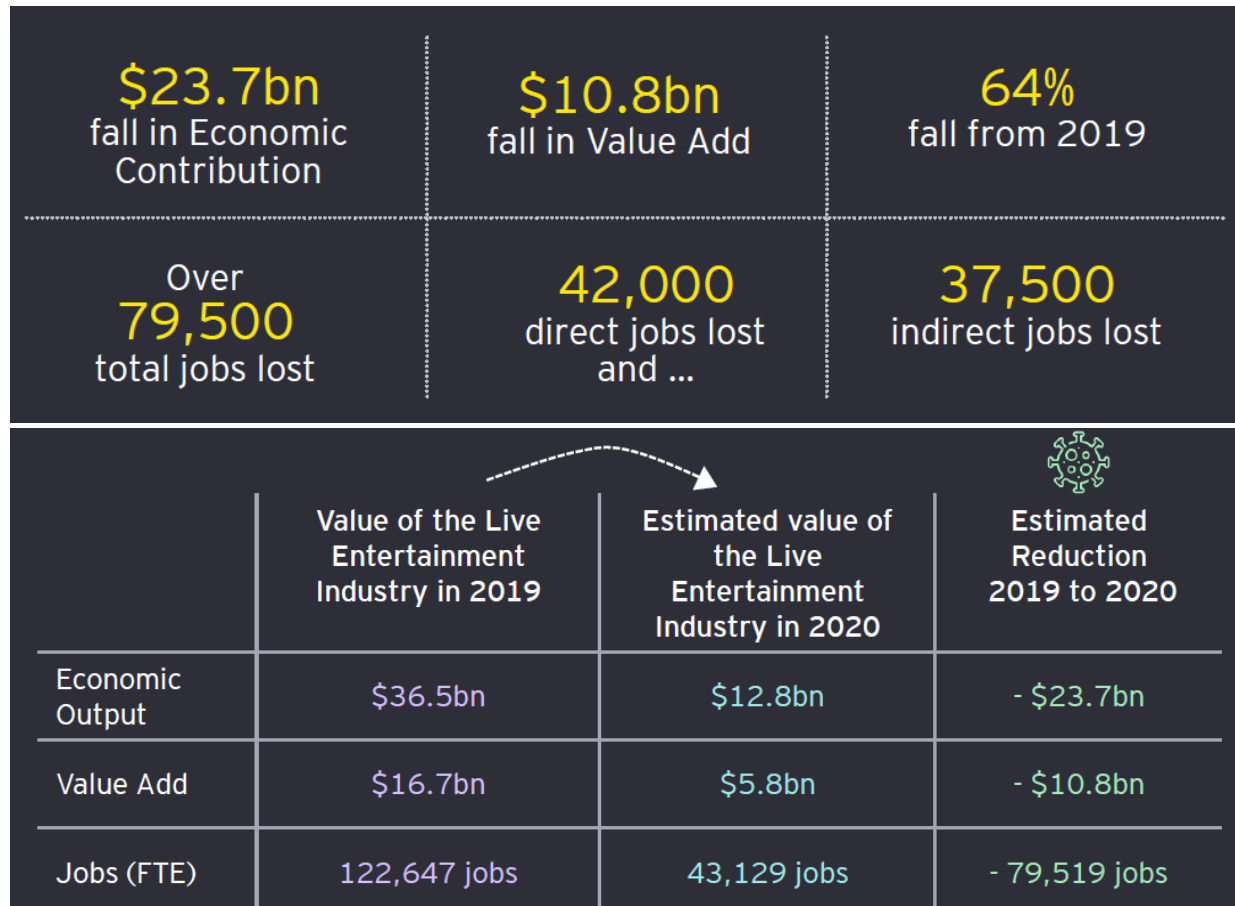
⁵ A New Approach (2020), *Australia's cultural economy: A 21st century guide* (Working Paper)

⁶ Bureau of Communications, Arts and Regional Research (2018), *Cultural and creative activity in Australia 2008-09 to 2016-17* (Working Paper)

⁷ Queensland University of Technology (2018), *The Creative Economy in Australia: Cultural production, creative services and income – Fact sheet*

⁸ EY (2020), *The Economic Cost of COVID-19 on Australia's Live Entertainment Industry*, commissioned by the Live Entertainment Industry Forum

36,000 jobs and total economic output is estimated to fall by \$10.8 billion.⁹ Without the ability to operate at full capacity and generate revenue, the longer-term sustainability of most arts companies and commercial businesses remains in serious jeopardy, particularly for major events such as concerts and music festivals.



Source: EY (2020), *The Economic Cost of COVID-19 on Australia's Live Entertainment Industry*, commissioned by the Live Entertainment Industry Forum

A continued industry shutdown, snap lockdowns, and strict density restrictions throughout 2020 and 2021 have also damaged consumer confidence, cost tens of thousands of jobs and may force the closure of many performing arts and commercial companies and venues for good. The flow on impact of a decimated live arts and entertainment industry is being felt across many other industries that depend on our content to generate business activity, most obviously the hospitality, tourism, accommodation, and transport sectors.

RATIONALE FOR A LIVE ENTERTAINMENT EVENTS INSURANCE SCHEME

There is significant commercial risk involved with confidently restarting or scheduling new events across Australia. The risk of delivering any event falls squarely on presenters, promoters, or artists. For many, this is an insurmountable risk, given the financial losses already incurred in 2020 and 2021.

⁹ *ibid*

Appetite for risk is very low and, in reactivating the industry, the most significant challenge is business interruption. The industry understands the rationale for government restrictions to curb the spread of COVID-19 within the community. However, these continuing restrictions have a significant bearing on the lead-time and commercial viability to program and present events, which is exacerbated by the potential for venue and event closures or reimposition of restrictions to deal with further outbreaks of COVID-19.

Prior to the COVID-19 pandemic, insurance costs for event organisers were already significant. For commercial theatre, these costs range from \$50,000 to \$1 million per production to cover a range of circumstances such as public liability, marine/transit, travel, medical, loss of performance, good/stock, theft, workers compensation, cyber, industrial special risks, management liability and voluntary workers. For concerts and festivals, these costs typically range from \$10,000 to \$750,000.

Now that COVID-19 is a known risk, it is no longer covered as an insurable event in insurance cover. Event organisers are unable to access business interruption insurance to cover losses arising from COVID-19 related cancellations, postponements, or re-imposed restrictions. This is a significant market failure, where governments have a role in addressing a key barrier to safe reactivation of the live performance industry. Without access to affordable insurance to mitigate risks associated with COVID-19 and other communicable diseases, the commercial stakes when deciding to schedule or present new events with presenting events are significantly higher for event organisers.

EXAMPLES OF LIVE ENTERTAINMENT EVENTS INSURANCE SCHEMES

In August 2020, the Western Australian Government announced a \$15 million [Getting the Show Back on the Road](#) shared risk package. The 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. Shared risk payments were provided between 50-75 percent of box office income lost due to the impact of COVID-19, capped at \$150,000.

In August 2021, the Western Australian Government announced the [Getting the Show Back on the Road+](#) program. Financial assistance from the Western Australian Government will be provided at 75 percent of projected total gross box office, capped at \$150,000, if a public ticketed event is impacted by a COVID-19 lockdown (until 31 March 2022). The aim of the program is to support the planning and safe presentation of live events, and support event organisers in meeting their payment obligations to their employees and suppliers, thereby supporting the live events industry.

In December 2020, the Tasmanian Government announced a \$2 million [Live Performance Support Program](#). The Tasmanian Government will share some of the risk of potential lost ticket sales if performances are required to be cancelled or significantly modified due to changes to Public Health Directives relating to COVID-19. Eligible organisations can apply for a guarantee (\$10,000 to \$100,000).

European governments also acknowledge the risks of reactivating events. In August 2021, the United Kingdom Government announced it would partner with the Lloyd's insurance market to offer at least £750 million (approximately AU\$1.4 billion) worth of support to the events sector through a [Live Events Reinsurance Scheme](#). The Live Events Reinsurance Scheme is a cost indemnification scheme which will make cover available against the cancellation, postponement, relocation or abandonment of live events

(such as music festivals, conferences and business events) due to new government COVID-19 restrictions. Premium is set at 5% of the total value of insured costs (plus Insurance Premium Tax) and claims will be subject to an excess of 5% of the value of the insured costs or £1,000 (whichever is higher) per policy. Event organisers can purchase cover up to the full cost of their event, irrespective of when those costs are incurred. The scheme will run until 30 September 2022.

In December 2020, the German Government announced a €2.5 billion (approximately AU\$3.9 billion) cancellation fund, for events in the second half of 2021 which cannot be realised due to COVID-19 restrictions. The Austrian Government has also committed €300 million (approximately AU\$470 million) to cover costs if an event is cancelled due to new rules or reduction in capacity limits. The scheme is expected to cover costs such as hotel rooms, crew wages and event technology.

PROPOSAL FOR A LIVE ENTERTAINMENT EVENTS INSURANCE SCHEME

A Live Entertainment Events Insurance Scheme would increase industry confidence to reactivate live events. The Scheme will provide indemnification for costs if, due to COVID-19 related issues, a live event is cancelled, postponed, or negatively affected by the re-introduction of government restrictions (i.e. venue capacity, border closures, or anyone involved in the production, concert, festival or tour testing positive for COVID-19 leading to an event shutting down) or government restrictions ease slower than anticipated.

The Scheme needs to be based on a user nominated declared value, which could be either irrecoverable lost costs and profit or estimated lost potential revenue. The event organiser would nominate which option to insure. A cap could be placed on the level of cover. Industry feedback suggests that the ideal level of cover ranges from \$25,000 to \$20 million.

The Scheme could be designed to solely cover costs/losses (inclusive of all costs associated with bringing about the process of event cancellation/postponement or delivering the event in a modified way) arising from COVID-related issues, such as:

- 'sunk' costs (e.g. production costs; supplier costs; performance/artist fees; venue hire; infrastructure (i.e. sound, lighting, audio); travel; freight; marketing; consultants/plan writing; advance licensing and royalties); and
- additional costs incurred directly because of any aforementioned circumstance (e.g. wages for performers, artists, creatives, crew and touring personnel, accommodation, rehearsals, additional marketing);
- profit.

HOW WOULD THE SCHEME WORK?

If presenters seek coverage through the Scheme, they should be required to pay a fee calculated at 1-2% of the level of coverage required.¹⁰ For example, if the Scheme coverage is \$4 million, the 1% fee would be \$40,000. These contributions should be made:

¹⁰ Screen Australia's fee for access to the Temporary Interruption Fund (for productions which commence principal photography on or prior to 30 June 2021) is 1% of coverage required for screen production costs. Screen Australia's fee for access to the Temporary Interruption Fund (for productions which commence principal photography on or after 1 July 2021) is 2% of coverage required for screen production costs.

- for new events: within 1 week of tickets for the event go on sale (including pre-sale)
- for events already in market: within 60 days of the Scheme's establishment

Both the Federal and State/Territory governments could co-contribute to the Scheme. Alternatively, the Scheme could operate as a standalone Federal or State/Territory government program.

There should be no 'excess' if a payout is required.

COSTINGS

In November 2021, LPA estimated the cost of a Scheme which indemnified non-recoverable costs based on six scenarios. These scenarios considered how fast live performance activity would return (strong, gradual, cautious) and the likelihood of a COVID-19 related incident (declining and high probability).

Assuming two scenarios where there is a declining probability of a COVID-19 related incident, and pre-COVID levels of activity return to 100 percent in 2023 (with activity returning more strongly over three years in one scenario and more gradually in the other), the estimated cost is \$130 - \$216 million.

CONCLUSION

Live music and entertainment will drive visitation across regions and cities and play a crucial role in our nation's economic recovery. LPA would welcome an insurance scheme for the live performance sector to address a significant market failure in the insurance industry as a result of the COVID-19 pandemic.

A vibrant live performance industry is critical to Australia's economic, social and cultural wellbeing and we encourage all Governments to further support and promote investment in our industry as it continues to recover from the COVID-19 pandemic.

Once again, we thank you for the opportunity to present this submission for consideration in the inquiry into the Live Performance Federal Insurance Guarantee Bill 2021. Should you have any queries regarding the information provided, please do not hesitate to contact Kim Tran.

Yours sincerely,



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