



PPCA SUBMISSION RE NATIONAL CULTURAL POLICY – AUGUST 2022

The Phonographic Performance Company of Australia (PPCA) welcomes the opportunity to contribute to the development of a National Cultural Policy, and is excited by the Government's interest, commitment and vision for our creative industries.

Contemporary music is a key element of those creative industries. Often overlooked, it is not only an important economic driver but a means of bringing people together and forging communities. PPCA is well placed to provide insight into the enormous global potential of the Australian music industry, and the policy settings required to ensure that potential can be realised, for the benefit of all Australians.

Unlike other sectors of the creative industries, such as film and television, to date the music industry has not seen a co-ordinated cross government strategic plan, and the industry has tended to make its own way. While that has delivered many successful outcomes, with Australian artists punching above their weight on the world stage, the environment is changing and it is becoming harder and harder to break internationally and even locally. If the Australian music industry, and its talented artists, are to reach their potential and maintain and grow our share of the growing global market, now is the time to commit to necessary investment to set the industry up for success.

We are not seeking to introduce a grant culture. Instead we ask the Government, as part of its vision for the creative industries, to recognise the important economic and cultural contribution of the contemporary music industry and the commercial and social benefits to be gained from a strategic partnership with the industry. A partnership that will cement our artists on the global stage and capture the highest possible share of the global music market in all its facets, whether it be publishing, live performance, streaming, synchronisation into television programs and films, gaming and other tech adjacent industries.

Key Recommendations

Representative bodies of the Australian contemporary music industry have worked particularly closely since the beginning of the pandemic, and have continued that collaborative approach to develop and jointly propose a comprehensive strategic plan. Details are contained in the Australian Contemporary Music Industry Joint Submission, and PPCA confirms its contribution to and strong support for the initiatives outlined.

In particular, we urge focus on:

1. **A dedicated contemporary music agency within government**, charged with growing and developing contemporary music as a key creative industry in a rapidly evolving environment, and addressing the challenges facing new Australian music.
2. **A national First Nations led and focussed music agency** sitting alongside the national music agency.
3. **An immediate and urgent focus and investment directed at re-establishing and growing music export**, to allow it to reach its full potential and maximise its share of the significant growing global music market.

4. **A strong and consistent intellectual property framework** that protects creators and those who invest in them.

At its core the plan calls for significant investment from government, and is designed to ensure that we can capitalise on our creative assets and capture our share of the booming international music market. Our proposal recognises that Aboriginal and Torres Strait Islander culture is at the heart of Australia's national identity, and that all have a role to play in celebrating and preserving the knowledge and wisdom of the world's oldest continual culture.

In addition to the program of initiatives presented in the Industry Joint Submission, there are particular items that we would like to highlight as part of this important review.

1. **Getting the culture right – the Music Industry Review**

In PPCA's view, the Australian music industry cannot reach its full potential without a culture that is safe, diverse and inclusive, and we are committed to continuing to play our part to drive positive change.

Late in 2021 the Australian music industry announced a national review of sexual harm, sexual harassment and systemic discrimination in the contemporary Australian music industry. Independent, experienced external consultants were engaged to conduct the review which involved a national survey, a confidential online written submission process, and confidential one on one interviews. PPCA acknowledges the bravery, strength and commitment of those who have come forward and shared their stories and experiences, in order to contribute to meaningful and lasting change.

The aim of the review is to deliver a final report identifying key issues, and outlining a pathway for positive and sustainable change through a series of high impact recommendations and actions for the industry to implement. Over 50 separate funders across the breadth of the industry made financial contributions to make the review possible, and there is a genuine appetite for positive change.

PPCA was instrumental in bringing industry members together to begin this process, and has supported the project in many ways, including financially. The final report, including recommendations for change, is due to be delivered at the end of August 2022, and we are committed to working with industry partners to consider and act on the Review's findings. So much has been achieved to reach this stage; However given the large number of small and single operator businesses working across the sector, we anticipate that significant investment will be needed to action recommendations likely to emerge from the final report. As an industry we are ready to do the work, but our capacity to succeed will be significantly enhanced through financial and structural support of Government – a partnership to ensure that the Australian music industry is safe, fair and inclusive for all.

2. **Copyright – adjusting the IP settings**

Copyright provides the fundamental framework on which the music industry is based and underpins each and every commercial transaction. In order to promote investment and ensure that creators can build sustainable and ongoing careers, it is essential that the legislative environment provides strong and consistent protection for intellectual

property and provides equitable treatment for content creators. A cultural policy that fails to recognise the importance of the intellectual property framework cannot effectively support creators and those who invest in them.

We urge the Government to ensure that the longstanding deficiency in the authorisation provisions of the Act, highlighted in the High Court's decision in the *iiNet* case and acknowledged by the former Government in 2014, is finally addressed, and that IP Chapters that do not erode or weaken our intellectual property framework are included in any Free Trade Agreement discussions.

At present there are a number of longstanding anomalies which inequitably treat creators of sound recordings and those who invest in them, including statutory caps on radio licence fees and exceptions that apply only to sound recordings (e.g. s106).

The most egregious is the legislative caps on the licence fees which may be charged to radio broadcasters for their use of sound recordings. The caps have been in place since 1968 and are an international anomaly, grossly undervaluing the sound recording rights used by Australian radio broadcasters, and effectively forcing Australian recordings artists and record labels to subsidise the radio sector. PPCA has long campaigned for the removal of these caps, which do not apply to any other form of copyright (including musical works), and interfere with a market based determination of appropriate rates. Successive independent reviews¹ have all recommended repeal of the caps, but to date no action has been taken. Repealing these caps, and allowing sound recording rights owners to properly negotiate market rates for the use of their intellectual property, would assist all Australian recording artists at absolutely no cost to Government.

¹ *Review of the Australian Copyright Collecting Societies: A report to the Minister for Communications and the Arts and the Minister for Justice, Department of Communications and the Arts, July 1995 (the **Simpson Review**);*
*Review of intellectual property legislation under the Competition Principles Agreement: Final report to the Minister for Industry, Science and Resources and Attorney-General, IP Australia, September 2000 (the **Ergas Review**);*
*Australian Law Reform Commission, Copyright and the Digital Economy: Final Report, November 2013 (the **ALRC Review**);* and
*Inquiry into the Australian Music Industry, House of Representatives Standing Committee on Communications and the Arts, March 2019 (the **House of Representatives Review**)*



About PPCA

Established in 1969, PPCA is a national non-government, non-profit Australian copyright collecting society. PPCA operates on a non-exclusive basis and grants licences for the broadcast, communication or public playing of recorded music and music videos. PPCA represents the interests of over 3,500 licensors and 5,000 registered Australian recording artists, and provides an important link between those who control rights in sound recordings, and those who wish to use those recordings in a commercial or public way.

As a non-profit copyright collecting society, each year PPCA distributes its entire surplus (i.e. excess of licence fee revenues over costs) to its Licensors and Featured Australian Artists registered under its Artist Direct Distribution Scheme. Enshrined in PPCA's distribution policy is the allocation of 2.5% of the value of the annual local repertoire pool to charitable, educational and like purposes. As a result, each year PPCA has been able to support a number of industry initiatives, including providing funding for:

- *The Australian Copyright Council,*
- *The Australian Independent Record Labels Association (AIR),*
- *The PPCA Sound Recording grants, delivered in collaboration with the Australia Council for the Arts,*
- *The Association of Artist Managers,*
- *Sounds Australia,*
- *Support Act, and*
- *The Best Independent Release category at the annual ARIA Music Awards (the ARIAs).*

Any excess funds remaining from the annual 2.5% local repertoire allocation are directed to the PPCA Performers' Trust Foundation. The Trust is overseen by four Trustees, including representatives from the Musician's Union and the Media Entertainment and Arts Alliance, who meet periodically throughout the year to consider funding application requests. The Trust has traditionally provided financial assistance to musicians and performers seeking to enhance their skills through training not readily available in Australia, particularly when those recipients are prepared to share their learnings with others on their return. Applications for the conduct of masterclasses and other skill transfer programs conducted in Australia have also been supported through Foundation funding.

We acknowledge First Nations people as the Traditional Owners and sovereign custodians of the lands on which we work and live. We recognise their continuing connection to Country and their respective nations across this continent and pay our respects to their Elders past and present. We also celebrate the unique and inspiring creativity and songlines of the world's oldest living culture and give thanks for the immeasurable influence First Nations people continue to have over the music and art we all enjoy.

Contact: Annabelle Herd, CEO [REDACTED]
Phonographic Performance Company Australia

PPCA confirms that this submission is not confidential and can be made public