LIVE PERFORMANCE AUSTRALIA

29 January 2021

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

Dear Minister,

2021-22 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 submission to the 2021-22 Budget.

The live performance industry has been devastated by the COVID-19 pandemic. In the fortnight following the Prime Minister's first announcement on 13 March 2020 about restrictions on gatherings, every live event in Australia could not proceed, resulting in tens of thousands of events being cancelled or postponed. This left thousands of performers, artists, crew and technicians out of work. Event organisers, venues and the service providers that rely upon events being staged (such as lighting, staging and audio companies) were unable to derive revenue, and revenue generation continues to be significantly constrained by COVID-19 related restrictions.

Australia's response to the public health crisis has allowed the economy to cautiously re-open. However, the live performance industry is one of a few industries (such as tourism) that is not able to fully restart activities. Most states and territories only allow events to proceed at reduced capacity, and for many companies operating at reduced capacity is not financially viable.

Some parts of the industry are unable to reactivate at all. In particular, tours, concerts or festivals involving international artists cannot be presented due to the international border restrictions. Significant challenges remain for the industry – particularly risks associated with the re-imposition of restrictions (such as interstate border closures or lower capacity limits).

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

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Given these challenges and restrictions, our submission focuses on supporting the live performance industry to rebuild and recover from COVID-19. However, LPA also recognises the need for a comprehensive national creative and cultural industries plan that includes a bold vision and framework for investment in creativity and culture.

SUMMARY OF LPA BUDGET REQUESTS

LPA urges the Government to support the live performance industry with the following initiatives:

1. Extend JobKeeper or introduce some other form of targeted wage subsidy for businesses and workers in the live performance industry who continue to be significantly affected by the COVID-19 pandemic.
2. Establish, in partnership with industry, a $100m-$500m Live Entertainment Business Interruption Fund to increase industry confidence to reactivate events.
3. Extend tax incentives from 1 July 2021 to pre-production costs of live theatre to assist Australian producers (commercial theatre and subsidised companies) to attract investment in an internationally competitive market.
4. Waive Temporary Activity (subclass 408) Entertainment Visa fees for 24 months after international travel bans are lifted, to support recovery efforts and help rebuild Australia's live performance industry.
5. Provide an additional $100 million (or $25 million per annum over four years) over four years to the Australia Council, specifically to support strategic priorities that drive economic and social recovery post COVID-19.
6. Significantly expand the RISE grant funding program.

We also note submissions made by key peak bodies, such as APRA AMCOS, Ausdance, Blakdance, Performing Arts Connections, Regional Arts Australia, Symphony Services and Theatre Network Australia, and support the proposals canvassed in those submissions. In particular, LPA supports calls for:

- The establishment of a national indigenous arts and cultural authority (NIACA) – $4.5 million over four years during the establishment phase plus $20 million per annum for ongoing investment in First Nations arts and culture
- At least $2.8 million in additional funding per annum for Playing Australia to support regional touring and market development (i.e. increase funding to $10.8 million per annum) (Refer to Performing Arts Connections Australia submission)
- Retaining funding for the Regional Arts Fund at $10 million per annum (Refer to Regional Arts Australia submission)
- Providing tax offsets for live music venues (Refer to APRA AMCOS submission).

A vibrant live performance industry is critical to Australia's economic, social and cultural wellbeing and we encourage Government to continue to 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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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 and independent producers, music promoters, performing arts companies, venues (performing arts centres, 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 SUBMISSION

2021-22 PRE-BUDGET SUBMISSION

REACTIVATING THE INDUSTRY POST-COVID-19

1. JOBKEEPER / TARGETED WAGE SUBSIDY

Budget request 1:
Extend JobKeeper or some other form of targeted wage subsidy for business and workers in the live performance industry who continue to be significantly affected by the COVID-19 pandemic.

The live performance industry has experienced significant revenue loss and associated job losses due to COVID-19 restrictions. It is estimated the sector supported 122,000 full-time equivalent jobs in 2019, and *The Economic Cost of COVID-19 on Australia's Live Entertainment Industry* report estimates that in 2020 this fell by two-thirds – or 79,000 – to just 43,000 full-time equivalent jobs with restrictions on gatherings in place until the end of December 2020.

According to the Australian Bureau of Statistics, in June 2020, 78 percent of arts and recreation services businesses reported decreased income. Arts and recreation services businesses recorded the second-highest number of job losses after accommodation and food services with a 19 percent decline in payroll jobs in the week ending 2 May 2020. This decline in employment is not surprising given 53 percent of arts and recreation services businesses had closed their doors, more than any other sector.

Data collected by I Lost My Gig Australia, which surveyed those who work in live performance, showed that more than 12,000 respondents reported income loss of almost $340 million since March 2020, impacting almost 660,000 industry participants.

Around the time JobKeeper was due to expire in September 2020, the industry experienced a second wave of company restructures and job losses. Without the continuation of JobKeeper or some form of targeted wage subsidy beyond 28 March 2021, there will be considerable further contraction across the industry, as companies are limited in their ability to retain or rehire workers. If physical distancing, density restrictions and border restrictions remain in place into 2021, there will be an unprecedented resizing of the industry due to limitations on business activities.

LPA understands the Australian Chamber of Commerce and Industry (ACCI) has submitted a proposal for a targeted wage subsidy for industries that continue to be significantly impacted by COVID-19 restrictions, and LPA strongly supports this proposal.

2. BUSINESS INTERRUPTION FUND

Budget request 2:
In partnership with industry, establish a $100m-$500m Live Entertainment Business Interruption Fund to increase industry confidence to re-activate live events.

There is significant commercial risk involved with confidently restarting or scheduling new events while there is potential for venue and event closures or re-imposition of restrictions to deal with further outbreaks of COVID-19. It is also currently not commercially viable for most productions to resume with existing physical distancing requirements.

The Western Australian Government announced a $15 million 'Getting the Show back on the Road' shared risk package in August 2020. 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. In December 2020, the Tasmanian Government announced a $2 million package to help manage costs and share the risk associated with event cancellations.

European governments acknowledge the risks of reactivating events. In December 2020, the German Government announced €2.5 billion (approximately AU$3.9 billion) cancellation fund, for events in the second half of 2021 which cannot be realised as planned 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.

A Live Entertainment Business Interruption Fund (BIF) would increase industry confidence to reactivate live events. The BIF would do this by providing indemnification for costs if, due to COVID-19 related issues, a live event in Australia is cancelled, postponed or negatively affected by the re-introduction of government restrictions (i.e. venue capacity, border closures, or someone involved in the production, concert, festival or tour tests positive for COVID-19 leading to the event shutting down).

LPA has submitted a proposal to the Federal Office of the Arts for a $100-$500 million BIF (**Attachment A**) that is currently under consideration. LPA has also provided detailed case studies on the financial impact on the live entertainment industry that can be provided on a commercial-in-confidence basis.

3. VISA FEE WAIVER

Budget request 3:
Waive Temporary Activity (subclass 408) Entertainment Visa fees for 24 months after international travel bans are lifted.

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.

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 non-refundable costs for visas they were ultimately unable to use.

Many businesses in the live performance industry are currently experiencing significant financial pressure as they are currently not deriving revenue from events. 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 x 8,000 visas per annum for two years).

DRIVING INVESTMENT

4. TAX INCENTIVES

Budget request 4:
From 1 July 2021, extend tax incentives to pre-production costs for live theatre productions to assist Australian producers (commercial theatre and not-for-profit companies) attract investment in an internationally competitive market. This proposal is cost neutral to government when tax incentives are set between 25%-40%.

Access to government support is very important to ensure the industry can confidently reactivate and rebuild, and to mitigate the risk of further devastating financial impact. As markets reactivate, competition for investment funding will be fierce and markets that incentivise to attract investment in theatre will have a significant competitive advantage.

Australia lags international markets and Australian theatrical producers compete for investors in international jurisdictions that offer significant cultural tax incentives (e.g. UK and USA). The UK Theatre Tax Relief (TTR) scheme, in effect since September 2014, enables 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 across film, high-end television, animation, video games, children's television, orchestra, and museums and galleries are eligible and can benefit from the scheme. Extension of the scheme to live music venues in the UK is currently under consideration.

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. More than 80 percent of investment capital for commercial theatre in Australia comes from offshore. In this context, it will be extremely challenging for Australian producers to secure upfront capital to stage new productions, particularly as we look to beyond 2021. Typically, a commercial musical requires $10 million to $15 million to capitalise a show. Future investment in commercial theatre in Australia will be severely constrained if producers cannot offer incentives to attract capital out of larger markets. Investors will prioritise investment in markets where incentives are offered (i.e. UK and USA)

Australia must ensure it can secure investment for both licensed properties 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 ultimately be exported. Moulin Rouge! The Musical (which is nominated for 14 Tony Awards and is coming to Melbourne in 2021 from New York) is a classic example of a show that should have been developed here but was instead developed in the US due to its tax incentives for pre-production costs.

Economic analysis undertaken by EY found that investment incentives would encourage commercial producers and subsidised organisations to produce more work, and therefore increase economic activity. Any expenses incurred by government 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. Further information about tax incentives is provided at **Appendix B**.

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 creatives 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. We understand APRA AMCOS's Pre-Budget submission requests tax incentives for live music venues and LPA supports this proposal as part of a targeted live performance tax package.

5. AUSTRALIA COUNCIL

Budget request 5:
Provide an additional $100 million over 4 years to the Australia Council, specifically to support strategic priorities that drive economic and social recovery post COVID-19.

The Australia Council for the Arts (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, and therefore limited its capacity to support creativity and sector development. The reduction of funding has also severely impacted the ability of the Australia Council to deliver its Strategic Plan.

There is a significant opportunity for the Australia Council and the companies and artists it funds to play 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. The funding could be used to support initiatives such as:

- 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.

6. RISE FUNDING PROGRAM

Budget request 6:
Extend the RISE funding program

LPA welcomes and acknowledges the Government's investment in the live performance industry, through the Restart Investment to Sustain and Expand (RISE) Fund, to support COVID-19 recovery. RISE provides funding to eligible arts organisations, companies and promoters to fund new events, activities and productions that require significant capital investment.

115 projects shared in $60 million in the first round of funding announcements and we anticipate demand for funds will be significantly more than the $75 million available. While the RISE Fund is a critical investment in reactivation, it will not be enough to rebuild the industry over the next two years. Due to continued restrictions on capacity limits and international border closures, the live performance industry will take longer than other industries to recover.

LPA recommends a significant expansion of the RISE grant funding program to stimulate the creation of new jobs and support a breadth and depth of activities spanning all states and territories. In particular, the fund should focus on supporting the delivery of commercial activity in COVID-safe formats and at the same time assist not-for-profit businesses to further access capital.

ATTACHMENT A

LIVE PERFORMANCE AUSTRALIA

LIVE ENTERTAINMENT BUSINESS INTERRUPTION FUND

PROPOSAL FOR CONSIDERATION

1. Purpose

To outline a proposal for a $100-$500 million Business Interruption Fund (BIF) which will support reactivation of the live entertainment industry and a pipeline of events for Australians to enjoy. The BIF will 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.

2. Background and context

The Australian live performance industry has been devastated by the COVID-19 pandemic and associated government directives to close entertainment venues and restrict the number of people at gatherings. Gatherings of more than 500 people were banned from 16 March 2020. Four days later, this was reduced to 100 people and by the end of March 2020, no more than two people could gather. At the same time, government introduced bans on international visitors (including performance artists) entering Australia. In a matter of weeks, every live event in Australia could not proceed, resulting in tens of thousands of events being cancelled or postponed.

Government restrictions have persisted for the last six months and, at times, have become more restrictive – e.g. rolling closures of interstate borders and re-imposition of restrictions in Victoria to contain outbreaks. The prolonged nature of these restrictions means live events are unlikely to return to pre-COVID levels for a very long time. The live entertainment industry has no certainty about when and how it can re-commence activity, with government providing limited guidance to date.

These restrictions have resulted in catastrophic losses across the entire industry. It is estimated that in 2020 the live entertainment industry has lost:

- $23.6 billion in economic output (down 65%)
- $10.7 billion in industry value add (down 65%)
- 79,000 jobs (or two thirds of the workforce).[1]

[1] EY (2020), *The Economic Cost of COVID-19 on Australia's Live Entertainment Industry*, Preliminary Report, for the Live Entertainment Industry Forum

The industry has also lost billions of dollars in revenue (due to lost ticket sales and refunds on cancelled and postponed events), while having to incur significant costs. For cancelled events, these costs cannot be recouped, while for postponed events, some costs may be recouped. Non-recoupable costs have included:

- paying audio, visual and staging companies for equipment that has been brought onsite that could not be used due to bans on gatherings
- paying out employment contracts
- paying ticketing companies cancellation fees to process refunds
- sunk costs such as marketing and freight
- non-refundable costs for visas allowing international artists, crew and creatives to work in Australia that could not be used
- deposits (e.g. suppliers, artists/performance fees, venue hire)
- consultants (e.g. used to prepare event plans).

Refer to **Attachment A** for case studies on the financial impact on the live entertainment industry.

3. Key issues

HIGH COMMERCIAL RISK

There is very significant commercial risk involved with confidently restarting or scheduling new events. Given the high levels of uncertainty, some event organisers are not willing to take this risk. The commercial risk associated with mounting a show, which may then be forced to operate under re-imposed restrictions or close due to another outbreak, is too great a risk for event organisers to take. Many event organisers and other businesses in the live entertainment ecosystem (e.g. suppliers) have little financial reserves to survive another forced closure. As a consequence, there will be fewer events for Australians to attend and enjoy; a vibrant events pipeline is unlikely to return to normal levels until the commercial risks can be appropriately mitigated.

The Austrian Government has recently acknowledged this risk by committing €300 million (approximately AU$830 million) to cover costs if an event is cancelled due to new rules or reduction in capacity limits. While full details of the scheme are yet to be released, it is envisaged the scheme will cover costs such as hotel rooms, crew wages and event technology.[2]

LACK OF INSURANCE

Prior to the COVID-19 pandemic, insurance costs for event organisers were already significant. For commercial theatre, these costs typically 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 per tour or festival to cover circumstances such as non-performance and extreme weather events.

[2] https://www.iq-mag.net/2020/10/e300m-umbrella-for-austrian-promoters/#.X5ile9BLiUl
https://www.culturalpolicies.net/covid-19/country-reports/austria/

Insurance costs will become a larger cost burden for the live entertainment industry. Lloyd's of London (the world's key underwriter) estimates that it will pay out up to £5 billion (AU$9.1 billion) in COVID-19 related claims to its global customers.[3] As a consequence, insurance premiums will rise and a greater range of circumstances will be excluded from insurance products; trends which were already occurring prior to the COVID-19 pandemic. On average, global commercial insurance prices increased by 14% in the first quarter of 2020.[4]

Not only are event organisers having to deal with the additional insurance cost burden, they are now unable to gain insurance to cover COVID-19 related cancellations, postponements or re-imposed restrictions. Now that COVID-19 is a known risk, it is no longer covered as an insurable event in insurance cover. As such, event organisers are unable to access insurance to cover losses arising from events that need to be cancelled or postponed due to COVID-19 related issues (or other communicable diseases). Without access to affordable insurance to offset risks associated with COVID-19 and other communicable diseases, the risks with presenting events are significantly higher for event organisers.

CHANGING GOVERNMENT RESTRICTIONS

The live entertainment industry understands the rationale for government restrictions and to curb the spread of COVID-19 within the community. However, these restrictions have a significant bearing on commercial viability to present events.

There are two main restrictions impeding the industry's ability to operate:

- **Venue density & format restrictions:** At the time of writing, the restrictions in many states and territories allow for live indoor events to operate at 50% venue capacity or subject to the 2 or 4 sqm rule. For the majority of live events (and certainly for commercial productions, concerts, festivals and tours), it is not viable to present events with these capacity constraints. For events to be financially feasible, live entertainment venues need to operate at full capacity. Most states also restrict the operation of multi-stage events and multi-day events with onsite accommodation such as camping. Business models have been built on these formats to ensure commercial viability. Some locations also restrict food and beverage service, further impacting viable business models.
- **Interstate and international border restrictions:** Success of the live entertainment industry is dependent upon free movement between borders. Many productions, concerts, festivals and tours are only viable if they can tour nationally, and some states/territories are highly dependent upon product from other Australian jurisdictions. Therefore, the current international and interstate border restrictions make national touring challenging. While exemptions exist for workers with 'critical skills', the definition of 'critical skills' in some Australian jurisdictions do not cover workers from the live entertainment industry. In those definitions where workers from the live entertainment industry may be deemed to have 'critical skills', there are no guarantees that the relevant government will grant these exemptions.

Given these restrictions, event organisers take significant commercial risks when deciding to restart or schedule new events. If event organisers decide to proceed with plans within the current

[3] https://www.theguardian.com/business/2020/sep/10/lloyds-of-london-expects-5bn-in-covid-19-insurance-payouts
[4] https://www.insurancejournal.com/news/international/2020/05/12/568290.htm

government restrictions or with expectations that restrictions will be eased, a key risk is that the restrictions will not ease as expected or even change for the worse – e.g. lower capacity limits, bans on all gatherings at entertainment venues, tighter restrictions on movements across interstate/international borders.

This may result in the following outcomes:

Scenario	Consequence
Anticipated easing of restrictions does not occur	• Event proceeds at lower capacity, OR • Event proceeds with considerable operational change, OR • Event cancelled or postponed
All gatherings banned / venues closed	• Event cancelled or postponed
Lower venue capacity imposed	• Event proceeds at lower capacity, OR • Event cancelled or postponed
Format restrictions imposed - for example: • multi-stage not permitted (single stage only); • multi-day not permitted (single day only) • camping not permitted • indoor events not permitted (outdoor only) • food and beverage service restrictions	• Event proceeds with format restrictions, OR • Event cancelled or postponed
Tighter interstate border restrictions imposed	• Unless an exemption is granted, event cancelled or postponed. Potentially, entire national tour cancelled or postponed. • Depending in the type of event, it may be able to proceed if a suitable local replacement can be found.
Tighter international border restrictions imposed	• Unless an exemption is granted, event cancelled or postponed. Potentially, entire national tour cancelled or postponed. • Depending in the type of event, it may be able to proceed if a suitable local replacement can be found.

The financial impact of each of these scenarios will vary depending upon when government announces the changing restrictions. For concerts and festivals, the financial cost will be higher the closer announcements are made to the event date, as the majority of costs are incurred in the weeks leading up to the event. For theatre and musical theatre productions, the majority of the impact is split between the costs associated with cancelling/rescheduling performances and the cost of associated with remounting the production including rehearsal, salary subsidies in standdown, additional venue rental and additional marketing.

Some costs can be mitigated through force majeure clauses, but not all. Non-recoverable costs will vary from event to event, whether the event is rescheduled or cancelled, and proximity to event day. It is estimated that:

- 10-30% of costs are non-recoverable when an event goes on sale
- 20-50% of costs are non-recoverable 30 days prior to the event
- 45-70% of costs are non-recoverable on the day of the event or in season.

Refer to **Attachment B** for estimated cancellation costs at critical cancellation points of a concert tour.

COVID-19 OUTBREAK

If an event is mounted, there is a risk it may need to close (temporarily or permanently) or be rescheduled due to a performer, artist, creative, crew member, touring personnel, venue staff member or visitor to the venue testing positive for COVID-19. The table below outlines some possible scenarios and likely consequences.

Scenario	Consequence
Recent visitor to the venue confirmed as having COVID-19	• Venue closed for deep cleaning (1-2 days) • Performances in a long running season cancelled (rescheduled, if possible) • One-off events or performances in a short running season cancelled (rescheduled, if possible)

Performer, artist, creative, crew, touring personnel or venue staff member identified as a close contact with a confirmed case and required to quarantine for 14 days	• If worker can be replaced, the event/performances can continue
	• If worker cannot be replaced:
	  ○ Performances in a long running season cancelled for 2 weeks (rescheduled, if possible)
	  ○ One-off events or performances in a short running season cancelled (rescheduled, if possible)

Performer, artist, creative, crew, touring personnel or venue staff member tests positive for COVID-19
• Confirmed case cannot return to work until symptoms are no longer present and has received medical clearance
• All close contacts identified among performers, artists, creatives, crew, touring personnel or venue staff need to quarantine for 14 days
	• If a small number of workers are identified as close contacts and can be replaced, the event/ performances can continue
	• If many workers are identified as close contacts:
	  ○ Performances in a long running season cancelled for at least 2 weeks (rescheduled if possible). Replacements may need to be recruited to fill roles if a key performer, crew member or venue staff member remains infectious or displays COVID-19 symptoms
	  ○ One-off events or performances in a short running season cancelled (rescheduled, if possible)

4. Live Entertainment Business Interruption Fund

WHAT IS THE PURPOSE OF THE FUND?

The purpose of the Business Interruption Fund (BIF) is to increase industry confidence to reactivate live events. The BIF will do this by providing 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 someone involved in the production, concert, festival or tour tests positive for COVID-19 leading to the event shutting down) or a slower than anticipated easing of government restrictions.[5]

Reactivating live events will also increase confidence in other parts of the live entertainment eco-system (e.g. suppliers) and allied industries (i.e. tourism, hospitality, transport).

WHO IS THE TARGET MARKET FOR THE FUND?

Access to the BIF should be open to:

- any presenter (i.e. producer, promoter or venue) of a professional production, concert, festival or tour in Australia that cannot access insurance to cover losses arising from COVID-19 related issues (i.e. cancellation, postponement or introduction of stricter government restrictions after going on sale)
- commercial producers, promoters and venues; local/state government, as well as producing companies that receive government multi-year or project grant funding (e.g. national performing arts partnership organisations).

WHAT IS THE SCOPE?

The BIF would be limited to cover live events presented in Australia that are cancelled, postponed or forced to operate under stricter government restrictions due to COVID-19.

The BIF would cover any of the following circumstances that result in an event being cancelled or postponed, or forced to operate under stricter conditions:

- A performer, artist, creative, crew, touring personnel or venue staff member has tested positive with COVID-19[6]
- A performer, artist, creative, crew, touring personnel or venue staff member is a close contact of someone who has tested positive with COVID-19[5]
- A close relative, spouse, defacto or dependent of a principal performer/artist has:
    - died from COVID-19; or
    - tested positive for COVID-19 and requires care or support from the principal performer/artist[5]
- A visitor to the venue (e.g. patron, contractor) has tested positive with COVID-19

[5] While this proposal is written in the context of COVID-19, there is a growing trend for insurance cover to exclude communicable diseases. Therefore consideration may need to be given to expanding the scope of the BIF to cover communicable diseases more broadly.

[6] Also applies to situations where principal performer/artist is based overseas at the time the circumstance arises.

- A government directive, due to increased COVID-19 cases in the community, to:
    - close the production, concert, festival, tour or venue;
    - reduce venue capacity (from the capacity permitted at the time of going on sale);
    - restrict or prevent international performers, artists, creatives, touring personnel and crew from entering Australia;
    - restrict travel across Australian borders; or
    - impose financially impractical requirements.
- A change in the timetable of easing of restrictions from previously made government directives.

The BIF would 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).

The BIF would not cover any of the following circumstances:

- lost profit
- cancelled events due to lack of audience demand
- losses that can be recouped by other means
- insurable circumstances.

A cap could be placed on the level of cover. Industry feedback suggests that the ideal level of cover ranges from $25,000 to $10 million.

HOW WILL THE FUND WORK?

Contributions

If presenters seek coverage through the BIF, they should be required to pay a fee calculated at 1% of the level of coverage required.[7] For example, if the BIF coverage is $4 million, the fee would be $40,000. These contributions should be made:

- 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 BIF’s establishment

[7] Screen Australia’s fee for access to the Temporary Interruption Fund is 1% of coverage required for screen production costs.

Government would contribute $100-$500 million to the BIF.[8] Both the Federal and State/Territory government could contribute to the BIF. Alternatively, the BIF could operate as a standalone Federal or State/Territory government program.

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

Use of contributions

The primary use of the BIF's funds is to reimburse eligible costs if, due to COVID-19, an event is:

- cancelled or postponed;
- forced to reduce audience numbers; or
- forced to change its format.

Funds can also be used to remunerate an administrator of the BIF, and audit costs.

At the conclusion of the funding program, if funds remain, it should be diverted to a new program to support industry recovery or retained for other 'black swan' events.

WHO SHOULD ADMINISTER THE FUND?

The BIF should be administered by an independent and auditable third party. This third party would be remunerated to administer the BIF, drawing on industry contributions.

The BIF administrator would need to monitor demand for coverage and not commit to coverage at any one time in excess of available funds.

HOW LONG SHOULD THE FUND BE IN PLACE?

The BIF could be established for an initial period of 3 years and reviewed to ascertain whether it needs to be extended.

5. Similar Australian initiatives

Fund	Description	Fees / Presenter contribution
Screen Australia Temporary Interruption Fund *Current program*	A $50m fund to support local film and television producers to start filming again in circumstances where new productions have been halted by insurers not providing coverage for COVID-19. Funding Guidelines	1% of required coverage. Maximum coverage = $4m
Getting the Show back on the Road (WA) *Newly announced program*	$9 million to help underwrite COVID-19 related financial risks for live music and performance. Funding guidelines yet to be announced.	Unknown

[8] Refer to Attachment C for scenarios estimating the size of the Fund.

Share the Risk (WA) *Program no longer offered*	A guarantee-against-loss program designed to assist remote and regional communities cover losses associated with unexpected events, such as bad weather, a change in farming schedules, or an unforeseen community occurrence.	None

ATTACHMENT C: ESTIMATED COST TO GOVERNMENT, ASSUMING STRONG RETURN OF LIVE ACTIVITY

	$m	
Total Direct Output of the Live Performance Industry and the Venue Based Live Music Industry	5,586	Refer Note (a)
Estimated average event costs as a percentage of revenue	85%	Refer Note (b)
Estimated costs of delivering live music and major event program 2019	**4,748**	

SCENARIO: Strong return of live activity; declining probability of COVID incident	**2021**	**2022**	**2023**	**Total**	
Estimated % of market size vs. 2019	50%	75%	100%		
Estimated costs of delivering live music and major event program	2,374	3,561	4,748		
Estimated non-recoverable portion of cost	70%	70%	70%		
Potential maximum payout	1,662	2,493	3,323		
Probability of vaccine that eliminates COVID risk	50%	95%	95%		Refer Note (c)
Probability of COVID-related incident in any given event (before benefit of vaccine)	30%	20%	10%		
Probability of payout	15%	1%	1%		
Estimated payout	249	25	17	291	
Premium rate	1%	1%	1%		
Estimated premiums collected	(16.6)	(24.9)	(33.2)	(74.8)	
Total estimated funding required	**233**	**-**	(16.6)	**216**	

SCENARIO: Strong return of live activity; high probability of COVID incident	**2021**	**2022**	**2023**	**Total**
Estimated % of market size vs. 2019	50%	75%	100%	
Estimated costs of delivering live music and major event program	2,374	3,561	4,748	
Estimated non-recoverable portion of cost	70%	70%	70%	
Potential maximum payout	1,662	2,493	3,323	
Probability of vaccine that eliminates COVID risk	50%	95%	95%	
Probability of COVID-related incident in any given event (before benefit of vaccine)	50%	50%	50%	
Probability of payout	25%	3%	3%	
Estimated payout	415	62	83	561
Premium rate	1%	1%	1%	
Estimated premiums collected	(16.6)	(24.9)	(33.2)	(74.8)
Total estimated funding required	**399**	**37**	**50**	**486**

Note:

(a) Direct output used as a proxy for industry revenue; Source: EY Preliminary Findings for LEIF on economic cost of COVID-19 on Australia's Live Entertainment Industry.

(b) Rough estimate across all business types (0-30% margin typically, therefore take average at 15% profit margin)

(c) Probability estimates based on feedback from medical professionals. 2021 probability estimate adjusted to account for roll out of vaccine

ATTACHMENT C: ESTIMATED COST TO GOVERNMENT, ASSUMING GRADUAL RETURN OF LIVE ACTIVITY

	$m	
Total Direct Output of the Live Performance Industry and the Venue Based Live Music Industry	5,586	Refer Note (a)
Estimated average event costs as a percentage of revenue	85%	Refer Note (b)
Estimated costs of delivering live music and major event program 2019	**4,748**	

SCENARIO: Gradual return of live activity; declining probability of COVID incident	**2021**	**2022**	**2023**	**Total**	
Estimated % of market size vs. 2019	33%	66%	100%		
Estimated costs of delivering live music and major event program	1,567	3,134	4,748		
Estimated non-recoverable portion of cost	70%	70%	70%		
Potential maximum payout	1,097	2,194	3,323		
Probability of vaccine that eliminates COVID risk	50%	95%	95%		Refer Note (c)
Probability of COVID-related incident in any given event (before benefit of vaccine)	30%	20%	10%		
Probability of payout	15%	1%	1%		
Estimated payout	165	22	17	203	
Premium rate	1%	1%	1%		
Estimated premiums collected	(11.0)	(21.9)	(33.2)	(66.1)	
Total estimated funding required	**154**	**-**	(16.6)	**137**	

SCENARIO: Gradual return of live activity; high probability of COVID incident	**2021**	**2022**	**2023**	**Total**
Estimated % of market size vs. 2019	33%	66%	100%	
Estimated costs of delivering live music and major event program	1,567	3,134	4,748	
Estimated non-recoverable portion of cost	70%	70%	70%	
Potential maximum payout	1,097	2,194	3,323	
Probability of vaccine that eliminates COVID risk	50%	95%	95%	
Probability of COVID-related incident in any given event (before benefit of vaccine)	50%	50%	50%	
Probability of payout	25%	3%	3%	
Estimated payout	274	55	83	412
Premium rate	1%	1%	1%	
Estimated premiums collected	(11.0)	(21.9)	(33.2)	(66.1)
Total estimated funding required	**263**	**33**	**50**	**346**

Note:

(a) Direct output used as a proxy for industry revenue; Source: EY Preliminary Findings for LEIF on economic cost of COVID-19 on Australia's Live Entertainment Industry.

(b) Rough estimate across all business types (0-30% margin typically, therefore take average at 15% profit margin)

(c) Probability estimates based on feedback from medical professionals. 2021 probability estimate adjusted to account for roll out of vaccine

ATTACHMENT C: ESTIMATED COST TO GOVERNMENT, ASSUMING CAUTIOUS RETURN OF LIVE ACTIVITY

	$m	
Total Direct Output of the Live Performance Industry and the Venue Based Live Music Industry	5,586	Refer Note (a)
Estimated average event costs as a percentage of revenue	85%	Refer Note (b)
Estimated costs of delivering live music and major event program 2019	**4,748**	

SCENARIO: Cautious return of live activity; declining probability of COVID incident	**2021**	**2022**	**2023**	**Total**	
Estimated % of market size vs. 2019	25%	50%	75%		
Estimated costs of delivering live music and major event program	1,187	2,374	3,561		
Estimated non-recoverable portion of cost	70%	70%	70%		
Potential maximum payout	831	1,662	2,493		
Probability of vaccine that eliminates COVID risk	50%	95%	95%		Refer Note (c)
Probability of COVID-related incident in any given event (before benefit of vaccine)	30%	20%	10%		
Probability of payout	15%	1%	1%		
Estimated payout	125	17	12	154	
Premium rate	1%	1%	1%		
Estimated premiums collected	(8.3)	(16.6)	(24.9)	(49.9)	
Total estimated funding required	**116**	**-**	(12.5)	**104**	

SCENARIO: Cautious return of live activity; high probability of COVID incident	**2021**	**2022**	**2023**	**Total**
Estimated % of market size vs. 2019	25%	50%	75%	
Estimated costs of delivering live music and major event program	1,187	2,374	3,561	
Estimated non-recoverable portion of cost	70%	70%	70%	
Potential maximum payout	831	1,662	2,493	
Probability of vaccine that eliminates COVID risk	50%	95%	95%	
Probability of COVID-related incident in any given event (before benefit of vaccine)	50%	50%	50%	
Probability of payout	25%	3%	3%	
Estimated payout	208	42	62	312
Premium rate	1%	1%	1%	
Estimated premiums collected	(8.3)	(16.6)	(24.9)	(49.9)
Total estimated funding required	**199**	**25**	**37**	**262**

Note:

(a) Direct output used as a proxy for industry revenue; Source: EY Preliminary Findings for LEIF on economic cost of COVID-19 on Australia's Live Entertainment Industry.

(b) Rough estimate across all business types (0-30% margin typically, therefore take average at 15% profit margin)

(c) Probability estimates based on feedback from medical professionals. 2021 probability estimate adjusted to account for roll out of vaccine

INVESTMENT SUPPORT FOR THE LIVE PERFORMANCE INDUSTRY: Tax incentive proposal

ATTACHMENT B

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
Additional tax revenue received by government	$28.5m	$95.9m	$153.4m
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*