

Dear Committee

As the House of Representatives Standing Committee on Communication and the Arts have commenced an enquiry into Australia's music industry I feel motivated to bring some issues to your attention.

Your Chair has been quoted that the committee will be "investigating ways the Australian music industry can continue to grow sustainably".

As an Australian musician who re-located to the UK in the 1970s I have been witness to some of the ways which the European model could be applied to the Australian music rights framework and achieve this sustainable growth, ensuring a fairer distribution of the profits.

During a successful career in the UK I have performed with many UK and international artists such as Elton John, Tina Turner, Thomas Dolby, Marvin Gaye, Bob Geldof, Pete Townshend, Phil Collins, Kylie Minogue and Midnight Oil. Fifteen years ago I accepted a post at the British Musicians Union looking after UK session musicians and have recently retired.

Through my own playing career and in my union role I have seen how artists and session musicians are able to survive in a competitive environment and thrive in a global market.

Every year Australian conservatories, colleges and music courses produce world class musicians. Some will progress into a career as featured artists which may involve recording and publishing contracts. As you will appreciate these are in the minority but these lucky few will benefit from investment from those record labels and music publishers that see potential for profit.

The vast majority of these emerging performers will aim to make a living as freelancers, finding employment in orchestras, clubs, teaching or as backing musicians for live and recording work. Your committee has the opportunity to make those careers more financial sustainable and internationally competitive. My focus is on the recording activities of the ambitious Australians who wish to make a career in music but are active as backing performers (session players) or orchestral players.

In the UK the freelance music sector provides media employment for musicians, regulated by the Musicians Union agreements with industry bodies such as the BBC, the record label body the BPI, the film companies body PACT and a number of others. Through those agreements musicians have security in what rates and residuals will be due to them and the industry bodies have certainty in their music budgets for future work. Further use fees, dubbing fees and repeats can enhance a

freelance player's income, meaning the more a recording is used and is successful, the more everyone benefits, not just the producer. This same model exists in America, Canada, Japan, and Europe.

In Australia none of this exists. The Australian Musicians Union no longer functions and MEAA has yet to establish itself effectively. As a result a disturbing imbalance exists where the producers - the record labels, the film companies, the TV companies - are the dominant party dealing with the freelance musician. Basic session fees are maintained at modest levels compared to UK rates with no leverage to negotiate.

I do not expect the committee to remedy this but I feel it is useful background to an area of musicians' rights and income that the committee can be effective in. That is broadcasting royalties.

A major difference between the European and Australian model is a non-featured musicians' right to equitable remuneration. In the UK broadcasting royalties are collected by PPL (www.ppluk.com) and distributed to the record labels (50%) and the artists and session musicians (50%). The 50% performer share is split 65% to the featured artist and 35% to the session musicians (non-featured performers).

In Australia the collection society PPCA (www.pcca.com.au) only pay the Australian featured artists and the record labels. Australian session players and orchestral performers are regarded as having surrendered this right under Australian law so they receive nothing, irrespective of how successful a recording has been and how much broadcast is achieved.

If a UK recording generates substantial airplay the session musicians can receive income - even when it's a share of that 35% of 50% - that enables them to sustain their career. This makes the career of a session musician more viable. This also applies to the musicians working in the classical arena such as members of the LSO, Philharmonia and RPO.

Through their international agreements PPL also obtain payments for session and orchestral musicians from most of Europe, Japan, Canada, South America and digital rights from the USA. Last year over £200m was collected by PPL for labels and performers.

In Australia session musicians and members of established orchestras such as the SSO and MSO receive nothing from PPCA. That income stream could make a difference to their ability to maintain their careers and more effectively compete internationally. As the board of PPCA is dominated by artists managers and record label interest they are unlikely to give up a share to musicians and orchestras.

In the UK, USA and other countries session musicians and orchestral players also receive a share of synchronisation rights when a recording they have contributed to is used in a feature film or advert. In Australia musicians are denied this right.

Another related issue is the decision of PPCA not to pay performers on UK recordings broadcast in Australia. For over 10 years PPL has been paying Australian performers on recordings broadcast in the UK (musicians behind John Farnham for example) with no payment in return but has lost patience with PPCA and ceased these payments until a reciprocal deal is established. As I recorded with a number of Australian artists in London I am frustrated that I receive royalties in the UK but nothing from Australia.

I urge the committee to:

- recommend the immediate reform of the distribution of Australian broadcasting royalties to include equitable shares to Australian session musicians and orchestral players.
- Look into the right to synch use payments for Australian session and orchestral players.
- Resolve the PPCA's refusal to pay broadcasting royalties to UK performers on recordings broadcasting in Australia and so re-establish PPL payments to Australian performers.

Regards,

Peter Thoms