

MEDIA ENTERTAINMENT AND ARTS ALLIANCE

SUBMISSION

**REVIEW OF AUSTRALIA'S MIGRATION AND TEMPORARY ENTRY
PROGRAM FOR SKILLED LABOR**

TO

JOINT STANDING COMMITTEE ON MIGRATION

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The Media Entertainment and Arts Alliance (Alliance) is the industrial and professional organisation representing the people who work in Australia's media and entertainment industries. Its membership includes journalists, artists, photographers, performers, symphony orchestra musicians and film, television and performing arts technicians.

The Alliance welcomes the opportunity to make submission to the Review of the Australia's Migration and Temporary Entry Program for Skilled Labor. In making submission, comment is confined to those sectors of the labour force covered by the Alliance, specifically those working in the broadcasting, print media, arts, entertainment and cultural industries.

Employment in the information, arts, entertainment and culturally related industries

The information, arts, entertainment and culturally related industries form part of Australia's service sector, part of that sector of the economy that is currently responsible for the greatest level of jobs creation.

The information, arts, entertainment and culturally related industries comprise a few major corporations and a plethora of small businesses. While some sectors are flourishing, many remain fragile.

For the majority of those employed within the arts and entertainment industries, employment is identified by uncertainty, most work being of a freelance nature. There are currently considerable levels of both unemployment and underemployment among those who earn or seek to earn their living in the sector.

Partly this is intrinsic to the sector. At its starkest, the profile of the acting community demonstrates why underemployment and unemployment will remain the hallmarks of the profession.

The acting profession carries an unemployment rate in excess of 90%. Despite this staggering fact, it is unlikely to ever change substantially. This level of unemployment is true of acting communities around the world. Its cause lies in the requirements of the industry itself. In order for an industry to be viable it requires a large pool of acting talent from which to cast the diverse range of roles required for film, television and live performance productions.

On a feature film, it is rare for more than four actors (and sometimes only two) to be engaged for the full duration of the filming schedule. An actor with a substantial supporting role may have only five days work spread across a ten week shooting schedule. Actors in minor roles may have as little as one day's work on the production. Unemployment and underemployment is an unfortunate but immutable fact of life.

Whilst live theatre productions require all cast on an ongoing basis, it is only in commercial musical theatre where seasons typically run for longer than twelve weeks.

The characteristics of the entertainment industry mean that performers are often unemployed or underemployed, circumstances reflected by their income.

Please be aware that the statistical information set out in Tables 1 and 2 has been provided to the Alliance on a confidential basis as the report from which the tables have been drawn has not yet been published by the Australia Council.

Table 1: Median Earned Incomes of Artists 2000-01 (\$)

	Creative income	Total arts income	Total income
Actors & Directors	10,500	18,400	32,000
Dancers & Choreographers	12,900	23,600	26,000
Musicians & Singers	10,500	20,000	35,800

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Given a median income of \$32,000 for all sources of income, clearly many performers are earning considerably less annually while on the other hand others are doing better. Given that some few performers annually earn amounts in excess of \$100,000, and an even fewer number are able to earn in excess of \$200,000 annually, the reality for the majority becomes evident.

Whilst median incomes are possibly a better reflection of the position for many performers, mean incomes show the impact of the higher earning performers.

Table 2 sets out mean income for performers and also shows income trends between 1986-87 and 2000-01. Whilst income from arts-related work spiralled downwards between 1986-87 and 1991-92, by 2000-01 it had recovered to 1986-87 levels. The reversal is likely to be due to enhanced minimum rates of pay that were achieved in the early nineties together with a dramatic increase in offshore film and television productions utilising Australia as a location.

Table 2: Trends in Artists' Mean Earned Incomes 1986-87 to 2000-01 (\$ thousand per annum at constant 2000-01 prices)

	Income from all arts work			Total income (from all arts and all non-arts work)		
	1986-87	1992-93	2000-01	1986-87	1992-93	2000-01
Actors & Directors*	27.7	15.4	27.4	35.7	23.4	41.7
Dancers & Choreographers*			23.9			26.9
Musicians & Singers	24.0	24.0	27.6	34.5	32.3	41.1

* Note: Results for actors and dancers were combined in the 1986-87 and 1992-93 surveys.

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Without their commitment to the arts and entertainment industries, those industries could not mount the live theatre, music, film and television productions that Australian audiences

¹ *Don't Give Up Your Day Job – An Economic Study of Professional Artists in Australia*, David Throsby and Virginia Hollister, 2003, to be published by the Australia Council during 2003

² *Don't Give Up Your Day Job – An Economic Study of Professional Artists in Australia*, David Throsby and Virginia Hollister, 2003, to be published by the Australia Council

take as part of their cultural entitlement and that Australian governments have consistently supported for social and cultural policy reasons. Consequently, for performers every employment opportunity, no matter how small, is important.

For technicians, the majority of work is also freelance. Engagements on a feature film can be as long – depending on their particular job – as six months (and in the case of some major offshore productions as long as nine to twelve months) or as short as a day. Commercials rarely represent more than three days work. Long running engagements are unknown outside network television programs.

Even on long running television series, contracts are usually only for one year at which point employment is terminated and a new separate contract offered in the new year following the production break if the program goes to a further series.

In live theatre, long running employment is even rarer – available only on, at any one time, a handful of commercial musical theatre productions and even then rarely for periods in excess of ten or twelve months.

Fulltime employment is restricted to a very few companies such as Opera Australia, the symphony orchestras, and one or two other companies such as the Sydney Dance Company.

Whilst the broadcast sector offers better security of tenure in news, current affairs and sports programs, there is nonetheless a significant and growing component of the labour force engaged on a freelance basis. This is similarly true in the print media.

Temporary entry visas

Given the uncertainty of employment in these industries, it is not surprising that augmenting the labour force with overseas personnel migrating to Australia on a permanent basis gives cause for concern.

Unlike many other industries, most skilled personnel in these industries are not in the business of directly creating employment by establishing their own businesses. They are almost always reliant on being offered employment competing directly for those offers with Australians already in the industry.

Given that employment in these industries can never be constructed in a manner that will ensure maximum employment at all times to avoid a “trough” and “peak” effect, inability to engage suitably qualified Australians in the arts and entertainment sector has been managed by employers seeking to fill positions with overseas personnel on a temporary short-term basis – the relevant visa class being the Entertainer (sub-class 420) Visa.

This system works effectively. It recognises that there may be circumstances where appropriately qualified Australians cannot be identified for a particular acting role or a particular technical role on a particular production. It recognises the freelance nature of the industry and that the inability to fill a particular role will, like the work on offer, be only temporary. It could be a coincidence of scheduling of a number of television series and feature films at the same leads to a shortage of crew. It could be, as happened in 1998, that a number of productions went into development that, unusually, required a large number of roles for Afro-American performers – *Showboat*, *Sisterella* and *Rent* – which quickly exhausted the number of Australian performers available having regard to the ethnic specificity of the roles. It is a circumstance that has only been repeated this year with the mounting of the theatrical production of *The Lion King*, requiring a predominantly African American cast who must also be able to sing in specific registers, dance, and work with animatronics. Or it could be a one-off requirement for a particular skill, not in common supply within the industry, for instance the requirement on the *Star Wars* films for fibrous plasterers skilled in working with compound curves. In the same way, short term shortages of visual effects producers, supervisors and editors, production accountants and animatronics technicians are usually best resolved by the temporary entry of persons from overseas. This approach has the added advantage that Australians are able to work

alongside overseas skilled personnel and develop their own skills, thus deepening the talent base in Australia to the benefit of future productions.

The visa class covers performers, technicians and musicians.

A large percentage of visa applications are for musical groups, for instance rock and roll bands, touring Australia.

Visas for film television and live theatre cover applications for offshore companies working in Australia where persons of international distinction and merit might be required for box office or financing reasons for a specific project and, as indicated above, accommodate the need to import personnel from overseas where it has not proved possible to engage an Australian either because there are no suitably skilled Australians or because no suitably skilled Australians are available. Additionally, applications for overseas performers are made by Australian film and television production companies where the use of overseas performers is sanctioned by the Department of Communications Information Technology and the Arts.

The visa class also covers those undertaking non-commercial performances, for instance, overseas performers playing to niche ethnically specific audiences, as well as those coming to Australia to participate in festivals such as the Sydney, Melbourne, Adelaide, Brisbane and Perth Festivals

The temporary visa is the most effective way to cope with short-term shortages of appropriate skilled labour without causing long term disruption to the employment base by increasing the size of the base of what is fundamentally a freelance sector.

That the visa class is effectively serving the industry well and is in line with the Government's social and cultural objectives was most recently demonstrated during the course of the Review of the 400 Stream of Visas. Last year, Australia completed a two year review of temporary residence visas, the results of which are set out in the Commonwealth publication *In Australia's Interests* released in 2002³. The Review found a high level of integrity in the 420 Entertainer visa sub-class and that "the current arrangements offer significant protection to Australian residents involved in the industry" and proposed "no change to these arrangements"⁴. (The Alliance made submission to this review in October 2000 and provided a response to the draft report in March 2002. Both submissions are available on the Alliance website at www.alliance.org.au or can be made available separately if required.)

The Alliance is strongly of the view that for a sector with strong but uneven growth prospects that is nonetheless identified by its freelance nature with resultant ongoing underemployment and unemployment, skills shortages are temporary and best dealt with by utilisation of the temporary entry entertainer visa system.

It should be noted that those working in the print and news broadcast media are not covered by the 420 Entertainer Visa class. Rather they are covered under the 423 Visa, a class of visa currently being reviewed by the Department of Immigration Multicultural and Indigenous Affairs (DIMIA). It is likely that this visa class will be abolished and visa applications for overseas journalists moved to the business class visa which, like the current 423 visa, has a precondition mandating that a visa not be issued to a person where the activity to be undertaken could be undertaken by an Australian.

In the view of the Alliance, there is no reason for any positions falling within the purview of the 420 Entertainer Visa or the 423 visa (as it currently exists) to be included on the Migration Occupations in Demand list and the Alliance is pleased to see that none are currently listed.

³ *In Australia's Interests, A Review of the Temporary Residence Program*, DIMIA, Commonwealth of Australia, 2002

⁴ *Ibid*, page 202

International comparisons

The construction of the industries that are the subject of this submission are not uniquely Australian. The employment patterns in these industries in overseas countries such as the United States, Canada, the United Kingdom and Japan are very similar. For that reason, most countries with a viable entertainment industry regulate entry of overseas persons in a similar manner to Australia. Most countries restrict entry allowing overseas persons a temporary visa on a case by case basis and subject to some form of labour market testing, often in consultation with the relevant union, to ensure that a resident is not available and able to undertake the employment in question. Additionally, annual quotas apply in some jurisdictions (for example, the P-visa in the United States).

The United States is generally considered to have the most onerous temporary entry requirements of all the English language countries for those seeking employment in the arts and entertainment industries.

In the United States, the Immigration and Naturalization Service (INS), as directed by Congress, sets the visa requirements for so-called "aliens" (ie persons who are not US Citizens or resident aliens) wishing to work in the United States. The relevant visa classes for those seeking employment in the arts and entertainment industries are:

Extraordinary Ability (O-visa)

This category applies to persons of extraordinary ability in science, the arts, education, business, and athletics, or who have extraordinary achievement in motion picture and television production.

Athletes/Entertainers/Artists (P-visa)

Certain athletes, entertainers, and artists who are intending to perform in the US, for example, baseball players working in the minor leagues and professional musical groups.

Both classes of visa are issued having regard to a specific employment offer and are conditional upon the US employer making an offer of employment and filing a petition with the INS on behalf of the overseas person.

The standout exception is that of the European Union where citizens of member countries are able to work anywhere within the EU. However, Europe nonetheless provides opportunities for national individuals to be favoured over non EU nationals of via mechanisms such as the local content rules on television that mandate the broadcasting of certain levels of EU programming. Importantly, language differences between EU members affords a level of employment protection in the cultural industries that is not available between say persons residing in English speaking countries (other than by virtue of Migration Regulations such as exist in Australia).

Conclusion

The Alliance is of the view that the current arrangements in respect of satisfying the demands of employers, protecting the employment opportunities for Australians and resolving short-term skills shortages in the arts, entertainment, broadcast, media and cultural industries are working effectively. This position was recently confirmed by the Commonwealth Review of temporary entry visas. Consequently, the Alliance considers that the current arrangements should continue unchanged.