

Secretary
Senate Select Committee on the Free Trade Agreement between Australia and the United States of America
Suite S1.30.1
The Senate
Parliament House
CANBERRA ACT 2600

Submission to the Senate Select Committee on the Free Trade Agreement between Australia and the United States of America

Re: Article 17.4.4

The draft Free Trade Agreement with the United States proposes a extension of Australian copyright from life+50 years to life+70 years to match US rules. This change would adversely affect programming of twentieth century music for many years and will significantly add to the cost of live performance for Australian audiences.

We write on behalf of major Australian professional, youth and community orchestras, and with the support of the Australian Major Performing Arts Group, to tell you of the impact this change would have in our area.

The extension of copyright would impose a significant financial burden on those who wish to present music of the twentieth century and the present day to Australian audiences. Copyrighted orchestral music is usually not available for sale. The copyright holder generally rents the sheet music to the orchestra, which returns it after the performance. Commercial rental is not cheap. For instance, a single performance of Vaughan Williams' Symphony No. 5 – a 39-minute work for full orchestra – would cost over \$500.

However, at the expiry of copyright, anybody is free to reproduce and sell it. This is invariably cheaper. To put the figure above in context: to purchase the orchestral sheet music to Beethoven's Symphony No. 6 (the 'Pastoral'), a public domain work of similar dimensions to the Vaughan Williams, costs around \$475. Moreover, an organisation which has purchased a public domain work can loan or hire it to other bodies. This lowers costs still further. The National Music Library, which hires out a large proportion of its collection, would charge a flat \$88 for rental of its set of the Beethoven.

Under the proposed extension, copyright exploitation would continue for a further 20 years. Hence, works normally expected to come into public domain (such as those of Vaughan Williams, who died in 1958) would remain in copyright. This would cost all orchestras a lot of money. It is difficult to quantify the exact costs (although we are working on an estimate) but their scale can be inferred from the above.

In particular, this would have a major impact on youth and community orchestras. These ensembles have very small budgets and frequently forego copyrighted music because it is just too expensive.

We support living composers by actively commissioning and programming their music. This is a responsibility we take very seriously. Major orchestras also commit to programming a significant amount of copyrighted material to ensure that Australian audiences experience the best of contemporary and near contemporary music in live and recorded performance.

It should be noted that music publishers do use their income from a few blockbuster composers to fund promising younger ones. We question music publishers' efficiency should their future promotion of new talent depend on (in effect) a 40% increase in their principal source of income. It is accepted that all copyrighted works must eventually become public domain and an arbitrary date must be set whereupon copyright will lapse. Assuming copyright outlives the creator, copyright owners will prefer a longer period and users a shorter one. Fifty years, it should be noted, is already a fair amount of time. It means that someone may today still

exclusively make money out of an artist who died in 1954. The extension, then, has evidently not been designed to favour the interests of end users of copyrighted material, although any change in copyright necessitates a careful balancing of the interest of both copyright holders and copyright users.

We remind you again that the current Article 17.4.4 would impose a significant financial burden on Australian orchestras, and their audiences.

We ask the Senate committee to note in its consideration of the impact of the draft Free Trade Agreement that future Federal Government support for orchestras should include funding additional costs of the copyright extension and thereby for programming of copyrighted material. Otherwise there will be further pressure on budgets for commissioning and programming of living Australian composers.

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