



The Hon. Joe Tripodi MP
Minister for Regulatory Reform
c/-The Better Regulations Office
GPO Box 5341
Sydney NSW 2001

Dear Sir,

RE: Association of Artist Managers (AAM) Australia Response to Licence Review -
Entertainment Industry Agent/Manager and Venue Consultant

BACKGROUND

The Association of Artist Managers (AAM) Australia brings together the industry's leading music managers with the aim of providing a peak body to address the issues facing managers and their artists.

The AAM is an active member of The International Music Managers Forum (IMMF) which comprises 15 Music Managers organisations around the world including; Australia, Belgium, Canada, Denmark, Finland, France, Germany, The Netherlands, New Zealand, Norway, Poland, South Africa, Sweden, United Kingdom and United States.

According to the IMMF, Music managers are responsible for every aspect of the artist's career including interfacing and negotiating with phonogram producers, music publishers, making arrangements for touring, sponsorship, merchandising, and ensuring that all the available income streams, including those from collection societies, are properly managed. Managers are generally remunerated on a commission basis (usually in the region of 20% of income actually received by the artist) so income streams affecting the artist also directly affect those of the manager.

The Aims of the AAM include those espoused by sister organisations throughout the world who strive to work together for the benefit of the artists that our members represent.

Specifically,

- to ensure the safeguarding, respect and protection of the moral and professional interests of our members and the worldwide community of music managers;
- to watch over and contribute to the respecting of the economic and legal interests of music managers and their clients, both in the international arena and, via the membership, in national legislation;

- to be supportive of national and/or regional manager associations, especially in the developing world;
- to work for the advancement of, and recognition of, the importance of copyright and the value of intellectual property not only in economic terms but also as the protector of culture and of those who create it.
- to foster the awareness of the importance of the rights of artists as the creators of copyright, and therefore of culture, of the essential role which managers play in protecting the rights and role of their clients in this regard, and by extension the essential role of especially featured artists as the generators of musical culture throughout the world.
- as the peak artist management body in Australia, to assist and consult with the music industry and government on all issues impacting it's members & their artists and to improve the professionalism and financial well being of the music industry as a whole.
- to welcome to its membership those who have shown an ability to enhance the careers and professional standing of their clients throughout the world and a desire and or an ability to work with others in a sense of community
- through its own endeavours or in partnership with others, to educate, train & facilitate the development of professional ' Artist Managers' thereby looking to elevate Artist Management to being recognized as a 'Career' option.
- to identify, discuss, & implement changes in regards to issues designed to encourage & facilitate support, business opportunities & camaraderie between members

As the peak representative for music managers the AAM is a major stakeholder in the review of this licencing regime and as such appreciates the opportunity to make a submission to the Review.

The following submission from the AAM addresses the scope of the review, relative only to the Entertainment Industry Representative – 'Managers', addressing in turn each of the four areas of particular enquiry set out on page 9 of your "Better Regulation Office Issues Paper: Licensing of Selected Occupations":

1. BENEFITS OF THE LICENSING REGIME INCLUDING THE PROTECTIONS OFFERED BY THE REGIME AND IMPACTS ON PROFESSIONAL STANDARDS IN THE INDUSTRY.

The AAM acknowledges that the Entertainment Industry Act 1989 and the Entertainment Industry Regulation 2004 provides two benefits;

- 1/ Clear protocols for the managing of funds on an artists behalf
- 2/ Clear prohibitions against commissioning twice in a commercial arrangement without sufficient disclosure, as outlined in a written management agreements.

Both of the above offer protections and provide a positive impact on professional standards. That said, the AAM notes the following disadvantages that arise from the current implementation of the licencing system as it relates to Managers in the Contemporary Music Industry;

- 1/ Insufficient assessment of experience or qualifications of applicants provides a negligible assessment of professional standards.
- 2/ Fee Requirements create a significant barrier to entry level operators

3/ Legislative regulation has the potential to be counter-productive to the culture of relationship building and good business practices within the Contemporary Music Industry.

It is the AAM's position that the licence system provides significant challenges to industry development with a nominal benefit to artists.

Further, the AAM sees **NO** industry evidence that the legislation;

- Reduces the risk of substandard work by unscrupulous or unskilled service providers;
- Reduces risk of non-payment of performance fees and entitlements;
- Increases awareness of services and options available to performers within the market and a corresponding reduction in information asymmetry in the negotiation of contracts and fees; and
- Greater professionalism of service providers in their dealings with performers.

2. COSTS OF THE LICENSING REGIME INCLUDING COMPLIANCE COSTS FOR INDUSTRY REPRESENTATIVES, IMPACTS ON LABOUR MOBILITY AND COMPETITION BETWEEN SERVICE PROVIDERS.

The AAM notes The Act requires the payment of an annual fee, and the creation of a trust account (for those managers that hold their Artist's money) with bond funds held in the account. With respect to this cost requirement the AAM notes the following concerns;

- 1/ Excessive for the regulatory value currently being delivered
- 2/ Bond requirement is excessive and prohibitive for entering operators.
- 3/ The licence is counterproductive for NSW Managers undertaking well managed and ethical business practices.
- 4/ The existence of this regulation in only this state, means that NSW managers are unfairly disadvantaged by this increased level of regulation and the subsequent costs involved.

3 EXISTING OR POTENTIAL ALTERNATIVE WAYS TO PROTECT THE INTERESTS OF PERFORMERS

The AAM believes that the current Act does not really accomplish what it was intended to and that we, as the peak national body representing managers are very willing to work with the Government on making sure that this aspect of the industry is self governed in a transparent and efficient manner in NSW and indeed on a national basis.

Over the past three years members of the AAM Executive have been in discussions with Dr Guy Morrow (Lecturer Department of Contemporary Music Studies Macquarie University) regarding the development of a Code Of Conduct for artist managers in the music industry both in a national and international format.

The work has progressed significantly since the initial discussion with the international aspects being provided by Dr Catherine Moore of New York University and also Jason Free from the Six Finger Think Tank in the U.S.

Dr Morrow has applied for a new staff grant at Macquarie University to further develop the Manager's Code of Conduct as a research area, the results of a which being known within the month.

Upon adoption of the above Code of Conduct as developed by Dr Morrow in consultation with the AAM Executive, the Association strongly believes that the formal undertaking to accept and respect the statutes and the Code Of Conduct by all members, provides a far greater level of protection for artists and an overall increase in the professional standards of management than the Act currently does nor aims to achieve.

It is felt that with the demise of the Entertainment Industry Council the mechanism lost its industry representation and the registration requirement became seen as just another bureaucratic procedure. The industry lost its voice and its feeling of ownership or involvement. The effectiveness of self-regulation always presumes responsibility and perhaps it could be suggested that previously the industry didn't have the appropriate bodies in place for it to happen. With the establishment of the AAM however, we believe that self-regulation is possible and that the Association is willing and capable of implementing such a practice in lieu of the Manager's License component within the current Act.

As experienced, involved and interested managers the AAM is willing to be involved in discussions relative to the regulation of both Venue Consultants and Agents, given our daily dealings with such operators. We do believe that there is a need for a license OR an approved self regulating Code Of Conduct for these sectors of the music industry.

With respect to the regulation of agents and venue consultants, a possible recommendation is exploring the option of an Industry Ombudsman as an alternative mechanism through which artists and music industry operators could be protected. It would be essential for the Industry Ombudsman to be guided by industry created and delivered Codes Of Conduct and the AAM would offer its support to seek the most appropriate authors for the creation of these Codes.

4. RELEVANCE WITHIN THE CONTEXT OF A STATE REGULATION.

The AAM notes that the state of NSW is the most active within the Entertainment Industry leading to the appearance that greater regulation is required, however with respect to the Contemporary Music Industry the AAM believes that given the diversity and operating landscape both digital and physical of the industry that this is an artificial distinction.

Within the state of NSW the safeguards proposed by the current licencing system are not delivered. The AAM believes that an industry self regulated model based on a code of conduct driven from a national and even further international perspective would better address the safeguard needs of musicians and music industry operators.

In practice the implementation of the licencing system with respect to managers and agents residing in other territories operating within NSW borders creates an untenable and impractical regulatory system. Despite the inclusion in the act there is still considerable uncertainty with regards to what's required of those artist managers based interstate or overseas when undertaking business in New South Wales.

Recent polling amongst the International Music Managers Association (IMMF) divulged that New South Wales is the only Managers' License of its kind in the world with Belgium Managers requiring a license only if they are undertaking booking duties. This statistic strongly supports the AAM's stance that an international, self regulating Code Of Conduct for Artist Managers would prove a more effective mechanism than the current act pursuant to only NSW based Managers.

FURTHER COMMENTS AND RECOMMENDATIONS

- The AAM recommends if the licences remain that a review of practices and fees in relation to the licences is undertaken, with appropriate industry consultation and that significant procedural changes are adopted to ensure positive and effective industry regulation and development are the outcomes of the licencing system.
- The AAM recommends, should the licences remain that each, i.e Managers' Licence, Agents' Licence, Venue Consultant is dealt with separately and that the various entertainment sectors are also separated, as the different branches of the entertainment industry are so varied. Theatrical agents' operations and needs are quite different from those applicable to musicians' agents. Those of modeling agents differ from those of classical music agents and so on and so forth.
- An effective forum should be established for the hearing and resolution of complaints, guided by codes of practice developed by the relevant industry associations of managers, agents and venue consultants
- The AAM notes that the current legislation and implementation of the licencing regulation does not deliver the proposed objectives as stated in section 3 of the Act, being;
 - (a) to promote the development and growth of the entertainment industry;
 - (b) to provide for the development of codes of ethics for the entertainment industry;
 - (c) to provide a forum for the hearing and resolution of complaints in the entertainment industry; and
 - (d) to develop a framework to provide for the self-regulation of the entertainment industry.

The AAM appreciates the opportunity to deliver a submission for this review. Given our position as the state peak body for career Artist Managers, we believe we are a vital stakeholder and are willing to assist in any further discussions or consultation in relation to the preceding submissions and would appreciate being contacted for further consultation as required.

If you wish to speak to someone for further information contact Chairperson for the Association of Artist Managers, Bill Cullen on 0411 696 970 or bill@onelouder.com.au

Yours sincerely



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