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5 June 2015

The Hon. Joe Hockey, MP
The Treasurer
Tax White Paper Task Force
The Treasury
Langton Crescent
PARKES ACT 2600

By email: bettertax@treasury.gov.au

Dear Treasurer,

LPA Submission to Re:think Tax Discussion Paper

On behalf of Live Performance Australia (LPA), thank you for the opportunity to provide ideas on how to reform Australia's tax system through the *Re:think Tax Discussion Paper* ("Tax White Paper"). Please find our submission enclosed.

ABOUT LPA

LPA is the peak body for Australia's live performance industry. Established in 1917 and registered as an employers' organisation under the Fair Work Act, LPA has over 400 Members nationally. We represent commercial producers, music promoters, major performing arts companies, small to medium companies, independent producers, major performing arts centres, metropolitan and regional venues, 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 commercial entities. LPA has a clear mandate to advocate for and support policy decisions which benefit the sustainability and growth of live performance in Australia.

SUMMARY OF RECOMMENDATIONS

In our submission, LPA provides key recommendations for reforming Australia's tax system.

1. **The primary tax reform priority for our industry is the adoption of a tax relief, or rebate scheme to encourage investment in live performance and stimulate local production.**

   Australia has a longstanding tradition of tax related production incentive schemes in the film and television industry, where they have had a significant and positive effect on production levels. A tax relief scheme for live performance has recently been adopted in the UK, and preliminary action has been taken to implement similar legislation in the United States. Without serious consideration of a similar scheme for our own live performance industry, Australia risks being left behind in what is now a global industry.

The implementation of such a scheme would encourage the creation of new Australian work, create jobs, stimulate touring both locally and internationally, and enable Australia's live performance industry to compete more effectively in the international market.

While it is too early to identify the correct form such a scheme should take, we believe the current tax discussion provides the appropriate forum to rigorously explore potential options, and identify the optimal scheme for our industry. This is discussed in detail in our submission. It should also be noted that LPA intends to commission more detailed analysis of potential investment incentive models for our industry.

2. **LPA supports in principle the taxation principles, objectives, and reforms advocated for by the Australian Chamber of Industry and Commerce (ACCI).**

LPA is a member of ACCI and broadly supports the responses set out in ACCI's draft submission to this discussion paper, which we have perused. In particular, LPA is supportive of ACCI's recommendations to:

- reduce the company tax rate to at least 25% (as also recommended by the Henry Review);
- reduce and eventually eliminate payroll tax; and
- raise the small business entity test threshold to $3 million in the immediate term, increasing to $5 million within two years, and applying indexation so that the threshold remains current moving forward.

We do not support ACCI's recommendation to remove Fringe Benefits Tax ("FBT") exemptions for certain Not-For-Profit ("NFP") entities, and instead support the view put forward by the Australian Major Performing Arts Group ("AMPAG") as set out below.

3. **We support in principle the submission provided by AMPAG in relation to tax issues that affect the Not-for-Profit Sector.**

LPA works closely with AMPAG, and the Major Performing Arts Companies ("MPAs") represented by AMPAG also form a crucial subset of our membership base. LPA has reviewed AMPAG's draft submission to this discussion paper and is broadly supportive of AMPAG's views as set out in that submission. AMPAG's submission is detailed, particularly in relation to provisions surrounding Deductible Gift Recipient ("DGR") status, and we defer to their greater knowledge and expertise in those areas.

Of particular note to LPA are AMPAG's recommendations to:

- adopt key measures recommended by Harold Mitchell in his 2011 report *Building Support: Report of the Review of Private Sector Support for the Arts in Australia*. LPA joins AMPAG in calling for the development of a matched funding scheme, and further modelling around tax deductions for testamentary giving to arts organisations;

- remove the requirement for Goods and Services Tax (“GST”) to be charged on charity auction transactions and fundraising events when the funds raised are eligible for DGR;

- simplify the application of GST to the sale of tickets;

- extend current FBT exemptions available to some NFP organisations, to all NFP organisations as a measure to attract and retain staff in a funding constrained environment;

- provide tax exemptions for income generated by NFPs through ‘commercial activity’ if that income must be used in pursuit of charitable purposes;

- exempt MPA’s from any prospective “In Australia” legislation (concerning the DGR status of charitable funds applied to international expenditure and activities), given the uncertainty and regulatory and administrative burden such legislation would create;

- refer all powers to regulate charities to the Commonwealth, to reduce the administrative burden for national NFP organisations operating in multiple state jurisdictions.

LPA would be pleased to liaise further with the Federal Treasury on issues raised in our submission affecting the sustainability of the live performance industry. We look forward to following the results of the Tax White Paper.

If you have any queries regarding our submission, or would like to discuss these issues further, please do not hesitate to contact us via the contact details below.

Yours sincerely,

Evelyn Richardson
Chief Executive

E erichardson@liveperformance.com.au
T 61 3 8614 2000

Cc: Senator George Brandis QC, Minister for the Arts

Enc: LPA Submission to the Re:think Tax Discussion Paper

LPA Submission to Re:think Tax Discussion Paper

EXECUTIVE SUMMARY

1. **LPA recommends a thorough process be undertaken to determine an effective tax based incentive scheme to simulate investment in the live performance industry.**

- The creation of cultural product represents a high risk investment, and does not attract significant private individual or institutional investment. At the same time, the production of new cultural product is important for social well-being and national identity, as well as having potentially significant economic benefits. Increased investment in the creation of theatrical cultural product would create jobs, stimulate touring both regionally and internationally, and enable Australia's live performance industry to compete more effectively in the international market.

- The need for tax based incentives to stimulate the production of cultural product has long been recognised by Government in relation to the Australian screen sector, which has enjoyed tax incentives of one kind or another since 1978. These have had a significant, positive and long-lasting impact on film production levels, production infrastructure and the skill level of local film industry practitioners. To date, the live performance sector has not enjoyed such benefits and production levels of new local theatrical work has suffered as a result.

- Research shows there is a strong market for theatrical product in Australia. Despite strong audiences and world-class creative and technical talent, production levels of new Australian work remains low and Australian theatre practitioners are frequently forced to head overseas to develop their careers.

- The performing arts market in Asia is growing strongly, and Australia currently risks losing market share of this potentially lucrative circuit to competitors from other territories.

- The UK has recently introduced a theatre tax relief scheme to encourage and support the production of theatrical work in the UK, and incentivise touring productions. This scheme was modelled on a tax relief scheme which already applied to the UK screen sector, and essentially amounted to an extension of that scheme to cover the live performance sector.

- A Bill has been introduced to the US Senate which would provide tax deductions for investment in US theatrical productions, nationwide. The legislation is modelled on an incentive scheme that already exists to encourage film production in New York.

- While Australia was once considered a top three touring destination by overseas producers, we now face increasing competition from Europe, North America, and Asia. We must remain internationally competitive in order to encourage overseas producers to establish offices and stage productions in Australia, employ Australians and encourage investment in production ventures by local producers that can tour across Australia and the world. At the same time there is a need to secure a sustainable future for Australian producers who are the source of production, employment, attendance and, in turn, growth in our local creative economy.

- Given the above factors, LPA believes it is appropriate to thoroughly explore potential tax based incentive schemes to stimulate investment in local theatrical product, and raise production levels.
- The introduction of such a scheme for live performance in Australia can both:

  (a) Avoid threats to our competitiveness – increasing international competition, particularly with tax relief schemes for live performance being introduced in competitive markets such as the UK and US, requires Australia to introduce tax measures that can ensure Australia remains competitive in this environment.

  (b) Promote opportunities for growth – encouraging investment opportunities in innovative productions within the live performance sector have the potential to spur creation of new game-changing productions here in Australia with vast international appeal.

- LPA does not currently propose a preferred model, although we are committed to further analysis and the timely adoption of an optimal policy response. We recognise that this is a significant and complex policy issue for our industry, which requires thorough analysis and economic modelling. We intend to commission that analysis over the coming months.

2. LPA supports in principle the taxation principles, objectives, and reforms as advocated for by the Australian Chamber of Industry and Commerce.

- In particular, LPA supports ACCI’s call to:

  - reduce the company tax rate to 25%;
  - reduce and ultimately eliminate payroll tax; and
  - raise the small business entity threshold to $3 million in the immediate terms, to $5 million in the next two years, and to apply indexation thereafter.

3. LPA supports in principle the submission provided by AMPAG in relation to tax issues that affect the Not-for-Profit Sector.

- In particular LPA supports AMPAG’s call to:

  - implement a matched funding scheme and explore testamentary giving provisions as advocated by Harold Mitchell in his 2010 review;
  - remove GST for charges on charity auctions and fundraising events;
  - simplify the application of GST to the sale of tickets;
  - extend FBT rebate arrangements currently available to eligible NFP organisations to all NFP organisations;
  - provide tax exemption for funds generated by NFPs though ‘commercial activity’ if those funds are to be used for charitable purposes;
  - exempt MPAs from any potential “In Australia” legislation; and
  - refer all powers to regulate charities to the Commonwealth.

LPA Submission to Re:think Tax Discussion Paper

INTRODUCTION

The Federal Treasury's commitment to identifying future directions for Australia's tax system that will encourage growth and opportunity is commendable.

On behalf of Live Performance Australia (LPA), we submit the key ideas for tax reform that we believe will drive extended growth and international competitiveness of Australia's vibrant live performance sector.

1. **We believe a key priority of Australia's tax reform regime should be to encourage investment, which in the live performance industry can be achieved through the introduction of investment incentives through the tax system.**

LPA is encouraged that the Tax Discussion Paper, particularly the chapter relating to General Business (p.73-104), prioritises the need for:

- an internationally competitive tax system that attracts higher levels of investment in Australia;
- and supporting innovation for creative ventures in the Australian economy.

Discussion Question 40 of the Tax White Paper (p.104) asks what other taxation incentives (apart from the R&D tax incentive) are appropriate to encourage investment in innovation and entrepreneurship.

There is a pressing need for the introduction of taxation incentives that promote innovation and risk-taking in the live performance industry, which can be achieved through the introduction of a specific live performance tax incentive scheme, intended to attract increased investment in our industry.

LPA does not seek to set out a definitive model in this submission, but instead examines potential options. To arrive at the optimal model for our industry, significant modelling and analysis will need to be undertaken. For example, it would be necessary to research whether a tax deduction for investment, or a rebate on incurred production expenses (or a mix of the two), would deliver the best result.

Both options are described below.

A TAX BASED POLICY MEASURE TO INCENTIVISE PRIVATE SECTOR INVESTMENT IN THE LIVE PERFORMANCE INDUSTRY

Cultural product – particularly the creation of new work - is necessary for the social well-being of any nation, and has particular relevance to national identity. Cultural product is the means by which we project our idea of ourselves, and shapes our international reputation. At the same time, cultural product is a high risk investment so is rarely considered by investment advisors or institutions. This creates a reliance on public sector funding, which is subject to strong competing pressures and has natural limitations.

LPA's soon to be released *Strategic Plan 2015-18* identifies the need to improve investment incentives as a Strategic Priority for the live performance industry. This is based upon an analysis of the current industry context, recognising future challenges that need to be strategically addressed for the long-term growth of the industry nationally.

The need to stimulate private sector investment in cultural product has long been understood in relation to film and television, and Australia has a thirty-five year history of tax-based policy measures to encourage investment in the screen sector. Over the decades, governments of all persuasions have backed these measures. It is generally understood that "*The Australian Government funds Australian screen content principally because it is considered culturally beneficial to the nation*."[1] At the same time, producers of theatrical cultural product lack access to such measures, and currently rely on their own networks to raise the capital necessary for theatrical productions.

Major productions, such as large-scale musicals, are frequently co-produced with international partners, who also have a significant investment stake. It is cost prohibitive for local producers to fund major productions on their own, and the successful production of original and unknown Australian work remains a significant challenge due to a lack of funding and the high cost of development. For example, only a handful of new Australian musicals are ever successfully produced. However, many more new and innovative Australian works would have the opportunity to succeed here and overseas with investment incentives.

There is no doubt that strong demand exists in the market. Over the past decade LPA has conducted an annual *Ticket Attendance and Revenue Survey* across the sector, which routinely finds that musical theatre is the second highest grossing sector of the industry, after contemporary music.[2] The 2013 survey, for example, found that musical theatre generated $193.3 million in ticket sales – yet most of these sales would have gone to large-scale international co-productions, with significant offshore investment (and therefore, offshore profits).

While Australia has the audiences and the creative and technical personnel to compete at the international level we currently lack private sector investment to develop our own work. It does not take a huge leap of imagination to envisage the impact that a locally developed Andrew Lloyd Webber, or Cameron Mackintosh could have – not just economically, but culturally. And where we have developed such talent, they have generally had to go overseas to find an outlet for their ability (Tim Minchin's work on the hit musical, *Matilda*, is a prime example).

Of course, musical theatre is not the only sector of the live performance industry that could benefit from an investment incentive scheme. Opera, ballet, classical music, contemporary dance, main-stage theatre, children's theatre, circus and physical performance could all benefit from the introduction of such a scheme. The need for investment capital to fund new work and promote touring is pressing across the industry.

This need is particularly urgent as the market expands significantly in Asia[3], and Australian companies compete for market share. For examples of the sorts of measures that may be adopted, we need only look to our own film industry, and to measures currently being adopted or proposed in the UK and USA.

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[1] Department of the Prime Minister and Cabinet, Office for the Arts, (February 2011), *2010 Review of the Australian Independent Screen Sector*, p. 1.

[2] The 2013 *LPA Ticket Attendance and Revenue Survey* found that contemporary music had a 42.5% market share of the live performance industry (in terms of revenue) while musical theatre had 13.1%. The previous year (2012) the figures were 40% and 16.9% respectively.

[3] For example, over the period 2005-2010, more than 20 new large scale opera houses and multi-purpose arts centres were built in China. Reference: Qiao, Luqiang (December 2010), "Spring Up Like Mushrooms: The burgeoning growth of China's performing arts centres", *Asia Pacific Journal of Arts & Cultural Management*, *7* (2), p 601.

TAX INCENTIVES IN THE FILM INDUSTRY

The Australian screen sector currently benefits from the Producer Offset (“Offset”), which was introduced in July 2007 as part of the Australian Screen Production Incentive (“ASPI”), a package of measures introduced to boost production levels in the industry.

An explicit aim of the Offset was to “*provide a real opportunity for producers to retain a substantial equity in their productions and build sustainable production companies”.*[4]

The Offset operates by providing a tax rebate of up to 40% for qualifying production expenditure on Australian feature films, and up to 20% for qualifying production expenditure on television programs. This allows producers to effectively borrow against a government guaranteed rebate, thereby retaining equity in the production. While the practical operation of the Offset is not without its complications, a 2012 report by Screen Australia, *Getting down to business: The Producer Offset five years on*, found:

> *“For features, average annual expenditure has risen from $141 million in the five years pre-Offset to $239 million in the five years since it was introduced, an increase of 70 percent.”* [5]

Prior to the Offset, the screen industry had benefited from the Division 10B (1978) and then Division 10BA (1981) schemes, which at their peak offered a 150% tax deduction on investment in qualifying projects, and tax exemption for the first 50% of profits earned. While these measures were perhaps overly generous (and were accordingly amended over time) there is little doubt that the 10BA scheme had a significant, positive and long-lasting impact on film production levels in Australia, drawing exclusively on private sector capital to do so.

The Screen Australia report found:

> “*With 10BA the private sector became the primary financier of Australian film and television production. In the first eight years, 10BA drove an almost doubling of production levels to an average of $120 million worth of film and television projects annually. The period 1981 to 1989 also witnessed an average market share of 12.4% for Australian films at the local box office. The boom in both film and television production enabled formats such as mini-series to become viable and provided capacity-building infrastructure, the development of world-class practitioners and crews, and a globally competitive post-production sector.”* [6]

Although causation is multi-faceted, when one considers that the average market share for Australian films at the local box office currently sits at around 2%-5% (dropping as low as 1.3% in 2004)[7], there is a strong argument to suggest that the 10BA was an extremely successful measure, at least in terms of stimulating local production and, ultimately, engaging Australian audiences with locally made cultural product.

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[4] Explanatory Memorandum of the Tax Laws Amendment (2007 Measures No.5) Bill, 2007.
[5] Screen Australia, *Getting down to business: The Producer Offset five years on*, 2012, p 3.
[6] Screen Australia, *Getting down to business: The Producer Offset five years on*, 2012, pp 17 -18.
[7] http://www.screenaustralia.gov.au/research/statistics/boxofficeaustralianshare.aspx

Another, less successful, tax based incentive to encourage private investment in film was the Film Licensed Investment Company ("FLIC") Scheme, which was originally piloted in 1999. Under this scheme, investors received 100% tax concessions for purchasing shares in a FLIC, and the FLIC in turn would invest in qualifying Australian programs. A benefit of this scheme is that investment risk would then be spread across a slate of programs. Two licensees were appointed under a pilot scheme in 1999 (Content Capital Ltd and Macquarie Film Corporation Ltd), although collectively they could only raise $22.4 million out of the $40 million allowed under the two licenses. Nonetheless, the FLIC schemes did provide capital for several films including *The Bank*, *Dirty Deeds*, *Crackerjack* and *The Nugget*. A second FLIC scheme was announced in 2005 (to be managed by Mullis Capital Film Licensed Investment Company), but failed to meet its investment target.

Despite the relative failure of the FLIC schemes, the Offset and the 10BA schemes both provide strong evidence that tax based investment incentives can have a profound impact on production levels, and play a powerful role in directing private sector capital into the creation of cultural product. Tax based measures undertaken for the Australian screen industry since 1978 are certainly worth examining, when considering how to encourage private sector investment in Australian theatrical cultural product.

INTERNATIONAL PRECEDENT – THE UK

In the UK, the Theatre Tax Relief, part of the Finance Act 2014 ("Act") came into effect on 1 September 2014, with further details on the operation of the relief to be published in Her Majesty's Revenue & Customs ("HMRC") Regulations.

The stated policy aim of the relief is "*to encourage and support UK theatre producers to continue to develop and to specifically incentivise touring productions.*" [8]

The Act defines theatrical productions so as to include plays, operas, musicals, ballets, circus performances (providing no animals are used), and any other dramatic piece (whether or not involving improvisation), subject to certain conditions. For example, performances with the primary purpose of advertising or promoting goods or services, or to facilitate or competition or contest - or where the production is of an exclusively sexual nature - do not qualify.

In broad terms, the theatre tax relief scheme provides that:

- A production company is entitled to claim 20% of its total qualifying pre-production costs for non-touring productions, and 25% for touring productions.
- Both commercial and publicly-funded productions are eligible and can benefit from the scheme, as trading subsidiary arrangements effectively enable not-for-profit organisations to access the scheme.
- The relief applies to dramatic productions, including plays, opera, musicals, ballet, circus, and other dramatic pieces. In December 2014 it was announced that the relief would be extended to orchestras at a flat rate of 25% for all qualifying expenses, although that legislation is yet to be drafted.

[8] HM Treasury, *Theatre tax relief: Consultation*, March 2014, p 5.

It is estimated that the tax relief may benefit around 325 UK production companies a year in support of a wide variety of theatrical productions.[9]

In the foreword to a March 2014 consultation paper, George Osborne MP, Chancellor of the Exchequer wrote:

> "*The UK is home to some exciting and innovative theatre companies producing ground breaking new productions. It's crucial that these continue to thrive across the UK.*
>
> *I want to make sure our theatre producers and performing arts can continue to entertain and capture audience's imaginations, not just in London's West-End but in our regional theatres."* [10]

It is worth noting that the measures were directly modelled on pre-existing schemes in the UK screen sector:

> "*At Budget 2014 I announced that I am extending the idea behind our successful creative sector reliefs to theatre productions*.
> …
> *Our creative sector reliefs have shown how targeted support can make a real difference not only in terms of promoting economic activity, but also in terms of promoting British culture and the way the UK is viewed internationally. These schemes have been highly successful.*
> …
> *Like the other creative sector reliefs our aim is to provide a generous support that encourages investment in production in a way that ensures the sustainability of our theatre and live performance in the UK."* [11]

Indeed, the same consultation paper later states:

> "*Since its introduction in 2007, direct employment within the sector has almost doubled and 1,050 film productions have made 1,900 claims, for a total of 1.1 billion pounds. With the aim of building on the success of the film tax relief, the Chancellor set out new corporation tax reliefs for the animation, high-end television and video games industries at Budget 2012. These creative sector tax reliefs aim to promote the sustainable production of culturally relevant products. This relief develops this model to provide targeted support for theatre production."* [12]

Although it is too early to assess the impact of the theatre tax relief provisions in the UK, they do provide another potential model to examine when considering our own live performance industry. They also provide a clear policy precedent for the extension of film industry style tax based incentives into the live performance industry.

[9] HM Treasury, *Theatre tax relief: Consultation*, March 2014, p 25.
[10] HM Treasury, *Theatre tax relief: Consultation*, March 2014, p 3
[11] HM Treasury, *Theatre tax relief: Consultation*, March 2014, p 3
[12] HM Treasury, *Theatre tax relief: Consultation*, March 2014, p 5

INTERNATIONAL PRECEDENT – THE USA

The UK Government is not the only one to have recognised the need to remain competitive. Draft legislation is currently being considered by the US Senate which would allow a 100% deduction for investment in live performance by the investor from their income in the year of the investment. This is intended to deepen the pool of interested investors in commercial theatrical productions, and is similar to the 10B/10BA schemes which applied to the Australian film industry, from 1978 to 2007. The bipartisan Bill is titled Support Theaters in America Growth and Expansion Act ("STAGE Act").

It is worth noting that the STAGE Act is not the first proposal for tax based incentives to drive theatrical investment in the US, which has a legacy of state based incentives. 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, so are more similar to the UK theatre tax relief scheme than they are to Australia's former 10B/10BA schemes for film. The US state based incentives are also relatively recent. With the exception of Louisiana, (where the measure was first introduced in 2007), they all date from 2011 onwards.

The STAGE Act was originally introduced by New York Democratic Senator Charles Schumer in March 2014, but did not progress beyond the Senate Finance Committee. Schumer's co-sponsor, Republican Senator Roy Blunt introduced a new bill with the same content on 4 February 2015, and it has again been referred to the Senate Finance Committee.

Senator Schumer remains the primary driver of the STAGE Act, and stated in a February 5 2015 press release:

> *"Live theater must be offered the same federal tax incentives as those afforded to television and film productions, and I am urging my colleagues to give its regards to Broadway by passing the STAGE Act!"*[13]

As alluded to in Schumer's statement, the STAGE Act essentially seeks to apply existing measures for New York based film and television productions to commercial stage productions across the U.S. Although the measure would have Federal application Schumer's rhetoric has been very Broadway focused, and has emphasised equity, competitiveness and employment:

> "*New York is home to the culture and entertainment capital of the world, but without critical tax incentives, many production companies are moving elsewhere. The STAGE Act will finally put an end to disparate tax treatment in the entertainment industry, which will mean more shows on Broadway, more jobs and more investment in and around the Great White Way.*"[14]

The UK theatre tax relief intensifies competition between the West-End and Broadway, and, as has been noted by elements of the US press[15] , this may give further impetus to the STAGE Act.

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[13] The Broadway League, *Press Release: Schumer pushes bipartisan legislation to provide Broadway and live theatre with same tax break as film & tv productions*, February 5 2015.

[14] The Broadway League, *Press Release: Schumer pushes bipartisan legislation to provide Broadway and live theatre with same tax break as film & tv productions*, February 5 2015.

[15] "*London's West End, in particular, is the great rival of New York stages. For producers, the West End has always been an attractive place to raise the curtain on important new productions, some of which finds their way to Broadway just as many*

With Governments abroad seeking to make their creative markets more attractive for the development of theatrical productions, Australia must be able to do the same to remain competitive. If not, we risk the flight of producers out of Australia to develop work in countries where investment incentives and returns are more attractive. Furthermore, touring theatrical productions in overseas markets will become increasingly difficult. Australia has some of the most expensive productions in the world to present, and many international presenters are already finding Australian works unaffordable to stage. If comparable companies can offer even cheaper productions, supported by increased returns from a tax relief scheme, Australian companies will be pushed further out of an already tough international touring market.

While Australia was once considered a top three touring destination by overseas producers, we now face increasing competition from Europe, North America, and Asia. We must remain internationally competitive in order to encourage overseas producers to establish offices and stage productions in Australia, employ Australians and encourage investment in production ventures by Australian producers that can tour across the world.

CREATIVE TAX REFORM

The Tax Discussion Paper states the challenges we face *"invite us to think creatively about the kind of tax system that will enable us to better realise the opportunities before us*" (p.1), and it is by this sentiment that LPA presents the need to introduce a new and supportive tax scheme to encourage increased private sector investment in - and production of - theatrical cultural product.

We need to secure a sustainable future for Australian producers who are the source of production, employment, attendance and, in turn, growth in our creative economy.

This submission does not nominate a particular model of tax incentive, as we believe it is too early to do so. LPA believes that a range of options should be considered and examined, ranging from measures that are currently or have historically been applied in the Australian screen sector, to measures that have recently been introduced in the UK, to those currently in action or proposed in the US.

There should be a rigorous process to determine the optimal scheme – or mix of schemes - for our local live performance industry, given the unique pressures that it faces. LPA strongly believes that this is a process worth pursuing. The benefits of a well targeted policy response could be immense, both in economic and cultural terms.

The introduction of such a scheme for live performance in Australia can both:

- **Avoid threats to our competitiveness** – increasing international competition, particularly with tax relief schemes for live performance being introduced in competitive markets such as the UK and US, requires Australia to introduce tax measures that can ensure Australia remains competitive in this environment.

Broadway productions ultimately find their way to London. But a recent UK tax credit makes the option of starting out across the Atlantic all the more enticing." Reference: Capital New York, *The great tax-credit grab*, Kelly Weill, March 9 2015 (http://www.capitalnewyork.com/article/media/2015/03/8563016/great-tax-credit-grab)

- **Promote opportunities for growth** – encouraging investment opportunities in high risk innovative productions within the live performance sector have the potential to spur creation of new game-changing productions here in Australia with vast international appeal.

2. **LPA supports in principle the taxation principles, objectives, and reforms as advocated for by the Australian Chamber of Industry and Commerce.**

LPA is a Member of the Australian Chamber of Industry and Commerce (ACCI), and as an industry body we support ACCI's stance for a tax system that assists Australia's competitiveness and entrepreneurship, particularly as it applies to our sector.

Of particular note in ACCI's submission, we support:

- <u>Reduction of the company tax rate to at least 25%</u>

  ACCI notes that the Henry Tax Review extensively outlined a rationale for a reduction in the company tax rate to 25%, primarily on the basis that to do so would encourage foreign investment and spur economic growth. LPA supports ACCI's recommendation to reduce company tax, noting that the current top corporate tax rate of 30% (for companies with a turnover of over $2 million) is higher than existing rates in countries with which Australia competes for investment.

- <u>Reduction and eventual elimination of payroll tax</u>

  LPA supports ACCI's longstanding call for the eventual abolition of payroll tax. We share ACCI's view that payroll tax represents a significant cost of doing business and a disincentive for growth - as well as negatively impacting competition, owing to complexity and differences in payroll tax systems between varying state jurisdictions.

- <u>An increase in the small business entity test threshold</u>

  The small business test threshold should keep pace with economic change, and we support ACCI's recommendation to immediately raise the current $2 million threshold to $3 million, and further increase the threshold to $5 million within two years. In addition, an indexation arrangement should be implemented to ensure the threshold remains current. This would ensure that appropriate concessions remain accessible to small businesses.

3. **LPA supports in principle the submission provided by the Australian Major Performing Arts Group (AMPAG) in relation to tax issues that affect the Not-for-Profit Sector.**

LPA supports the detailed response to the Tax Discussion Paper by the Australia Major Performing Arts Group (AMPAG) that accurately identifies tax priorities of the Not-for-Profit organisations in Australia's live performance industry – particularly in relation to rules surrounding Deductible Gift Recipient ("DGR") status.

Of particular note in AMPAG's submission, we support:

- The adoption of key measures recommended by Harold Mitchell in his 2011 report *Building Support: Report of the Review of Private Sector Support for the Arts in Australia* ("Mitchell Review")

  Of the various measures proposed in the Mitchell Review, AMPAG has highlighted a matched funding scheme, and testamentary giving to arts organisations.

  In relation to matched funding, the Mitchell Review found:

  > *"If the commitment of government to fund particular arts organisations is an important sign of faith and confidence in arts fundraising activities, the task then is to put in place incentives that can create some leverage whilst also encouraging new support. Consultations throughout the Review consistently pointed towards a matched funding program as a strong incentive for these purposes."*[16]

  The Mitchell Review recommended that funds be provided over a two-year period, for the purpose of building core endowments ($10 million) and attracting new individual and corporate donors ($5million).

  In relation to testamentary giving, the Mitchell Review recommended that:

  > *"The Australian Government introduce the capacity for private donors to provide a cash gift through their will to an arts organisation, and to receive an immediate taxation benefit to the present value of the gift."*[17]

  While acknowledging this is a difficult and complex policy to implement (as did the Mitchell Review), LPA supports AMPAG's call for more modelling to be undertaken as to how such a scheme may work.

- GST exemption for charity auction transactions and fundraising events when the funds raised are eligible for DGR

  AMPAG correctly highlights that the treatment of amounts paid for fundraising events such as charity dinners for income tax purposes is inconsistent with the treatment of the same amounts for GST purposes. We support AMPAG's recommendation that GST laws be amended so that amounts eligible for income tax deductions as gifts should also be treated as gifts under GST law, and not subject to GST.

[16] Harold Mitchell, *Building Support: Report of the Review of Private Sector Support for the Arts in Australia*, October 2011, p 24.
[17] Harold Mitchell, *Building Support: Report of the Review of Private Sector Support for the Arts in Australia*, October 2011, p 23.

- <u>Simplification of the application of GST to the sale of tickets</u>

  The application of GST to ticket sales is unnecessarily complex and creates an administrative burden for arts companies. We support AMPAG's recommendation for a simpler, more flexible approach to be adopted - potentially on a 'supply-by-supply' basis.

- <u>Extension of FBT exemptions available to some NFP organisations, to all NFP organisations as a measure to attract and retain staff in a funding constrained environment</u>

  FBT concessions are currently used by eligible NFP's to attract and retain employees in a competitive labour market, and to compensate for funding shortfalls in the NFP sector. While ACCI calls for a removal of these concessions, LPA supports AMPAG's call for an extension of the concessions to all NFPs, as a reasonable step to improve the competitiveness of NFPs in the labour market. This would include NFPs in the cultural sector.

- <u>Tax exemption for income generated by NFPs through 'commercial activity' if that income must be used in pursuit of charitable purposes</u>

  If under constituent documents an NFP organisation is required to utilise income generated through commercial activity for charitable purposes, then LPA supports AMPAG's view that such income should be exempt from taxation.

- <u>Exemption for MPAs from any prospective "In Australia" legislation</u>

  LPA has supported AMPAG's view on this matter in previous submissions, and remains supportive of the view that if "In Australia" legislation is introduced to cover the DGR status of donated funds used for international activities, then MPAs should be exempt from that legislation. Such legislation would create a significant compliance burden for little benefit – and potentially damage an MPA's brand reputation in the event of inadvertent non-compliance.

- <u>Referral of all powers to regulate charities to the Commonwealth</u>

  AMPAG points out that many MPAs operate across states, (for example, Circus Oz, Musica Viva and the Australian Chamber Orchestra), and there is a significant burden in fundraising in different states, and complying with varying reporting requirements. Accordingly, we support AMPAG's recommendation for states to refer powers to regulate charities to the Commonwealth – whilst noting AMPAG's view that such a referral is possibly unlikely, and is at best a long term goal.