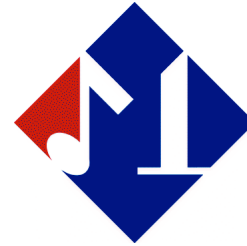


Administration
MBE 148/45 Glenferrie Road
Malvern, Vic 3144
Phone: 03 9507 2315
Fax: 03 9507 2316
Email: admin@mca.org.au
Website: www.mca.org.au
ABN 85 070 619 608

Executive Director
Tel: +61 (0)2 9251 3816
Fax: +61 (0)2 9251 3817
Email: mca@mca.org.au

Music. Play for Life campaign
Tel: 02) 4454 3887 or 0439 022 257
Email: tina.mpfl@mca.org.au
Website: www.musicplayforlife.org

Australia's representative to the International Music Council



Music Council of Australia

Hon Simon Crean MP
Minister for Trade
Commonwealth of Australia
March 19, 2010

Dear Minister

RE: TRANS-PACIFIC PARTNERSHIP FREE TRADE AGREEMENT

Concerning the negotiation of the Trans-Pacific Partnership Free Trade Agreement with Australia, New Zealand and the USA as partners along with a number of other nations, you are quoted in the *Sydney Morning Herald* of March 16 as saying that "We approached this on the basis that everything is on the table. No exclusions..." Your office later clarified the government's stance on investor-state dispute settlement provisions, so we are relieved to discover that its intentions may not be quite as all-embracing as you had indicated.

The long bipartisan agreement that Australian culture requires government support by subsidy and regulation has been strongly evident in government policies in the negotiation of free trade agreements. These essentially have sought the exclusion of culture in order that the Australian government is unfettered in the nature of its support to Australian culture. The agreement with Singapore is a classic and satisfying instance.

However, there have been two exceptions. You would be aware of the curious problems with CER and Australian television content but these probably were inadvertent and a result of lack of foresight in the drafting. Much more importantly, while the Howard government had consistently supported the cultural carve-out, it regrettably partly abandoned its previous cultural

priorities in the agreement with the USA, in return for some very modest agricultural concessions. The consequent limitations on the government's cultural sovereignty have the potential to be very damaging to Australian audiovisual and musical production. It should be noted that the agreement with the US to subject local content quotas on Australian broadcast media to cap and ratchet provisions, and to place serious obstacles in the way of regulation of interactive media, becomes in effect an agreement with the world. There is no point in negotiating a lighter constraint with another country. However, heavier constraints negotiated in the TPPFTA, urged by the USA, also become agreements with the world.

Multilateralising the cultural provisions of CER or AUSFTA in TPPFTA or other agreements would further normalise and embed them and make future modifications even more difficult.

The Rudd government last year acceded to the UNESCO Convention for the Protection and Promotion of the Diversity of Cultural Expressions. The initial and primary motivation for the development of this Convention was to offer governments a normative instrument for use in trade negotiations in which they were being pressured to surrender their cultural sovereignty. The Convention was adopted by the UNESCO General Conference 148 to 2, with 4 abstentions, Australia shamefully being one. The US campaigned vigorously against the Convention and the opposition clearly was organised by the US. There was overwhelming international dissatisfaction with the US's views and activities as seen in the vote. Your government's accession to the Convention puts Australia's conduct to rights, but it would be a hollow agreement if you were then to put culture on the table in the negotiation of the Trans-Pacific Partnership FTA.

The effect of subjecting cultural policy to free trade agreements is that Australian cultural life may then be circumscribed at government level by the trade ambitions of another country. That is totally inappropriate. Australia cannot pay that country to produce Australian culture. Only we can create our culture and we need, with government support, to sustain the space in which that can happen.

If it costs say six times as much to produce an hour of Australian television drama as to rent an hour of drama from the USA, as we are informed by our film colleagues, it is only by the government imposing local content quotas on television (or subsidising local production) that local broadcasters will produce and tell Australian stories. Commercial radio has been attempting to terminate the Australian music content quota and there is abundant cause to believe that without a quota, it would end or greatly diminish the broadcast of Australian music. (No performance royalties are paid on the broadcast of US recordings.) Without those broadcasts, the viability of the Australian recording industry would be further threatened because broadcasts still influence sales. Without the recording industry we lose export sales which though modest, have good prospects of growing.

It is essential that the government

- Maintains a comprehensive cultural reservation in all negative list agreements
- Makes no cultural commitments in positive list agreements
- Does not multilateralise cultural concessions made in AUSFTA and CER.

The Music Council further proposes the renegotiation of AUSFTA to remove all cultural matters from its purview.

The Music Council of Australia seeks your reassurance in these matters.

Yours sincerely

Dr Richard Letts AM

Executive Director

The Music Council of Australia is the peak national music organisation and has 50 members drawn from the breadth of the music sector. It is the Australian representative to the International Music Council, based in UNESCO, Paris.