

28 September 2025

Committee Secretary
Environment and Communication References Committee
Department of the Senate
Parliament House
CANBERRA ACT 2600

Attention: Mr Tas Larnach

By email: ec.sen@aph.gov.au

Dear Mr Larnach

Inquiry into the National Cultural Policy | confirmation of appearance at hearing

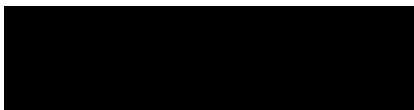
Further to your invitation, I am pleased to confirm that I will be attending the hearing on Tuesday, 30 September 2025.

Mindful of the matters relevant to the terms of reference which are of particular interest to the Committee¹, I wish to provide to the Committee the following relevant submissions recently made by AMPAL, which are attached to this letter:

1. AMPAL submission dated 8 August 2025 to the NSW Government in relation to **cultural tax reform**; and
2. AMPAL Submission dated 15 September 2025 to the Productivity Commission in relation to **artificial intelligence**.

I look forward to appearing at the hearing.

Yours sincerely



DAMIAN RINALDI
Chief Executive Officer, AMPAL

¹ As stated on https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Environment_and_Communications/NCP48P

8 August 2025

Cultural Tax Reform Consultation Panel
NSW Department of Premier and Cabinet

Dear Colleagues

AMPAL'S SUBMISSION TO THE CULTURAL TAX REFORM CONSULTATION

The Australasian Music Publishers' Association Limited (AMPAL) welcomes the opportunity to contribute to the NSW Government's Cultural Tax Reform consultation.

AMPAL represents over 50 music publishing companies across Australia and New Zealand, responsible for licensing, promoting and protecting the works of songwriters and composers. Our members range from major global publishers to local independents, and collectively, they support the development of thousands of Australian music creators.

While music publishing often happens behind the scenes, it is the business engine behind our nation's songwriters - powering royalties, international licensing, creative collaboration and global export of Australian culture. But our industry also faces unique challenges that well-designed cultural tax reform could help address.

We believe this consultation is a critical opportunity to create a tax framework that encourages investment in Australian music, supports cultural IP as an export and makes NSW (and Australia more generally) more competitive on the world stage.

AMPAL's Position

We commend the NSW Government for leading this important discussion, and would encourage its continued, close engagement with the music publishing sector.

AMPAL offers this submission to:

- propose key areas where tax reform could significantly boost investment in Australian music publishing;
- encourage tax settings that reflect the global, export-driven nature of music IP; and
- share practical reforms to remove uncertainty, reward investment and build capacity across the creative ecosystem.

We also encourage music publishers, songwriters and rights organisations to contribute individual submissions to help build momentum and national alignment on these issues.

Recommendations

1. Recognise music publishing as an export industry

Music publishing is a high-potential creative export industry. Many Australian publishers already earn a majority of their income from international sources, and many of the most successful Australian songwriters have their works exploited primarily overseas.

Proposal:

Formally recognise music publishing as an export industry within tax and cultural policy. This would open the door to existing and future export-focused support schemes.

Impact:

- Helps music publishers access export incentives
- Signals music IP as a key cultural export
- Positions Australia as a global player in copyright generation and services

2. Introduce tax relief for investment in songwriters and global promotion

Publishers often take on the financial risk of investing in the careers of Australian songwriters. This can include advances, co-writing trips, conferences, international showcases, production costs, and more. These investments are vital – but they're made with no guarantee of return.

Proposal:

Introduce a targeted export investment tax offset for music publishers who invest in Australian songwriters' international careers.

- Could be modelled on successful screen production rebates
- Eligibility tied to global showcasing, collaboration or licensing activity
- Distinct from cash royalty advances, directly related to costs such as flights, accommodation and other travel expenses, studio, venue, and equipment hire

Impact:

- Rewards proactive investment in Australian creators
- Strengthens local A&R and global marketing activity
- Helps creators compete on the global stage

3. Introduce a 125–150% deduction for royalties paid in advance (under \$250k)

Advances (along with other recoupable expenses) are one of the most important tools publishers use to invest in songwriters. They provide creative and financial support – especially early in a writer's career – and are paid out before royalties are earned.

Proposal:

Allow a super deduction (125–150%) for royalties paid in advance to songwriters who are currently in-term with a publisher, for amounts under \$250,000 (noting that France introduced a somewhat similar scheme specifically for music publishers in 2022, using tax credits – refer Article 220 septdecies of the French General Tax Code).

- Targeted at real-time investment in creators (not catalogue acquisition)
- Capped to ensure impact is directed to emerging/working writers

Impact:

- Drives private investment in Australian songwriters
- Creates more opportunities for early-career talent
- Encourages publishers to take greater creative risks

4. Apply FBT exemptions for music and arts businesses

Music publishing is a relationship-based business – and it operates in unique ways. Networking, live performances, artist development meetings, showcases, and hospitality are part of how this business works.

Removing Fringe Benefits Tax (FBT) from the cost of doing business would allow music publishers to more effectively build relationships and devote more financial resources to doing so.

Proposal:

Introduce an FBT exemption for registered music and creative businesses based on ANZSIC codes, to:

- Remove uncertainty in assessing business vs. entertainment
- Free up activity-driven spending (which is often reinvested anyway)
- Support cultural business development without unintended tax penalties

Impact:

- Reduces compliance risk and administration
- Supports the collaborative nature of the music industry
- Unlocks more spending that directly supports cultural outcomes

5. Simplify tax treatment of music grants and subsidies

Most cultural and music grants are project-based, not profit-based. They exist to subsidise important activities like touring, international travel, or professional development. However, taxing them as income undermines their intent and creates disproportionate burden for creators and small businesses.

Proposal:

Treat music grants as non-assessable income for tax purposes – or allow clearer offsets.

Impact:

- Increases effectiveness of grant funding
- Reduces administrative and compliance costs
- Encourages uptake and delivery of public-funded cultural activity

6. Reform withholding tax on copyright royalties

Royalty flows are global and Australia has an opportunity to be a regional hub for rights management. However, current withholding tax settings make it less attractive for international publishers to route licensing via Australia through digital and sub-publishing agreements.

Proposal:

Prioritise bilateral tax treaty reform to mutually reduce or eliminate inbound and outbound withholding tax on copyright royalties, particularly with major partner countries and those with significant cultural proximity and exchange.

Impact:

- Makes Australia more competitive for regional and global rights administration and licensing business
- Provides a boost in cash flow to domestic publishers and writers exporting their work
- Retains and grows skilled jobs in the creative services sector

7. Strategic support of live music through tax incentives

Live music has always been a breeding ground for domestic talent and plays an important part in the development of artists and songwriters. There are numerous different taxes applicable to live music venues where relief would be welcomed.

Proposal:

Consider providing relief to small and medium capacity venues with consideration provided to the following tax policies:

- Making admission to live performances at small and medium capacity venues GST free
- Providing incentives to landlords to provide space to creative industry tenants, including those providing for live music performances, such as reductions in land tax, council rates and accelerated or immediate capital expense deductions
- Exemptions to payroll taxes for staffing at small and medium capacity venues with live music performances
- Exemptions or rebates on other excises and duties affecting live music venues such as alcohol excises, WET and stamp duties on insurances

Impact:

- Supports live music operators with immediate cash incentives
- Helps stimulate touring and local performance
- Can be more directly targeted than broader venue offsets

8. Consider partial income tax exemption for royalty income

Supporting the generation of new Australian music could be further incentivised by rewarding those who create it.

Proposal:

Introduce a partial income tax exemption or offset of royalty income for songwriters and/or publishers on newly created Australian works up to \$50,000 which then shades out above that threshold.

Impact:

- Encourages creators to retain and exploit their IP locally
- Provides support at the most financially vulnerable career stage
- Stimulates creation of export-ready cultural content

9. National collaboration and alignment

Tax reform will have its greatest impact when aligned across jurisdictions. NSW's leadership in this space is vital – but must link into national reform efforts, including:

- Federal tax reform and Treasury consultation
- Music Australia's industry support programs
- Austrade's cultural export strategies

Proposal:

Establish a national cultural tax reform working group with state, federal and industry representatives to ensure consistency and momentum.

Conclusion

AMPAL believes that targeted, well-designed tax reform can drive a powerful wave of private investment into Australian music publishing – supporting songwriters, strengthening exports and ensuring Australia retains ownership of its cultural IP.

AMPAL and its members are ready and willing to collaborate on building a tax system that reflects the realities of today's music industry and helps it thrive in a global future.

We thank the NSW Government for initiating this important process.

Yours sincerely

DAMIAN RINALDI
Chief Executive Officer, AMPAL

**Submission to the Productivity Commission
Harnessing Data and Digital Technology Interim Report**

**Australasian Music Publishers' Association Limited (AMPAL)
15 September 2025**

"Songwriting is the product of years of skill, craft and investment. Australian songwriters deserve the same recognition and protections in the AI era as they have earned across every other platform. Without this, the next generation of artists and writers are compromised and may never have the chance to turn their talent into a sustainable career. For a homegrown independent company like Mushroom Music and the wider independent sector, the impact of a text and data mining exception would be devastating. It threatens the future of songwriting, destroys industry careers and Australia risks losing its creative soul."

Linda Bosidis, Co-CEO, Mushroom Music

About AMPAL

The Australasian Music Publishers' Association Limited (AMPAL) represents more than 50 music publishing companies across Australia and New Zealand. Our members range from major global publishers to small independents, but they all share one purpose: to protect, promote and license the work of songwriters and composers. Music publishers invest in songwriters, both economically (including advances, royalties and other payments) and more holistically in the way they work with songwriters creatively, and are committed to developing their export potential. Collectively, our members help thousands of Australian creators earn a living and take their music to the world.

Introduction

Music publishing might happen behind the scenes, but publishers turn songs into royalties, build collaborations and connect Australian music with international audiences.

The Commission's interim report rightly highlights the potential of data and digital technology. Regrettably though, its proposals around a text and data mining (TDM) exception risk undermining the very copyright framework that enables songwriters and composers to thrive.

For AMPAL, the solution is simple: **licensing**. From downloads to digital lyrics, from streaming to social media UGC music use, it's how every major technological progression in music has been effectively resolved, and it ensures innovation goes hand-in-hand with fair reward for creators. A copyright exception should only ever be entertained by the legislature when all good faith efforts by users (such as tech companies) to procure a licensing solution with owners have failed – and we are nowhere near that point in time yet.

AMPAL Endorses Submissions of ICMP and APRA AMCOS

AMPAL is a member of the International Confederation of Music Publishers (ICMP), which is the international peak body for music publishers and national music publisher associations such as AMPAL. ICMP's separate submission has been prepared in collaboration with AMPAL, and AMPAL fully supports and endorses ICMP's submission.

AMPAL's members are also members of the collective licensing bodies known as APRA AMCOS, which bodies administer the performance and mechanical (reproduction) rights of AMPAL's music publisher members and their songwriters and composers. AMPAL likewise fully supports and endorses APRA AMCOS' submission.

In addition to supporting and endorsing these submissions, AMPAL also wishes to highlight certain other factors for the Commission's benefit and consideration.

Threshold Issues to Consider

While AMPAL notes Commissioner King's comment (made during the Commission's webinar of 11 August 2025) that a TDM exception has been flagged not as a recommendation but merely as a suggestion or proposal, AMPAL would nevertheless caution the Commission on two significant threshold issues which may rule a putative TDM exception out.

Threshold Issue #1: Constitutional Validity

AMPAL believes that the introduction of a TDM exception would likely violate section 51(xxxi) of Australia's Constitution, rendering such an exception unconstitutional.

The High Court of Australia, in a 2012 decision relating specifically to music industry matters¹, considered this very point, stating that “[t]he economic impact of any new exception to infringement on a subsisting statutory monopoly, and the public interest to be served by the creation of a new exception to infringement, may affect the question of whether any acquisition of property which the new exception effects will attract the guarantee in s 51(xxxi)”².

In AMPAL's view, the displacement of value and control resulting from a TDM exception (i.e. diminution of copyright owners' rights, and the corresponding “gain” conferred on tech companies no longer requiring owners' permission) amount to an “*acquisition of property*”. Without compensation, it would almost certainly fail to be “*on just terms*”, and consequently, the Commonwealth Government would lack the constitutional power to enact such a legislative change.

AMPAL reminds the Commission that, in 2005 when performer's copyright was introduced into the *Copyright Act 1968* (Cth) to comply with Australia's treaty obligations, great care and effort was taken by the legislature to craft a new ownership regime that would not lead to an “*acquisition of property*” other than “*on just terms*”.

Threshold Issue #2: TRIPS “Three-Step” Test

Even if the obstacle of constitutional validity could be overcome, the legislature would also need to satisfy the requirements of the “three-step” test (with which Australia is obliged to comply due to its obligations under TRIPS article 13), namely, that the exception is a “*special case*”, “[*does*] not conflict with a normal exploitation of the work”, and “[*does*] not unreasonably prejudice the legitimate interests of the right holder”.

It is the last of these which AMPAL believes would pose the biggest of all obstacles to the three-step test being satisfied when introducing a TDM exception. Diminishing or removing rightsholders' control goes beyond merely negating their ability to obtain fair economic value for their works – it also disempowers rightsholders of creative control over uses of those works of which they are the trusted custodians of behalf of the creators.

¹ Phonographic Performance Company of Australia Limited & Ors v. Commonwealth of Australia & Ors ([2012] HCA 8).

² Ibid, at [110].

Those who counterargue may posit that existing moral rights (and emerging ICIP) legislative provisions provide some balance for creators. However, it is easily foreseeable that, in the real world, a modestly-resourced creator seeking to assert those rights will be no match for a well-resourced tech company incentivised to systematically invoke the TDM exception as a business model. When viewed through this lens, it is difficult to believe that the legitimate interests of rightsholders and creators will not be unreasonably prejudiced, thereby failing to satisfy the three-step test.

Why Licensing, Not Exceptions

From downloads through to streaming, voluntary licensing has regularly been the bridge between technology and music creators. It encourages innovation while making sure songwriters and music publishers are paid. Removing the opportunity for licensing from the equation, by creating an extensive TDM exception, tips the balance unfairly, giving tech companies free rein while stripping value from music publishers and songwriters, denying them appropriate compensation for exploitation of their works.

With music invariably being the “canary in the coalmine” whenever a new technological development hits (due to the comparatively smaller digital file size of music products versus audiovisual and other creative content), the international music industry has a well-earned reputation for devising innovative licensing solutions that have allowed new formats to flourish, often serving as a model for other creative industries, including film, TV and games. This has been achieved even against an all-too-common backdrop of unauthorised uses which predate the licensing deals which are eventually struck. If there is a mutually viable business model in there somewhere, the music industry finds a licensing solution.

Of course, licensing is a bargaining process and therefore requires two willing participants – licensor and licensee. In this regard, it is disappointing that there has been little (if any) sign of tech players genuinely seeking licences in Australia, particularly given the unauthorised large scale ingestion of musical compositions for training purposes which ICMP has studiously documented in its submission. Rather, by pursuing a TDM exception, Australian tech industry figureheads such as Scott Farquhar (Tech Council of Australia chair) seem intent on moving the long-established goalposts – goalposts that are fundamental to the investments made by music publishers, particularly Australian independents who may not have an international catalogue which can allow them to absorb negative economic impact.

Implicit in this tech sector position is the notion that copyright, as traditionally configured, “stifles” AI. We know from recent industry development that this isn’t the case:

- In August 2025, *Billboard* reported that AI audio company ElevenLabs announced the launch of an AI model which allows users to create music from written prompts. To train its model, ElevenLabs has struck licensing deals with Merlin (a digital licensing organisation which represents 30,000 independent labels and distributors, including AMPAL member Mushroom Music) and global music publisher Kobalt (also an AMPAL member) for the recordings and songs of opted-in artists and writers, with royalties payable in return. The licence terms are innovative, and include transparency where AI output is watermarked, guardrails preventing users from using direct prompts such as 'give me a Beatles sounding song', and takedown provisions where output is notified as infringing.
- In September 2025, *Music Ally* reported that Swedish collecting society STIM (the Swedish counterpart to APRA AMCOS) has launched what STIM claims to be “the world’s first collective AI licence for music”. This pilot is cautious, initially limited to two startups and a small number of works by creators who have explicitly given their consent, and provides for fair compensation when their music is used in AI contexts, and attribution to allow tracing for royalty purposes.

The ElevenLabs and STIM developments both show that it is possible to allow AI innovation while respecting creators' rights and rewarding them fairly. It's also important to note that these new licences are "opt in", allowing creators to exercise their right of choice in how their works are exploited. As Music Ally notes, "AI companies must properly license music if they're going to use it for training!"

There is a clear opportunity here for Australia. A similar pilot with Australian and New Zealand content, potentially in collaboration with local startups, could produce culturally relevant AI outputs while ensuring songwriters and composers are fairly compensated and their rights are protected.

Impact on Australian Music Publishers

The recently-reported USD\$1.5 billion Anthropic AI settlement out of the US shows clearly that creative works have enormous value in the AI era. At a time when the Australian Government is making positive waves internationally through the establishment and work of the groundbreaking Music Australia, introducing a TDM exception risks destabilising the market and deterring further investment.

A recurring theme is that the impact on music publishers is twofold – economic and cultural. Music publishers are not just the managers of the fair compensation for songwriters' creations, but are also the custodians ensuring that the esteem, meaning and significance of those treasured works are never undermined. Says **Philip Mortlock of Australian music publisher ORiGiN Music Publishing**:

"Our independent music business represents a wide range of original creative talent. Artists and composers who have studied and developed their ability to create original compelling music for multiple applications. It is the impact on that artist community that most concerns us in terms of the proposed text and data mining exception."

The electronic dance music (EDM) segment is one of two music segments in which Australia is regularly recognised internationally as punching above its weight (production music being the other). **Karen Hamilton of Australian EDM music publisher 120 Publishing** has this to say:

"The proposed TDM exception would be devastating for home-grown Australian businesses like ours. Dance music is one of Australia's strongest cultural exports right now – with global stars like Fisher, Dom Dolla, RÜFÜS DU SOL, Alison Wonderland and Flume leading the charge. Weakening copyright in this space risks stripping value away from the very creators who put Australia on the world stage, undermining both our artists and the local companies that support them."

As noted above, production music is the other segment in which Australian music publishers attract particular international renown. Production music is pre-cleared, professionally composed music created for use in film, television, advertising, games and digital media worldwide. **Art Phillips of Australian production music publisher 101 Music** highlights the stakes:

"Even though our territory consists of a smallish population compared to other regions, one of Australasia's greatest strengths in the music sector is the production music and screen music export market."

"A TDM exception that would strip the original creator from its ownership will erode Australasian culture and stomp down this unique creativity – affecting the livelihood of music publishers, artists, composers and authors as well as a multitude of musicians that we employ to create that unique audio soundtrack journey."

Homegrown independent music publishers are often the ones championing and taking risks on emerging songwriters. They don't have the buffers of global companies. A TDM exception would:

- Strip away revenue and bargaining power from songwriters
- Undermine the ability of small publishers to stay in business
- Risk hollowing out Australia's cultural exports in favour of unchecked foreign tech platforms

The real-world impact is clear. As **Linda Bosidis** of **Australian music publisher Mushroom Music** explains:

“The Commission prioritises productivity and economic upside over fairness, cultural integrity and trust. This isn’t about research, it’s the commercial exploitation of cultural property. It’s straight up theft that undermines copyright, devalues art and threatens the livelihoods of songwriters in an already fragile industry.

A Text and Data Mining exception would also weaken Australia’s position in global negotiations and sets a dangerous precedent. Songwriting is not just ‘data’ but creative works with economic and artistic value. It’s one of our most significant cultural exports, generating billions for the economy and shapes our identity and our stories.”

Together, these voices from across Australia’s respected independent publishing sector make one thing clear: a TDM exception would devastate our industry, stripping value from songwriters, undermining local businesses and eroding one of our most powerful cultural exports.

From Philip Mortlock’s concern for the songwriting community, to Karen Hamilton’s warning that weakening copyright would gut Australia’s global standing in dance music, to Art Phillips’ reminder that production music is one of our greatest strengths, and Linda Bosidis’ stark assessment that this is “*straight up theft*,” the message is consistent: music publishing underpins both the economy and our cultural identity, and any exception that compromises that foundation threatens not just business, but the future of Australian creativity itself.

Conclusion

From AC/DC and INXS, through to Sia and Tame Impala, Australia’s songwriters and composers are some of our proudest and most powerful cultural exports. Music publishing is the business that supports them.

A blanket TDM exception would weaken that system, deter investment and hand enormous value to companies who give nothing back. It also lacks the nuance, creativity and agility that only an industry-led licensing solution can yield.

Licensing is the proven way forward. It encourages innovation, ensures fairness and keeps Australia in step with international best practice.

We urge the Commission to reject a TDM exception and support a licensing-based approach that works for both the tech and creative sectors.