



28 March 2013

Senate Committee
Senate Rural and Regional Affairs and Transport Legislation Committee
PO Box 6100
Australian Parliament House
Canberra, ACT 2600

Dear Committee

Re: Australia Council Bill 2013

We would like draw your attention to some aspects of the Australia Council legislation which we feel do not support the vision set out in the cultural policy.

Functions removed from the 1975 Act

1. The new Bill removes the function specified in the old Act that the Australia Council promote the general application of the arts in the community. With no mention of the community in the new Bill the Australia Council has no responsibility for arts in the community.

Creative Australia acknowledges that cultural rights have been recognised in international covenants.ⁱ However, the policy also states that our responsibilities as a nation go beyond these and that we have a responsibility to ensure that our citizens have opportunities to express their cultural identity and to 'enjoy, draw inspiration from and co-create their culture.'ⁱⁱ Our National Cultural Policy also states the need to ensure that all Australians have the opportunity to be involved with the arts as creators as well as audiences.ⁱⁱⁱ

One of the functions for the Australia Council included in the 2013 Act is to support and promote the development of markets and audiences for the arts. This is a clear shift from community engagement and the commitment to recognise citizens as creators.

Regional Arts Australia is dedicated to developing community engagement. We would argue that "excellence in art" starts with community engagement - not just as an audience for the arts, but as creators and participants. This is particularly critical in regional Australia.

2. The new Bill removes the function specified in the old Act that the Australia Council foster the expression of a national identity by means of the arts. With no mention of national or cultural identity in the new Bill the Australia Council will have no responsibility for identity and culture.

Creative Australia aims to ensure that ‘Australian identity and stories are not swamped in a globe awash with cultural products, that the full diversity of our society is represented.’^{iv} The new Bill does not enshrine this function into the work of Australia’s principal arts funding body.

3. The new Bill removes the function specified in the old Act that the Australia Council uphold and promote the rights of persons to freedom in the practice of the arts. With no mention of the freedom of practice of the arts in the new Bill the Australia Council will have no responsibility to uphold and promote freedom of artistic expression.

Functions not included in the 1975 Act and needing inclusion in the 2013 Act

Nowhere in the 2013 Act is there any mention of Aboriginal and Torres Strait Islander culture and its primacy in Australia’s heritage and identity. This did not appear in the 1975 Act, but given the current discussions about the constitution and the development of Australia’s understanding of the importance of the topic, a new piece of legislation establishing the responsibilities of its major arts agency would address this.

Goal One in *Creative Australia* is to ‘Recognise, respect and celebrate the centrality of Aboriginal and Torres Strait Islander cultures and to the uniqueness of Australian identity’.^v With no acknowledgement of this in the 2013 Act the Australia Council is perhaps enabled but certainly not obliged to honour this policy goal.

Why legislative obligations are imperative

Successive Federal Labor Governments have recognised that the right of the citizen to cultural expression and engagement should be at the heart of our thinking about why and how governments fund the arts.

These omissions from the new legislation specifying the functions of the Australia Council, our principal funding body for the arts, place these cultural rights at risk.

Those drafting the new Bill have overlooked the fact that, despite the high level of engagement and participation by Australian citizens in a range of arts activity, the vast majority do not have an opportunity to engage with the output of the subsidised arts funded by the Australia Council.

Under the proposed legislation, there is no obligation for the Australia Council to find ways to translate the goals and values of our new National Cultural policy into action: that is, to find ways to overcome the educational, financial, social and cultural barriers to citizens’ as cultural producers, and to promote their active and critical engagement with new art and with their cultural heritage. It may be presented that the legislation is “enabling” and therefore does not need to be descriptive, and that the topics omitted can be dealt with through the Cultural Policy (and indeed they have prominence in that policy) and through the Strategic Plan of the Australia Council. However, clarity of intention is vital for this legislation.

We would like to point out that policies and strategic directions are good intentions only, and that Aboriginal and Torres Strait Islander culture, community engagement in and with the arts, and cultural identity are so fundamental to this nation that they must be enshrined in the legislation, not debated every time a government develops a new policy and every time the Australia Council develops a new Strategic Plan. This approach leaves these critical topics dependent on the goodwill and commitment of the people developing the directions at that time.

Amending the new Bill to include these items would do much to inject a new transparency and accountability into the Australia Council's strategies and ensure that its actions are in keeping with our new National Cultural Policy.

Yours sincerely

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ⁱ United Nations Convention on the Protection and Promotion of Diversity of Cultural Expression

ⁱⁱ Creative Nation page 29

ⁱⁱⁱ Creative Australia pages 31 and page 43

^{iv} Creative Australia page 43

^v Creative Australia page 6.