

**Submission  
No 305**

**INQUIRY INTO THE MUSIC AND ARTS ECONOMY IN  
NEW SOUTH WALES**

**Name:** Mrs Narrell Brown

**Date received:** 28 February 2018

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Since 2012 when BRO undertook to deregulate Entertainment Industry Representative licences, the industry has been in chaos. Electing to abandon licences instead of tightening up regulations and policing those in breach, it is now open slather to anyone who wants to set-up as an agent and then proceed to do the wrong thing by both artists and venues. The music press is filled with the horror stories of both being ripped off and left high and dry.

Until there is a unified industry, the music and entertainment industry will continue to decline. It is currently survival of the fittest. I have been an entertainment agent for 28 years and the current climate is so unhealthy.

[http://www.dpc.nsw.gov.au/\\_\\_data/assets/pdf\\_file/0020/104807/Final\\_Report\\_Review\\_of\\_the\\_Entertainment\\_Industry\\_Act\\_1989.pdf](http://www.dpc.nsw.gov.au/__data/assets/pdf_file/0020/104807/Final_Report_Review_of_the_Entertainment_Industry_Act_1989.pdf)

I sent this to all our contacts in June 2009..... some background as to why I am very negative about thSince 2012 when BRO undertook to deregulate Entertainment Industry Representative licences, the industry has been in chaos. Electing to abandon licences instead of tightening up regulations and policing those in breach, it is now open slather to anyone who wants to set-up as an agent and then proceed to do the wrong thing by both artists and venues. The music press is filled with the horror stories of both being ripped off and left high and dry. Until there is a unified industry, the music and entertainment industry will continue to decline. It is currently survival of the fittest. I have been an entertainment agent for 28 years and the current climate is so unhealthy.

[http://www.dpc.nsw.gov.au/\\_\\_data/assets/pdf\\_file/0020/104807/Final\\_Report\\_Review\\_of\\_the\\_Entertainment\\_Industry\\_Act\\_1989.pdf](http://www.dpc.nsw.gov.au/__data/assets/pdf_file/0020/104807/Final_Report_Review_of_the_Entertainment_Industry_Act_1989.pdf) I sent this to all our contacts in June 2009..... some background

as to why I am very negative about the current situation: Traditionally musicians, entertainers and artists have not been all that pally with agents and managers, but generally have considered them a necessary evil, there are a few exceptions to the rule where everyone can co-exist in harmony ... but, in the main, the marriage has not been as affectionate as it was convenient. Over the years there have been many unscrupulous operators who have done more harm than good to the industry and the artists they have tried to manipulate. The sad part of this is that many are never brought to task because of the casual manner in which our over-riding body deals with such occurrences. The Department of Fair Trading issues licenses each year and happily accepts the money from License Fees, but there is little else that is done in this department. Complainants generally give up rather than try to pursue any wrong-doer. This is if they complain in the gorst place. Many simply don't complain for fear of work opportunity reprisals. An organisation called the Better Regulations Office run by the NSW Government's The Hon Joe Tripodi MP (Minister for Finance, Infrastructure, Regulatory Reform, Ports & Waterways), and Minister for Regulatory Reform put out a discussion paper supposedly to stakeholders (this was the first alarm because it was never sent to agents or managers and anything we have found on this subjext has been buried not easily available). The discussion paper asked for submissions to be forwarded to the department regarding the rationalisation of 11 occupational licenses across Australia. Agents/Managers' Licenses are amongst the occupations they believe do not require licensing. I urge you to read the material on the BRO website and please consider making comment. Since the review determination was released, the OIR has come up with their own strategy: Home OIR Review of the Entertainment Industry Act 1989 \*Review of the Entertainment Industry Act 1989\* \* \*\*A fair deal for artists\* Are you an actor, singer, musician, dancer, model, acrobat or other type of performer? Do you have a manager or do you use an agent to set up work for you? If so, we want to hear from you. Tell us about your experiences, good and bad. Explain your frustrations and complaints about dealing with agents and managers. · Is

your agent or manager giving you the support you need? · Are you getting paid the right amount and on time? · Are you getting the opportunities you deserve? · Are practices in the industry making life difficult for you? The NSW Government regulates entertainment industry agents, managers and venue consultants (booking agents) through the //Entertainment Industry Act 1989//. These people must comply with a range of rules about how much they can charge, how they handle money on your behalf and what information they must disclose to you. The Government is reviewing the regulation to make sure it is protecting performers. Help us to protect your livelihood by making sure agents and managers are working in your best interests. \*Opportunity\*\* to comment closes on 3 August 2009.\* Go to the [review@oir.commerce.nsw.gov.au](mailto:review@oir.commerce.nsw.gov.au) now to tell us what you think - please place the words '\*\*Entertainment industry\*\*' in the subject line. A copy of the Options Paper will be available on this website shortly.

[http://www.industrialrelations.nsw.gov.au/About\\_OIR/Review\\_of\\_Entertainment\\_Industry\\_Act.htm](http://www.industrialrelations.nsw.gov.au/About_OIR/Review_of_Entertainment_Industry_Act.htm)

I On the 2nd June I sent a letter along with my license renewal fee. My license has been re-issued for another term, however I did not receive a response to my letter which was as follows: Ms W Mar Office of Industrial Relations McKell Building 2-24 Rawson Place Sydney NSW 2000 ph 02 9020 4545 Fax 02 9020 4700 Dear Ms Mar, I enclose my cheque and application to continue my apparently soon to be abolished licence under section 28 (2) of the Entertainment Industry Act 1989. My question to you is however, why did the Office of Industrial Relations not see a need to notify licence holders such as myself of the enquiry and subsequent findings regarding the abolition of our licences. Only 9 submissions were received by the Better Regulations Office regarding the Entertainment Industry Licences. Apparently there were even Stakeholders' Meetings to which we were not invited. . I found out quite by accident of this review .... 11 licences currently on the proposed chopping block..... on 25th November, 2008.

[http://www.betterregulation.nsw.gov.au/\\_\\_data/assets/pdf\\_file/0003/31998/Issues\\_Paper\\_-\\_Licensing\\_of\\_Selected\\_Occupations\\_-\\_29.10.08.pdf](http://www.betterregulation.nsw.gov.au/__data/assets/pdf_file/0003/31998/Issues_Paper_-_Licensing_of_Selected_Occupations_-_29.10.08.pdf) No one at all that I spoke to ever heard of this "Better Regulations Office", just the name of this sounds like something that John Cleese would dream up. The Minister responsible is The Hon Joe Tripodi MP (Minister for Finance, Infrastructure, Regulatory Reform, Ports & Waterways). Apparently this is going on at present and I find it an amazing situation that the Agents and Managers who are most affected by this have not been informed about it at all. Nor has the opinion of the average musician whose livelihood depends on the Agency's ability to operate. We had been hoping for a reform to the Agents and Managers situation in NSW but more a tightening of the laws rather than a loosening of them. Artists and Entertainers are already being ripped off by unscrupulous operators, without any regulatory body... the whole industry will just be open to fraud and deception. The Entertainment industry performers, more than any other industry, are so easily victims of abuse because so often their egos are stroked by the same people who set about to do them harm. The Music industry's history is well documented in books and on the internet and in videos and documentaries about the scams and cheating that went on in the early years of this industry..... do we really want to go back to that era? Some of the most talented and gifted artists have been duped of millions of dollars because of clever con-people. The only thing i would like to see is a tightening of the regulations and a policing of the same. It is said that this enquiry has come about because no other state has this licensing imposition ... from my dealings with interstate agents, they NEED this licensing imposition applied. It is a 'free-for-all' out there in the entertainment industry and it all needs a thorough clean up to rid itself of the operators who are doing the most harm. The fact that the whole licensing argument is a toothless tiger anyway, is beside the point. There are so many people operating without licences, holding

monies without proper accounting practices and taking far more than a legal commission and all with the apparent blessing of the regulators. If anyone really cares, give the whole portfolio to a department that would care enough to operate it properly. To advise its members and licence holders of new regulations or legislations pertaining to their licenses, to follow up complaints and prosecute as necessary, to validate the licence holders and to ascertain their fitness to hold said licenses. "Never expect the people who caused a problem to solve it." - Albert Einstein There are currently no checks and balances in place, a prospective client can't even obtain a list of licenced agents to verify the person with whom they intend to deal. This is an outrageous situation that immediately needs attention. I don't understand how the Privacy Laws can over-rule the need for people to be comfortable they are dealing with a competent and legally qualified person - this is the type of situation that DOES lead to the thinking as below where licenses are unnecessary. Regarding complaints - The OIR Prosecutions Manager has stated - IF a complaint is received by the OIR that involves overcharging of commissions or delays in payment, they basically ignore it and leave it up to the Police & Fraud Squad (good luck there!) IF the complaint involves a person acting/trading in a manner without the required licence they treat it seriously:- The fine for unlicensed is 50 penalty points (however even the prosecutions office can't tell you how many points a person is 'allowed' to lose before they have their licence revoked) and \$5500 fine, however there is a 35% reduction on the fine if they plead guilty before trial, and 10% reduction if they plead during trial. (is this plea bargaining??) The bad news is... From the date of receiving the complaint, if it isn't actioned within 6 months of receipt (if they 'happen' to be overloaded with work or short on staff / resources and cannot address the complaint within the 6 month time frame) then the complaint basically becomes null & void! So thereby wiping it from the "to do" list and whallah - no complaints. The artists are loathe to ever complain about an Agent because they fear reprisals in obtaining future work.... this is unworkable. Regards Narrell Brown Managing Director Jaybees Entertainment

REGARDING THE REVIEW: Mr Tripodi states: In a recent review of consumer policy, the Productivity Commission identified a number of occupations that require licensing only in New South Wales, or in New South Wales and one or two other States or Territories. As these requirements are not considered necessary in most States and Territories, it is reasonable to question where there is a need for licensing them at all. Licensing imposes costs on business, governments and consumers. This form of regulation should only continue if a clear net benefit can be identified. On this basis, New South Wales has committed to review the need to continue licensing these occupations. We will be looking at the regulatory burden imposed on businesses through increased compliance costs, delays in hiring staff and reduced labour mobility. These costs will be weighed up against the benefits of the licensing regimes. The purpose of this Issues Paper is to seek stakeholder comment on the need for NSW to continue licensing these occupations, with a view to reducing or removing any unnecessary requirements. I encourage all interested persons to forward their views on the issues raised in this paper and I look forward to the outcomes of this review. All States and Territories have agreed to review the need to continue licensing trades that are licensed solely in their jurisdiction or in their jurisdiction and one other. This is part of a process being undertaken through the Council of Australian Governments (COAG) to rationalise occupational licensing across Australia. In NSW, the licensing regimes for 11 occupations fall into that category: • entertainment industry agent/manager being one of them. The purpose of this review is to assess the ongoing need for licensing the above occupations. These licences are administered by several Government agencies. The Better Regulation Office is undertaking the review to cut unnecessary regulation.

1. Entertainment industry agent/manager
2. Venue consultant

The Productivity Commission identified NSW as the only

jurisdiction to require licensing of entertainment industry agents and managers and venue consultants. At the end of August 2008, there were 387 licence holders and 538 licences issued including 256 entertainment industry agent licences, 198 manager licences and 84 licences for venue consultants.

**Rationale for licensing regime** The licensing regime is established under the Entertainment Industry Act 1989 and the Entertainment Industry Regulation 2004. The principal objective of the Act is to ensure that entertainment industry representatives (defined as 'agents', 'managers' and 'venue consultants') are appropriately qualified and that their dealings with performers and employers are structured so as to protect the performers. The Act is intended to reduce the risk of unscrupulous, unqualified or substandard persons from representing performers and thereby causing them possible financial detriment, loss of industry advancement and diminished public standing.

**How the licensing regime operates** It is an offence for a person to carry on the business of an entertainment industry agent, manager or venue consultant without an appropriate licence. An industry representative may require more than one type of licence according to the range of activities that the person conducts in relation to a performer. In order to be eligible for an annual licence, an applicant must satisfy a 'fit and proper person' test, be able to conduct a business in the entertainment industry in a proper and business-like manner and exhibit relevant entertainment industry knowledge or experience. The Act also provides for other forms of regulation including trust accounts, monetary bonds, fee commission setting and industry relationship constraints.

**Previous review** The Act was the subject of a National Competition Policy review in 2003. The review examined the requirements for industry licensing, fee payment restrictions and trust accounts/monetary bonds. The review found there to be sufficient justification for the retention of the regulatory provisions including substantial benefits from:

- the promotion of professional standards amongst service providers
- a reduction in scope for the possible exploitation of young and inexperienced performers
- the provision of a standard for fee payments, and
- the facilitation of transparent business dealings by service providers with performers.

Accordingly, the review did not recommend changes to the Act. The Better Regulation Office is seeking the views of entertainment industry participants, including performers, entertainment agents and managers and venue consultants on the licensing regime in the Act. In particular, views are sought on:

- the benefits of the licensing regime including the protections offered by the regime and impacts on professional standards in the industry
- the costs of the licensing regime including compliance costs for industry representatives, impacts on labour mobility and competition between service providers
- existing or potential alternative ways to protect the interests of performers, and
- whether there are any reasons why it is necessary to license these occupations in NSW when it is not considered necessary to license them in other States and Territories

Interested persons are invited to provide written submissions on this Issues Paper. Please send submissions by email to: [tradelicences@dpc.nsw.gov.au](mailto:tradelicences@dpc.nsw.gov.au) If you do not have access to email, please send submissions to: The Better Regulation Office GPO Box 5341 SYDNEY NSW 2001 Phone: 02 9228 5414 Fax: 02 9228 4408 Submissions must be received by 5:00pm Friday 28 November 2008. (Apparently there WILL be a 2nd review) All submissions will be made publicly available. If you do not want your personal details released, please indicate this clearly in your submission. I urge you to read through this paper and make comment to the relevant authorities.

[http://www.betterregulation.nsw.gov.au/\\_\\_data/assets/pdf\\_file/0003/31998/Issues\\_Paper\\_-\\_Licensing\\_of\\_Selected\\_Occupations\\_-\\_29.10.08.pdf](http://www.betterregulation.nsw.gov.au/__data/assets/pdf_file/0003/31998/Issues_Paper_-_Licensing_of_Selected_Occupations_-_29.10.08.pdf) In April this year The Better Regulation Office has finalised its Report on the Review of Licensing of Selected Occupations in NSW and the Government has released its response. A copy of the Report and the Government's response are

attached for your information. Further information can be found on the Better Regulation Office website at [www.betterregulation.nsw.gov.au](http://www.betterregulation.nsw.gov.au). The Government has agreed to remove entertainment industry licences, but only after a broad review of the /Entertainment Industry Act 1989/ and the implementation of reforms which ensure the remainder of the Act can operate effectively. Important protections in the Act will remain, such as requirements regarding the payment of performers and the management of performers' funds. The review will consider changes to the Act to provide effective sanctions for breach of consumer protection provisions, a clear mechanism for dealing with complaints, and the development of performance standards for assessing claims of misconduct. The Government looks forward to consulting closely on all aspects of the review with a view to improving consumer protections and achieving greater industry involvement in the regulatory regime.

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[http://www.dpc.nsw.gov.au/\\_\\_data/assets/pdf\\_file/0020/104807/Final\\_Report\\_Review\\_of\\_the\\_Entertainment\\_Industry\\_Act\\_1989.pdf](http://www.dpc.nsw.gov.au/__data/assets/pdf_file/0020/104807/Final_Report_Review_of_the_Entertainment_Industry_Act_1989.pdf) <http://www.themusicnetwork.com/music-features/industry/2012/11/09/the-hook-does-australia-need-a-booking-agents-peak-body/> [http://www.ipart.nsw.gov.au/Home/Industries/Regulation\\_Review/Reviews/Licence\\_Design/Licence\\_Rationale\\_and\\_Design](http://www.ipart.nsw.gov.au/Home/Industries/Regulation_Review/Reviews/Licence_Design/Licence_Rationale_and_Design)

Our letter to the minister: Dear Mr Pearce We write to you to introduce ourselves and seek information from your office. We are two, of a very small handful of licensed representatives within the Entertainment Industry and we are seeking assistance from your office to have the BRO Review of 2008 overturned among other things. As you would be aware; the licensing issue is currently in limbo and we request solutions from you. We initially seek clarification from your office in relation to the current licence situation and will address our requests for overturning BRO's review in later correspondence once your position has been established. In short; the Entertainment Industry as a whole is currently a complete shambles due to a number of reasons, but the one that appears most prevalent – apathy by the very Govt Department that 'Governs it"! Add to that (and in no small part) BRO's 'proposed' Licence cancellations review which was legally and fundamentally flawed in its processes and biased in its outcome/s. BRO, without consultation of stakeholders (the industry workers), conducted the Review to assess the need for licensing within the Industry. It was however, not conducted in accordance with their own guidelines. Added to this; the majority of respondents 'voted' to keep licensing within the Industry and saw benefit in retaining it. However; BRO pushed onward and chose to remove them. BRO's 'choice' and subsequent advertisement to the Industry and general public resulted in more and more unlicensed persons continuing to trade illegally without fear of reprimand or consequences. Many unlicensed operators that we have had 'licensing' discussions with retort "Licences are being cancelled, so why bother". Congratulations to BRO! Never have we seen how one 'organisation' can single-handedly damage an Industry and its workers to the extent that BRO has; and seemingly without effort. If there was a problem with industry regulation in the past; it's an absolute monster now! The former version of Industrial Relations had no power to clean up the Industry and regulate it as they were originally charged to do; nor were they given adequate power to prosecute habitually guilty parties to an extent that discouraged them from participating in past illegal behavioural patterns. As a result we are now left with a bigger mess than before BRO started and we cannot see how incorporating NSWIR into Finance and Services will rectify the current situation or assist us in any way. We invite you to prove us wrong, but can't see how that will happen. Again; we're open to you proving us wrong and delivering a solution that will benefit the Industry rather than perpetuating the current path of damage. We would appreciate a prompt reply and update on the intentions of your office in relation to licensing and regulation of the Entertainment Industry; and your proposed solutions. the last rewrite of the ACT was in 2004 Entertainment Industry Regulation 2004

<http://www.legislation.nsw.gov.au/fullhtml/inforce/subordleg+590+2004+FIRST+0+N/> the IPART Review

[http://www.ipart.nsw.gov.au/Home/For\\_Consumers/Having\\_your\\_say/Lodge\\_a\\_submission?versionid=4830e154-62de-41e8-a42a-a0fa00a4affb&name=issues%20paper%20-%20reforming%20licensing%20in%20nsw%20-%20review%20of%20licence%20rationale%20and%20design%20-%20october%202012](http://www.ipart.nsw.gov.au/Home/For_Consumers/Having_your_say/Lodge_a_submission?versionid=4830e154-62de-41e8-a42a-a0fa00a4affb&name=issues%20paper%20-%20reforming%20licensing%20in%20nsw%20-%20review%20of%20licence%20rationale%20and%20design%20-%20october%202012) We are now calling on stakeholders to register if they would like to attend the public roundtable on IPART's red tape review of licensing in NSW ('Review of licence rationale and design'). Further information on IPART's review of licensing (including the Issues Paper) is available at:

[http://www.ipart.nsw.gov.au/Home/Industries/Regulation\\_Review/Reviews/Licence\\_Design/Licence](http://www.ipart.nsw.gov.au/Home/Industries/Regulation_Review/Reviews/Licence_Design/Licence)



e\_Rationale\_and\_Design The public roundtable will be held on Tuesday, 12 February 2013 in Sydney. The roundtable is an important part of IPART's information gathering process. It will provide stakeholders with an opportunity to discuss issues relating to licences that concern them, including licence reform priorities in NSW. The roundtable will be held at the Lyceum Theatre in the Wesley Conference Centre, 220 Pitt St, Sydney. The day will be split into several sessions. For each session, IPART will give a brief introduction. IPART's Chair will then invite participants sitting at the roundtable to respond to IPART's introductory comments and/or comments made by other roundtable participants. Once the roundtable participants have put forward their positions, the Chair will then invite members of the audience to make statements or ask questions. Further details of the format and structure of the day, including an agenda and the list of participants sitting at the roundtable, will be provided to attendees closer to the event. Please register if you would like to attend and provide all names of attendees and organisation name (if applicable):- by email to: LicenceReform@ipart.nsw.gov.au there were no representatives invited from the Entertainment industry at all. The transcript for the roundtable is available here: [http://www.ipart.nsw.gov.au/Home/Industries/Regulation\\_Review/Reviews/Licence\\_Design/Licence\\_Rationale\\_and\\_Design](http://www.ipart.nsw.gov.au/Home/Industries/Regulation_Review/Reviews/Licence_Design/Licence_Rationale_and_Design) There were no findings from the roundtable. It's used primarily by IPART to collect information and obtain stakeholder viewse current situation:

Traditionally musicians, entertainers and artists have not been all that pally with agents and managers, but generally have considered them a necessary evil, there are a few exceptions to the rule where everyone can co-exist in harmony ... but, in the main, the marriage has not been as affectionate as it was convenient.

Over the years there have been many unscrupulous operators who have done more harm than good to the industry and the artists they have tried to manipulate. The sad part of this is that many are never brought to task because of the casual manner in which our over-riding body deals with such occurrences.

The Department of Fair Trading issues licenses each year and happily accepts the money from License Fees, but there is little else that is done in this department.

Complainants generally give up rather than try to pursue any wrong-doer.

This is if they complain in the worst place. Many simply don't complain for fear of work opportunity reprisals.

An organisation called the Better Regulations Office run by the NSW Government's The Hon Joe Tripodi MP (Minister for Finance, Infrastructure, Regulatory Reform, Ports & Waterways), and Minister for Regulatory Reform put out a discussion paper supposedly to stakeholders (this was the first alarm because it was never sent to agents or managers and anything we have found on this subject has been buried not easily available). The discussion paper asked for submissions to be forwarded to the department regarding the rationalisation of 11 occupational licenses across Australia. Agents/Managers' Licenses are amongst the occupations they believe do not require licensing.

I urge you to read the material on the BRO website and please consider making comment.

Since the review determination was released, the OIR has come up with their own strategy:

Home

OIR Review of  
the Entertainment Industry Act 1989

\*Review of the Entertainment Industry Act 1989\*

\* \*\*A fair deal for artists\*

Are you an actor, singer, musician, dancer, model, acrobat or other type of performer? Do you have a manager or do you use an agent to set up work for you?

If so, we want to hear from you.

Tell us about your experiences, good and bad. Explain your frustrations and complaints about dealing with agents and managers.

- Is your agent or manager giving you the support you need?
- Are you getting paid the right amount and on time?
- Are you getting the opportunities you deserve?
- Are practices in the industry making life difficult for you?

The NSW Government regulates entertainment industry agents, managers and venue consultants (booking agents) through the //Entertainment Industry Act 1989//. These people must comply with a range of rules about how much they can charge, how they handle money on your behalf and what information they must disclose to you.

The Government is reviewing the regulation to make sure it is protecting performers.

Help us to protect your livelihood by making sure agents and managers are working in your best interests.

**\*Opportunity\*** to comment closes on 3 August 2009.\*

Go to the [review@oir.commerce.nsw.gov.au](mailto:review@oir.commerce.nsw.gov.au)

now to tell us what you think -

please place the words '**Entertainment industry**' in the subject line.

A copy of the Options Paper will be available on this website shortly.

[http://www.industrialrelations.nsw.gov.au/About\\_OIR/Review\\_of\\_Entertainment\\_Industry\\_Act.htm](http://www.industrialrelations.nsw.gov.au/About_OIR/Review_of_Entertainment_Industry_Act.htm)

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On the 2nd June I sent a letter along with my license renewal fee. My license has been re-issued for another term, however I did not receive a response to my letter which was as follows:

Ms W Mar

Office of Industrial Relations

McKell Building

2-24 Rawson Place

Sydney NSW 2000

ph 02 9020 4545

Fax 02 9020 4700

Dear Ms Mar,

I enclose my cheque and application to continue my apparently soon to be abolished licence under section 28 (2) of the Entertainment Industry Act 1989.

My question to you is however, why did the Office of Industrial Relations not see a need to notify licence holders such as myself of the enquiry and subsequent findings regarding the abolition of our licences. Only 9 submissions were received by the Better Regulations Office regarding the Entertainment Industry Licenses.

Apparently there were even Stakeholders' Meetings to which we were not invited.

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I found out quite by accident of this review .... 11 licences currently on the proposed chopping block..... on 25th November, 2008.

[http://www.betterregulation.nsw.gov.au/\\_\\_data/assets/pdf\\_file/0003/31998/Issues\\_Paper\\_-\\_Licensing\\_of\\_Selected\\_Occupations\\_-\\_29.10.08.pdf](http://www.betterregulation.nsw.gov.au/__data/assets/pdf_file/0003/31998/Issues_Paper_-_Licensing_of_Selected_Occupations_-_29.10.08.pdf)

No one at all that I spoke to ever heard of this "Better Regulations Office", just the name of this sounds like something that John Cleese would dream up.

The Minister responsible is The Hon Joe Tripodi MP (Minister for Finance, Infrastructure, Regulatory Reform, Ports & Waterways).

Apparently this is going on at present and I find it an amazing situation that the Agents and Managers who are most affected by this have not been informed about it at all. Nor has the opinion of the average musician whose livelihood depends on the Agency's ability to operate.

We had been hoping for a reform to the Agents and Managers situation in NSW but more a tightening of the laws rather than a loosening of them. Artists and Entertainers are already being ripped off by unscrupulous operators, without any regulatory body... the whole industry will just be open to fraud and deception. The Entertainment industry performers, more than any other industry, are so easily victims of abuse because so often their egos are stroked by the same people who set about to do them harm.

The Music industry's history is well documented in books and on the internet and in videos and documentaries about the scams and cheating that went on in the early years of this industry..... do we really want to go back to that era?

Some of the most talented and gifted artists have been duped of millions of dollars because of clever con-people. The only thing i would like to see is a tightening of the regulations and a policing of the same.

It is said that this enquiry has come about because no other state has this licensing imposition ... from my dealings with interstate agents, they NEED this licensing imposition applied. It is a 'free-for-all' out there in the entertainment industry and it all needs a thorough clean up to rid itself of the operators who are doing the most harm.

The fact that the whole licensing argument is a toothless tiger anyway, is beside the point. There are so many people operating without licences, holding monies without proper accounting practices and taking far more than a legal commission and all with the apparent blessing of the regulators.

If anyone really cares, give the whole portfolio to a department that would care enough to operate it properly. To advise its members and licence holders of new regulations or legislations pertaining to their licenses, to follow up complaints and prosecute as necessary, to validate the licence holders and to ascertain their fitness to hold said licenses.

"Never expect the people who caused a problem to solve it." - Albert Einstein

There are currently no checks and balances in place, a prospective client can't even obtain a list of licenced agents to verify the person with whom they intend to deal. This is an outrageous situation that immediately needs attention. I don't understand how the Privacy Laws can over-rule the need for people to be comfortable they are dealing with a competent and legally qualified person - this is the type of situation that DOES lead to the thinking as below where licenses are unnecessary.

Regarding complaints - The OIR Prosecutions Manager has stated - IF a complaint is received by the OIR that involves overcharging of commissions or delays in payment, they basically ignore it and leave it up to the Police & Fraud Squad (good luck there!)

IF the complaint involves a person acting/trading in a manner without the required licence they treat it seriously:-

The fine for unlicensed is 50 penalty points (however even the prosecutions office can't tell you how many points a person is 'allowed' to lose before they have their licence revoked) and \$5500 fine, however there is a 35% reduction on the fine if they plead guilty before trial, and 10% reduction if they plead during trial. (is this plea bargaining??)

The bad news is...

From the date of receiving the complaint, if it isn't actioned within 6 months of receipt (if they 'happen' to be overloaded with work or short on staff / resources and cannot address the complaint within the 6 month

time frame) then the complaint basically becomes null & void!

So thereby wiping it from the "to do" list and whallah - no complaints.

The artists are loathe to ever complain about an Agent because they fear reprisals in obtaining future work.... this is unworkable.

Regards

Narrell Brown

Managing Director

Jaybees Entertainment

#### REGARDING THE REVIEW:

Mr Tripodi states:

In a recent review of consumer policy, the Productivity Commission identified a number of occupations that require licensing only in New South Wales, or in New South Wales and one or two other States or Territories. As these requirements are not considered necessary in most States and Territories, it is reasonable to question where there is a need for licensing them at all.

Licensing imposes costs on business, governments and consumers. This form of regulation should only continue if a clear net benefit can be identified.

On this basis, New South Wales has committed to review the need to continue licensing these occupations. We will be looking at the



regulatory burden imposed on businesses through increased compliance costs, delays in hiring staff and reduced labour mobility.

These costs will be weighed up against the benefits of the licensing regimes.

The purpose of this Issues Paper is to seek stakeholder comment on the need for NSW to continue licensing these occupations, with a view to reducing or removing any unnecessary requirements.

I encourage all interested persons to forward their views on the issues raised in this paper and I look forward to the outcomes of this review.

All States and Territories have agreed to review the need to continue licensing trades that are licensed solely in their jurisdiction or in their jurisdiction and one other. This is part of a process being undertaken through the Council of Australian Governments (COAG) to rationalise occupational licensing across Australia.

In NSW, the licensing regimes for 11 occupations fall into that category:

- entertainment industry agent/manager being one of them.

The purpose of this review is to assess the ongoing need for licensing the above occupations. These licences are administered by several Government agencies. The Better Regulation Office is undertaking the review to cut unnecessary regulation.

## 1. Entertainment industry agent/manager

## 2. Venue consultant

The Productivity Commission identified NSW as the only jurisdiction to require licensing of entertainment industry agents and managers and venue consultants.

At the end of August 2008, there were 387 licence holders and 538 licences issued including 256 entertainment industry agent licences, 198 manager licences and 84 licences for venue consultants.

### Rationale for licensing regime

The licensing regime is established under the Entertainment Industry Act 1989 and the Entertainment Industry Regulation 2004. The principal objective of the Act is to ensure that entertainment industry representatives (defined as 'agents', 'managers' and 'venue consultants') are appropriately qualified and that their dealings with performers and employers are structured so as to protect the performers.

The Act is intended to reduce the risk of unscrupulous, unqualified or substandard persons from representing performers and thereby causing them possible financial detriment, loss of industry advancement and diminished public standing.

### How the licensing regime operates

It is an offence for a person to carry on the business of an entertainment industry agent, manager or venue consultant without an appropriate licence. An industry representative may require more than

one type of licence according to the range of activities that the person conducts in relation to a performer.

In order to be eligible for an annual licence, an applicant must satisfy a 'fit and proper person' test, be able to conduct a business in the entertainment industry in a proper and business-like manner and exhibit relevant entertainment industry knowledge or experience.

The Act also provides for other forms of regulation including trust accounts, monetary bonds, fee commission setting and industry relationship constraints.

#### Previous review

The Act was the subject of a National Competition Policy review in 2003.

The review examined the requirements for industry licensing, fee payment restrictions and trust accounts/monetary bonds.

The review found there to be sufficient justification for the retention of the regulatory provisions including substantial benefits from:

- the promotion of professional standards amongst service providers
- a reduction in scope for the possible exploitation of young and inexperienced performers
- the provision of a standard for fee payments, and
- the facilitation of transparent business dealings by service providers with performers.

Accordingly, the review did not recommend changes to the Act.

The Better Regulation Office is seeking the views of entertainment industry participants, including performers, entertainment agents and managers and venue consultants on the licensing regime in the Act.

In particular, views are sought on:

- the benefits of the licensing regime including the protections offered by the regime and impacts on professional standards in the industry
- the costs of the licensing regime including compliance costs for industry representatives, impacts on labour mobility and competition between service providers
- existing or potential alternative ways to protect the interests of performers, and
- whether there are any reasons why it is necessary to license these occupations in NSW when it is not considered necessary to license them in other States and Territories

Interested persons are invited to provide written submissions on this Issues Paper.

Please send submissions by email to: [tradelicences@dpc.nsw.gov.au](mailto:tradelicences@dpc.nsw.gov.au)

If you do not have access to email, please send submissions to:

The Better Regulation Office

GPO Box 5341

SYDNEY NSW 2001

Phone: 02 9228 5414

Fax: 02 9228 4408

Submissions must be received by 5:00pm Friday 28 November 2008.

(Apparently there WILL be a 2nd review)

All submissions will be made publicly available. If you do not want your personal details released, please indicate this clearly in your submission.

I urge you to read through this paper and make comment to the relevant authorities.

[http://www.betterregulation.nsw.gov.au/\\_\\_data/assets/pdf\\_file/0003/31998/Issues\\_Paper\\_-\\_Licensing\\_of\\_Selected\\_Occupations\\_-\\_29.10.08.pdf](http://www.betterregulation.nsw.gov.au/__data/assets/pdf_file/0003/31998/Issues_Paper_-_Licensing_of_Selected_Occupations_-_29.10.08.pdf)

In April this year

The Better Regulation Office has finalised its Report on the Review of Licensing of Selected Occupations in NSW and the Government has released its response. A copy of the Report and the Government's response are attached for your information. Further information can be found on the Better Regulation Office website at [www.betterregulation.nsw.gov.au](http://www.betterregulation.nsw.gov.au)

The Government has agreed to remove entertainment industry licences, but only after a broad review of the /Entertainment Industry Act 1989/ and the implementation of reforms which ensure the remainder of the Act can operate effectively. Important protections in the Act will remain, such as requirements regarding the payment of performers and the management of performers' funds. The review will consider changes to the Act to

provide effective sanctions for breach of consumer protection provisions, a clear mechanism for dealing with complaints, and the development of performance standards for assessing claims of misconduct. The Government looks forward to consulting closely on all aspects of the review with a view to improving consumer protections and achieving greater industry involvement in the regulatory regime.

#### REGARDING THE REVIEW:

Mr Tripodi states:

In a recent review of consumer policy, the Productivity Commission identified a number of occupations that require licensing only in New South Wales, or in New South Wales and one or two other States or Territories. As these requirements are not considered necessary in most States and Territories, it is reasonable to question where there is a need for licensing them at all.

Licensing imposes costs on business, governments and consumers. This form of regulation should only continue if a clear net benefit can be identified.

On this basis, New South Wales has committed to review the need to continue licensing these occupations. We will be looking at the regulatory burden imposed on businesses through increased compliance costs, delays in hiring staff and reduced labour mobility.

These costs will be weighed up against the benefits of the licensing

regimes.

The purpose of this Issues Paper is to seek stakeholder comment on the need for NSW to continue licensing these occupations, with a view to reducing or removing any unnecessary requirements.

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The purpose of this review is to assess the ongoing need for licensing the above occupations. These licences are administered by several Government agencies. The Better Regulation Office is undertaking the review to cut unnecessary regulation.

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misconduct. The Government looks forward to consulting closely on all aspects of the review with a view to improving consumer protections and achieving greater industry involvement in the regulatory regime.

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The Better Regulations Office started the whole thing by wanting to abolish 17 licences in NSW one of which was Agents' Licences. this then created a whole new rewrite of the legislation

this has been going on since 2011 and i have a swag of files on the subject i will just send you some bits so you get the gist.

<http://www.agentsunplugged.com/>

[http://www.dpc.nsw.gov.au/\\_\\_data/assets/pdf\\_file/0020/104807/Final\\_Report\\_Review\\_of\\_the\\_Entertainment\\_Industry\\_Act\\_1989.pdf](http://www.dpc.nsw.gov.au/__data/assets/pdf_file/0020/104807/Final_Report_Review_of_the_Entertainment_Industry_Act_1989.pdf)

<http://www.themusicnetwork.com/music-features/industry/2012/11/09/the-hook-does-australia-need-a-booking-agents-peak-body/>

[http://www.ipart.nsw.gov.au/Home/Industries/Regulation\\_Review/Reviews/Licence\\_Design/Licence\\_Rationale\\_and\\_Design](http://www.ipart.nsw.gov.au/Home/Industries/Regulation_Review/Reviews/Licence_Design/Licence_Rationale_and_Design)

Our letter to the minister:

Dear Mr Pearce

We write to you to introduce ourselves and seek information from your office.

We are two, of a very small handful of licensed representatives within the Entertainment Industry and we are seeking assistance from your office to have the BRO Review of 2008 overturned among other things. As you would be aware; the licensing issue is currently in limbo and we request solutions from you.

We initially seek clarification from your office in relation to the current licence situation and will address our requests for overturning BRO's review in later correspondence once your position has been established.

In short; the Entertainment Industry as a whole is currently a complete shambles due to a number of reasons, but the one that appears most prevalent – apathy by the very Govt Department that 'Governs it"! Add to that (and in no small part) BRO's 'proposed' Licence cancellations review which was legally and fundamentally flawed in its processes and biased in its outcome/s.

BRO, without consultation of stakeholders (the industry workers), conducted the Review to assess the need for licensing within the Industry. It was however, not conducted in accordance with their own guidelines. Added to this; the majority of respondents 'voted' to keep licensing within the Industry and saw benefit in retaining it. However; BRO pushed onward and chose to remove them.

BRO's 'choice' and subsequent advertisement to the Industry and general public resulted in more and more unlicensed persons continuing to trade illegally without fear of reprimand or consequences. Many unlicensed operators that we have had 'licensing' discussions with retort "Licenses are being cancelled, so why bother".

Congratulations to BRO! Never have we seen how one 'organisation' can single-handedly damage an Industry and its workers to the extent that BRO has; and seemingly without effort. If there was a problem with industry regulation in the past; it's an absolute monster now!

The former version of Industrial Relations had no power to clean up the Industry and regulate it as they were originally charged to do; nor were they given adequate power to prosecute habitually guilty parties to an extent that discouraged them from participating in past illegal behavioural patterns.

As a result we are now left with a bigger mess than before BRO started and we cannot see how incorporating NSWIR into Finance and Services will rectify the current situation or assist us in any way. We invite you to prove us wrong, but can't see how that will happen. Again; we're open to you proving us wrong and delivering a solution that will benefit the Industry rather than perpetuating the current path of damage.

We would appreciate a prompt reply and update on the intentions of your office in relation to licensing and regulation of the Entertainment Industry; and your proposed solutions.

the last rewrite of the ACT was in 2004

Entertainment Industry Regulation 2004

<http://www.legislation.nsw.gov.au/fullhtml/inforce/subordleg+590+2004+FIRST+0+N/>

the IPART Review

[http://www.ipart.nsw.gov.au/Home/For\\_Consumers/Having\\_your\\_say/Lodge\\_a\\_submission?versionid=4830e154-62de-41e8-a42a-a0fa00a4affb&name=issues%20paper%20-%20reforming%20licensing%20in%20nsw%20-%20review%20of%20licence%20rationale%20and%20design%20-%20october%202012](http://www.ipart.nsw.gov.au/Home/For_Consumers/Having_your_say/Lodge_a_submission?versionid=4830e154-62de-41e8-a42a-a0fa00a4affb&name=issues%20paper%20-%20reforming%20licensing%20in%20nsw%20-%20review%20of%20licence%20rationale%20and%20design%20-%20october%202012)

We are now calling on stakeholders to register if they would like to attend the public roundtable on IPART's red tape review of licensing in NSW ('Review of licence rationale and design'). Further information on IPART's review of licensing (including the Issues Paper) is available at:  
[http://www.ipart.nsw.gov.au/Home/Industries/Regulation\\_Review/Reviews/Licence\\_Design/Licence\\_Rationale\\_and\\_Design](http://www.ipart.nsw.gov.au/Home/Industries/Regulation_Review/Reviews/Licence_Design/Licence_Rationale_and_Design)

The public roundtable will be held on Tuesday, 12 February 2013 in Sydney. The roundtable is an important part of IPART's information gathering process. It will provide stakeholders with an opportunity to discuss issues relating to licences that concern them, including licence reform priorities in NSW. The roundtable will be held at the Lyceum Theatre in the Wesley Conference Centre, 220 Pitt St, Sydney.

The day will be split into several sessions. For each session, IPART will give a brief introduction. IPART's Chair will then invite participants sitting at the roundtable to respond to IPART's introductory comments and/or comments made by other roundtable participants. Once the roundtable participants have put forward their positions, the Chair will then invite members of the audience to make statements or ask questions.

Further details of the format and structure of the day, including an agenda and the list of participants sitting at the roundtable, will be provided to attendees closer to the event.

Please register if you would like to attend and provide all names of attendees and organisation name (if applicable): by email to: [LicenceReform@ipart.nsw.gov.au](mailto:LicenceReform@ipart.nsw.gov.au)

there were no representatives invited from the Entertainment industry at all.

The transcript for the roundtable is available here:

[http://www.ipart.nsw.gov.au/Home/Industries/Regulation\\_Review/Reviews/Licence\\_Design/Licence\\_Rationale\\_and\\_Design](http://www.ipart.nsw.gov.au/Home/Industries/Regulation_Review/Reviews/Licence_Design/Licence_Rationale_and_Design)

There were no findings from the roundtable. It's used primarily by IPART to collect information and obtain stakeholder views