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## **Regulating the Notes : A Case Study Into the Impact of Government Regulation on the Live Music Performances of Perth's Original Contemporary Musicians**

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## **Regulating the Notes:**

**A case study into the impact of government regulation on the live music performances of Perth's original contemporary musicians.**

This thesis is submitted as part of the fulfilment of a Bachelor of Communications (Honours).

Christina Ballico

Principal Supervisor: Dr Debbie Rodan.

Associate Supervisor: Ms Cat Hope.

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The Use of Thesis statement is not included in this version of the thesis.

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## Abstract

The impact of the government's regulation of the live music industry is a relatively new field of research, with studies traditionally investigating the issue from the perspective of venues. Studies such as *Vanishing Act* (2003) and *Live Music Revolution* (2008), conducted into the New South Wales and the other states of Australian live music industries respectively, have provided insight into how regulation can impede the ability for licensed premises to host music. These earlier studies however, have failed to engage with musicians. Instead these studies have investigated how the government regulation impacts on the ability for venues to host live music.

Historically, the involvement of the government in the music industry has taken place at a Federal Government level, concerned with the recorded product and export markets. According to Breen (1993), government regulation of the music industry, is seen by some members of the music industry to hinder the "free-flow of creative talent" (p. 68). When State-based Governments become involved in regulating the industry, the focus shifts to live music, because predominately occurs within premises licensed to serve alcohol, an industry which is largely regulated by State Governments.

Original contemporary musicians who perform at venues 'indefinitely' licensed under the Liquor Control Act 1988 (LCA) within metropolitan Perth were the focus of my study. This thesis presents a case study into the impact of the governments' regulation of live music from the perspective of contemporary musicians. The purpose of this study is to investigate the impact of three regulations within the timeframe of 2001 - 2008. The regulations were: the regulation of volume under the Environmental Protection (Noise) Regulations 1997 (EPR); the allocation of copyright revenue through the Australian Performing Rights Association's (APRA) Live Music Returns (LMR) and; the allocation of funding from the Department of Culture and the Arts (DCA) Contemporary Music Grants Program (CMGP). These regulations were included in the study because musicians either have to adhere to them (such as the EPR) or have a choice (as with the LMR and CMGP).

Michel Foucault's theory of governmentality was employed in this study to give authority to the way the government has regulated the live music industry. In particular, the adoption of multiple 'mentalities' (Rose, 1996, p. 42) and the reliance on individuals in liberal societies to 'self-govern' which in turn requires knowing how to govern and how to be governed (Foucault, 1991, p. 87).

The main finding of this study is that due to the reliance on 'self-governing' the relationships musicians have with venues, audiences and regulators play an important role in determining the impact of regulations. This is because these relationships determine the manner in which musicians will engage with the regulations, and how regulatory breaches are handled, particularly due to the reliance on 'self-governing'.

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## **List of abbreviations**

APRA: Australian Performing Rights Association.

CMGP: Contemporary Music Grants Program.

DCA: Department of Culture and the Arts.

EPR: Environmental Protection (Noise) Regulations.

LMR: Live Music Returns.

WASG: West Australian State Government.

## Introduction

### Background to the study:

My interest to undertake this research into the Perth music industry stems from a great love of the music coupled with a background in music journalism. Over the past few years I have written for a variety of street press and lifestyle magazines including: *Reakt!*, *base.ad* and, *Colosoul Magazine*. In May 2008, I launched *Isolated Sounds* a website profiling the behind-the-scenes and support sectors of the Perth and greater Western Australian (WA) music industry<sup>1</sup>. I started this website to provide an alternate view about the success of Perth music. Much of the mainstream media 'hype' around its success focuses on the creative talent of bands. This 'hype' largely ignores managers, labels, producers, not-for-profit advocate groups, media outlets and, government funding programs. These groups provide much needed skills and support that help develop the industry on a local, national and growingly international level.

My passion for Perth music and experience gained in music journalism, lead me to undertake two major research projects during my undergraduate degree. The first was the audio documentary "Isolated sounds: The WA pop/ rock music scene" (Ballico, 2007a). This documentary consisted of interviews with six members of the local and national music industries. The interviewees were from the areas of musicianship and production, management, venues/live music, not-for-profit support, event co-ordination, promotion and, national media. The documentary explored how these areas coupled with the communal nature of the Perth music industry<sup>2</sup> have helped to develop a largely self-sufficient industry that is known on a national and a growingly international level. The second project was the investigative report "North of the border: A report into the exporting of Australian music

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<sup>1</sup> The website can be viewed at: <http://www.isolatedsounds.wordpress.com>

<sup>2</sup> Perth's music industry is communal in the sense that many of the musicians perform in each other's bands, live together and, start recording studios together.

to the United States of America (USA)" (Ballico, 2007b). This report discussed how the adaptation of new media, such as the Internet and mp3, have helped to overcome cultural, legal and government barriers that can impede the ability for Australian musicians to establish themselves in the music industry of the USA.

Throughout my experience as a music journalist and undergraduate researcher, I have become fascinated by the role the West Australian State Government (WASG) has taken in helping develop the local music industry<sup>3</sup>. In particular, since 2001 the WASG has allocated in excess of \$8 million in government funded grants for contemporary musicians and live music venues (DCA, 2009, p., 2) as well as amending the Liquor Control Act 1988 (LCA) to recognise the dual functioning of licensed premises as live music venues (DRGL, 2007). However, one of the regulations key to the functioning of the live music industry, the Environmental Protection (Noise) Regulations 1997 (EPR) - which governs the noise emissions allowed to be received from live music venues, and therefore influences the volume at which performances can take place - has remained unchanged. The EPR has remained unchanged with funding allocations and LCA amendments occurring instead.

### **Historical context:**

Historically, the Federal Government has undertaken the regulating of the Australian music industry. According to Breen (1993, p.66) and Homan (2002), this regulating has involved allocation of government funds; export support for live music; the establishment of radio airplay quotas and; the recognition of recorded music formats in copyright legislation, dating back as early as 1927 (2002, p. 89). Members of the music industry often oppose government regulation of the industry for reasons of a philosophical and of a

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<sup>3</sup> Several articles on the *Isolated Sounds* website have discussed how government funding has helped with the development of the industry and the difficulties experienced due to noise complaints. For example – 'Flying by the night: The fly by night musicians club' (Ballico, 2008b), 'WAM represents: The West Australian music industry association' (Ballico, 2008d) and, 'Altering the sound: RTRfm' (Ballico, 2008a) – have explored some of these issues.

practical nature. As Breen (p. 66) states: "Intervention or regulation by governments or their statutory authorities are considered, by some, to hinder the free-flow of creative talent." The regulating of the Australian music industry, as undertaken by the Federal Government, often does not engage with local music industries within states and territories. The relevant state and territory governments often undertake this regulating<sup>4</sup>.

When the State Governments' regulate their local music industry, they adopt a different attitude to that of the Federal Government. The regulating undertaken by State Governments' extends beyond recorded formats to the live music industry. As the live music industry occurs within premises licensed to serve alcohol (such as pubs and clubs), the regulating of live music gets tied up with the regulating of the liquor and hospitality industries which is regulated by State Governments. According to Fiske, Hodge and Turner (1987) and Homan (2003) live music is hosted in licensed premises for two reasons. First, because of an Australian attitude that the live music experience involves alcohol consumption and second, because it makes live music easily accessible to musicians and audiences (1987, p.17). As Homan (p. 17) explains:

Alcohol has formed an essential component in the mythology of Oz Rock performances where hard rock bands played to hard-drinking and hard-to-please audiences. Community beliefs that the right to drink in Australia is 'the equivalent to the right in the US to have a gun' (Johnson, 1992) have been challenged by an array of State laws altering the times, spaces and extent of public consumption.

The attitude that attending live music performances involves alcohol consumption has influenced its prominence within pubs and clubs. However, when licensed premises host live music, they are required to adhere to regulations specific to and as a consequence of doing so. Specific to my study, this is adhering to additional noise regulations and the obtaining

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<sup>4</sup> I use the word 'often' here as the Federal Government handles the liquor licensing of the Northern Territory and Australian Capital Territory. The liquor licensing of the remaining Australian states is handled by the relevant State Governments. Additionally, noise regulations are handled at a State/ Territory Government level Australia wide. To see more about the way regulations vary across Australia, see Wardle (2008)

of relative copyright licences. According to Homan (2003, p. 13) the regulating of the live music industry is on the one hand seen as a necessity but on the other hand, it is seen as a burden:

The 'burden' of over-regulation has been one of the constant claims of the hotel and club industries. By contrast, a succession of community groups have argued for over a century that too much regulation is never enough when it comes to sites of gambling, drinking and dancing. An ongoing fear of public gatherings has also underpinned this debate.

As discussed further in Chapter One the initial involvement of the WASG in specifically regulating the local music industry<sup>5</sup> was the allocation of an excess of \$8 million in government funds by the Department of Culture and the Arts (DCA) (DCA, 2009, p.6). These funds were used for the development of the Contemporary Music Grants Program (CMGP)<sup>6</sup> in 2002. The CMGP provides grants for contemporary musicians in the areas of: 'Commercial Development'; 'Touring'; 'Mentorships and Skills Development'; 'Production' and; the 'Quick Response Program'. The CMGP grants are allocated on a periodical basis, with the successful applicants decided by a peer-review panel (2009, p. 25). In 2006, the DCA allocated additional funds for local live music venues. This funding established the Sound Attenuation Support Program (SASP). The SASP was developed to assist:

[Operators] and owners of live original contemporary music venues, with a recognised history of operation within the industry, to develop sound attenuation measures. This in turn will limit the impact of noise complaints and possible conflict with surrounding residents and other users (DCA, 2006a, p. 6)

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<sup>5</sup> I use the word 'specifically' here as the current LCA has been in force since 1988. As live music occurs within licensed premises, it is inadvertently regulated by the LCA, an Act which governs the production, supply and consumption of alcohol to the wider community (DRGL, 2007c).

<sup>6</sup> The CMGP was, until recently, known as the Contemporary Music Funding Program, so texts about the program which were earlier than 2009 will refer to the program as the Contemporary Music Funding Program, not Contemporary Music Grants Program as I have done.

In conjunction with the SASP, the DCA developed the *Keeping it in the mix* (KIITM) website. This website provides advice on ways venues can develop positive relationships with neighbouring residents, ways developers can build adequately insulated residences and, steps residents should take prior to moving nearby a live music venue (DCA, n.d.). The SASP and KIITM have been developed due to the difficulties experienced by venues in being able to comply with the EPR. Amendments have also been made to the LCA to recognise the dual functioning of licensed premises as live music venues.

The amendments made to the LCA mean live music is now recognised as part of the overall dual functioning of licensed premises (DRGL, 2007c). Additional changes have been made to LCA under Division 7 of Part 4: The Conduct of Business. These changes are the establishment of the number of noise complaints which must be made against a venue before steps can be taken to stop them from hosting live music and, recognising the rights of first occupancy<sup>7</sup>. However, these amendments do not absolve venues from needing to adhere to the EPR.

As the examples discussed show, there has been a longstanding relationship between the State and Federal Governments of Australia and the live music industry. While Breen (1993) asserts that government regulation of the industry is often opposed because of a belief that it will impede the “free-flow of creative talent” (p.66), the steps taken by the WASG have been undertaken in attempt to help facilitate this.

While government regulation of the music industry of Australia is not a new occurrence, studies into the impact of government regulation on the live music industry are relatively new. Most studies engage with venues to explore whether the regulating of the music industry and particularly the live music industry is helping or hindering its development. For example, *Vanishing Acts* (VA) (Johnson and Homan, 2003) was a study into the live

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<sup>7</sup> The right of first occupancy means the rights of the occupant in the area where a live music venue exists are given precedence.

music industry in New South Wales (NSW). This study was undertaken to provide a published report on the state of live music in NSW, to understand industry practices and the impact of government's regulating of the industry (p. 1). While addressing the concerns of musicians with regards to performing live, this study has engaged with licensed premises to explore to what extent they host live music and whether the government's regulation has impacted their ability to do so.

Another more recently published study is the *Live Music Revolution* (2008). This study was established in 2007 by the Music Council of Australia after it was identified that the government regulation of the live music industry was a threat to its survival. The *Live Music Revolution* consisted of a survey of licensed premises, undertaken in conjunction with Australasian Performing Rights Association (APRA), the Australian Hotels Association (AHA), Clubs Australia (CA) and, Restaurants and Catering Australia (RCA) (Jacobs, 2008). There are two parts to the *Live Music Revolution*. The first part was to identify the barriers that prevent venues from hosting live music. This was done by conducting a nationwide survey of the hospitality industry. The survey was distributed through the AHA, CA and RCA receiving a sum total of 69 responses from clubs, hotels and restaurants. The survey found that a large percentage of the venues hosted live music at varying capacities and would continue to do so as they found it beneficial to their business. The benefits for venues included increased patronage, a more enjoyable atmosphere and having a competitive edge in the hospitality industry. The benefits to the music industry were that local talent was supported at the venues and the cultural life of the local community was enriched. (APRA, 2008a, p. 1).

The survey's findings also outlined numerous reasons as to why venues did not host live music. These included overhead costs, concerns about security and the government's regulating of the industry. Noise regulations were particularly stated as being a problem along with the problems some venues had difficulties in finding artists to perform. Almost half of the venues which did not host live music stated that government encouragement and simpler regulations would encourage them to do so. It was also found that a guide for venues and education on how to host live music would be helpful



(APRA, 2008a, pp. 1-2). From these findings, the next stage of the study will comprise of the development of an industry guide about government regulations, a how-to manual on hosting live music for venues and, a summit to be held on live music in 2010 (APRA, 2008a, p. 2)..

Both VA and *Live Music Revolution* have illuminated how the regulating of the live music industry can impede its ability to develop at a base level – having venues which will host live music; providing spaces for musicians to perform. In addressing this issue from the perspective of venues, these studies have failed to discuss how the government's regulating can impede the development of musicians' careers. A study into this, would fill the gap left by these studies while helping add to academic enquiry into the governments' regulating of the live music industry.

From an academic perspective, numerous journal articles have been written investigating government regulation and live music. In particular the work of Shane Homan, one of the authors of VA has been used to provide a basis for my study. Homan has written a wide array of articles on the issue of government regulation and live music published in journals such as '*Youth Studies Australia*' (2003) and, '*Media International Australia*' (2002). For example one of his articles, 'Cultural Industry or Social Problem? The Case of Australian Live Music' (2002), provides a cultural background to the importance of live music performances in Australian-wide context with an analysis conducted on the live music industry in NSW. The purpose of the paper is to "reconcile the continued recognition of live music as an important local cultural industry with the array of governmental actions denying its long-term viability" (p. 88). This paper focuses on the liquor licensing, building codes and noise legislation which are in place in NSW. Overall Homan takes a very negative view of the role government's take in regulating the live music industry. As he states, the live music industry has always seen itself as being 'above' government intervention and subsidies and that "...the period through which Australian music venues were at their greatest numbers stemmed not from government intervention... but from a profound ignorance of industry activity and non-regulation." (p. 90). In comparison, his article, 'Youth, live music and urban leisure: Geographies of

noise' (2003), analyses the regulating of the NSW live music industry. This analysis is done in the areas of: noise regulations (pp. 14 – 16); gambling and drinking (p. 17) while also providing a cultural background to the importance of live music (pp. 17 -18). Homan's work has provided a great cultural basis for my study while also illuminating some of the reasons why governments regulate the live music industry.

The literature I have found investigating the government's regulation of the WA live music industry has largely failed to engage specifically with live music, instead investigating issues pertaining to the WA music industry as a larger entity. For example, David Erceg-Hurn's report 'Live Music vs. Noise Complaints: Report for WAM' (2006) analyses the difficulties the noise regulations can cause live music venues when their enforcement leads to the closure of venues. The report addresses the restrictions noise regulations can place on the functioning of live music venues and the difficult relationship between the regulation's administration and enforcement with the live music industry (pp.3-4). The report then presents case studies on recent noise complaints within metropolitan Perth (pp. 5 – 15) and outlines recent legislative and non-legislative changes which have been made to help solve the problems (pp. 16-22).

Two other texts I have found on the WA music industry are both State Government reports: 'The Western Australian contemporary music program: Interim report' (WACMP) (DCA, 2006) and 'Perth's creative industries: An analysis' (PCI) (GWA, 2007). WACMP is an overall analysis of the state of the Western Australian music industry while discussing how government funding has been allocated under the program. In comparison, the PCI is a combined geographical and quantitative analysis of the wider creative industries in Perth.

The purpose of my study is to explore how government regulation of the live music industry in metropolitan Perth impacts the experiences of performing live for Perth original contemporary musicians. In particular, my study explores how the regulating of the industry can either hinder or facilitate the

'free-flow of creative talent'. Underpinning my study is a Foucauldian analysis of the findings using his theory of governmentality. The argument presented in this thesis is the 'mentalities' to regulating the live music industry, coupled with a reliance on 'self-governing' techniques (two ideas key to governmentality) (Dean, 1999, p. 16; Foucault, 1997, p. 68) can either hinder or facilitate the development of music careers and in particular the 'free-flow of creative talent'.

In undertaking this research I was looking to explore the importance of performing live to the development of careers as well as the impact of three regulations. In particular, my study explores: whether performing live aids with the creative development of songs and the development of performance skills; whether or not the allowed noise levels in the EPR have impacted musicians and to what extent; whether musicians have accessed government funding through the CMGP for local live music as well as the importance of the funding to the development of the local live music industry and; whether musicians claim for copyright revenue under the Australian Performing Rights Association's Live Music Returns (LMR).

Using venues located in metropolitan Perth and 'indefinitely'<sup>8</sup> licensed under the LCA and the timeframe of 2001 - 2008 to define the scope, I focused on three State Government and Federal Government regulations. At a State Government level, I included the regulation of volume in the EPR and the provision of funds through the CMGP. At a Federal Government level, I included the LMR which is aligned with the performance provisions in the Australian Copyright Act 1968 (ACA).

I chose the EPR and LMR to be included in this study because when venues host live music they must comply with the EPR and obtain a Live Music

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<sup>8</sup> When a venue is 'indefinitely' licensed it does not require the venue to reapply for the licence, but does require the payment of annual licensing fees. In comparison, music festivals work on what is known as an 'occasional' or 'temporary' licence (DRGL, 2007a; DRGL, 2007b)

Licence (LML) through APRA<sup>9</sup>. As discussed further in Chapter One, the revenue collected via the LML is redistributed via the LMR. Musicians have a choice as to whether they claim their LMR but, must comply with the venues' allowed noise levels under the EPR. Musicians also have a choice in applying for funding through the CMGP and as such, I was intrigued as to whether they had accessed this funding for local live music.

The CMGP was included in this study because in recent funding rounds, musicians have been able to obtain funds to help with the hosting of local live music performances<sup>10</sup> (DCA, 2007; DCA, 2008). Additionally, when I commenced this study the CMGP was due to expire at the end of 2009, making a study (even as small as mine) very timely.

As the CMGP provides funding for original contemporary musicians, I similarly focused on contemporary genres. The CMGP's definition of contemporary music is very general however stating that it is music "broadly understood as being popular" (CMMT, 2002, p. 9). Within this definition of contemporary music I included the genres of pop/rock, metal/punk, blues/roots, and indie/alternative. I chose my genre categories because they are most widely performed at venues across the metropolitan area and coupled them according to genres most often associated together in music stores<sup>11</sup>. By having a very specific set of genres, and grouping them in the manner I did, some difficulties occurred for musicians in specifying their genres. I reflect more on this in the Limitations section of this chapter. There were also several other elements to this study included in the original design which as the study went along were disregarded due to a lack of findings or a limited timeframe in which to undertake the research.

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<sup>9</sup> As discussed in Chapter One licensed premises must comply with the EPR regardless of whether they host live music. However, hosting music can cause complications in being able to comply with the EPR, and the assigned noise levels are adjusted in relation to music (DEC, 2007, p. 4).

<sup>10</sup> As discussed further in Chapter One local live music is not a priority for the CMGP, with regional, national or international tours taking precedence. Local live music shows have started to be funded as part of larger projects (DCA, 2007; DCA, 2008).

<sup>11</sup> At the time I commenced this study, I was working in a national music retail chain and we used very similar groupings as this to merchandise stock. Interestingly, the way in which musicians' genres were chosen at this store was dependent on the record label their music was distributed through. For example, one high profile 'pop/rock' group was classified as being a 'metal' group because their music was distributed through a 'metal' record label.

In the original research design, musicians were asked questions regarding the provisions in the LCA which allow people under the age of 18 (juveniles) onto licensed premises. Under Part Five, Division 9 of the LCA, juveniles are allowed onto licensed premises provided they abide by several rules. These rules are: abiding by the rules set out by the venue; leaving the premises when asked; being accompanied by a legal guardian and; are on the premises in order to conduct lawful business. As the participants in my study were not under the age of 18 during the specified timeframe, there were no findings in regards to the LCA and live music. This is because the one musician who was a 'juvenile' during my study's timeframe did not perform in a band until they were over the age of 18.

I also planned to interview the managers of numerous live music venues. This was to find out how the regulations have impacted their ability to host live music, the manner in which venues deal with musicians when noise complaints arise and, whether they know interfering with performances to enforce the EPR can impact musicians' performances. Venues were also to be asked if they had accessed funding under the SASP. The venues and the questions to be asked were to be chosen following identification from musicians in the field research collection. Following an analysis of the musician field research, I decided to not go ahead with the venue interviews. My concern was that it would take too much focus away from discussing the experiences of musicians and meant I would not have been able to go into as much detail in my discussion of the musicians' findings. As venues have traditionally been the focus of studies into government regulation and live music, my hope for this study is that perhaps it will tread some new ground and encourage further engagement with musicians in this field of research.

My initial expectations as to what my study would reveal were dismissed almost immediately. For example, I expected musicians to be more critical of the EPR's allowed noise levels because it is one regulation which has been left unchanged by the WASG. Instead I found it was the manner in which venues were enforcing the regulations and the relationships between

musicians and venues as well as musicians and audiences that determined the impact. Also, due to a generally positive view within the industry of how the CMGP has helped its development, I was expecting this to be reflected in my study. However, I found several musicians were very critical of how the funding allocations had been decided. In particular, musicians were critical of the inclusion of a peer-review panel in the funding allocation process.

### **Theoretical perspective:**

The theoretical perspective adopted for my study is Michel Foucault's theory of governmentality. Throughout this thesis I relate the way in which the live music industry is regulated back to several key ideas within this theory. In Mitchell Dean's book *Governmentality* (1999) he interprets Foucault's theory of governmentality to mean the 'mentality' of the governments in charge of society. This 'mentality' is the government's rationale for governing their society and the way in which the government chooses to do so (p. 16). That is, why they are regulating (such as to control volume or to facilitate the development of careers) and the way in which this is done (legislation and funding programs).

As my study explores, governments will use multiple regulations to guide behaviours. Multiple regulations are used because as Rose (1996, p. 42) explains, governmentality is complex in nature, involving countless 'guides' on the right way to behave. "[Governmentality] extends to the concerns of rules to the ordering of multitudinous affairs of a territory and its population in order to ensure its wellbeing." Applying Rose's idea of governmentality to the live music industry is interesting because, there is not a singular 'wellbeing' that is a priority when regulating the industry. The industry's 'wellbeing' is dependent upon numerous 'mentalities' which 'guide' various components of the industry's functioning.

While numerous 'mentalities' have been adopted to 'guide' various components the regulating of the live music industry, the regulations

included in my study all have one component of governmentality in common. This is the reliance of governments in liberal societies such as Australia place on individuals to be involved in the regulating process. As Foucault explained in his essay 'Governmentality' (1991) individuals are required to know "how to govern oneself, how to be governed [and], how to govern others" (p.87). As explored throughout my study, it was this reliance on 'self-governing' and the subsequent requirement of knowing how to govern and how to be governed that played an important role in determining whether the regulations impacted the performances of musicians. In particular, this would influence whether the regulations hindered or facilitated the 'free-flow of creative talent'.

### **Methodology and methods:**

I decided to construct my research study using the case study methodology. A case study is an empirical inquiry "that investigates a contemporary phenomenon within its real-life context, especially when the boundaries between the phenomena and context are not clearly evident" (Yin, 2003, p. 13). I chose to use this methodology because case studies arise from "the desire to understand complex social phenomena... [And] allows investigators to retain the holistic and meaningful characteristics of real-life events" (Yin, 2003, p. 2). Using this methodology allowed me to present a detailed analysis on the experiences shared by my participants. This meant that instead of just stating 'X' number of musicians did or did not have their performances impacted by a regulation, I could expand on this with specific examples. One limitation I found to constructing my research as a case study is the need to retain "holistic and meaningful" characteristics. That is, case studies rely on a having in depth and meaningful data presented. Due to this, when musicians did not share their experiences in much detail, or there was not much to share, it resulted in some musicians having more of a 'voice' than others in this thesis. In other words, it was difficult to compare the experiences of musicians and analyse the findings when some musicians articulated their responses more fully than others.

The field research stage of my study comprised of an 'online' survey and semi-structured interviews. Throughout this study, musicians were reassured their identity would be hidden in the final thesis. I decided to withhold the identity of the musicians in an attempt to get more truthful responses, and to protect musicians from any negative repercussions from criticising venues and funding programs. To provide anonymity, musicians who were interviewed have been given a pseudonym. For the purpose of the survey musicians were asked to create a 'username' to identify themselves by.

The survey was conducted to provide a basis for analysis and to inform the research interviews. I chose to conduct the survey 'online' via the 'Esurveyspro' website<sup>12</sup> for two reasons. First, to obtain data from a wide range of musicians and second, to give musicians easy access to the survey. The responses given by individual musicians were used as a basis for questions to be asked in the research interviews. To ensure only musicians completed the survey prospective participants were required to email requesting more information and a link to the survey site. I anticipated that up to 50 musicians would complete the survey however, only 12 did. Despite only having a small number of participants, this has not impeded my ability to undertake this research or conduct it as a case study. This is because by having a small number of participants, I was able to go into more depth with the findings I have. This low number is despite quite rigorous promotion of the study.

The study was advertised on several prominent music websites including 'Perthbands', 'Faster Louder', 'The West Australian Music Industry Association' and, 'The Music'<sup>13</sup>. A small promotional blurb was published in street press publication *Drum Media*. I also sent an email to 20 of my contacts within the local industry (musicians, managers and, promoters) as well as to three educational institutions offering courses in music and audio

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<sup>12</sup> The 'Esurveyspro' website can be viewed at: <http://www.esurveyspro.com>

<sup>13</sup> The web address for these sites are as follows: <http://www.perthbands.com>; <http://www.fasterlouder.com>; <http://www.wam.asn.au> and; <http://www.themusic.com.au>



engineering. I experienced several technical issues in using this online survey which could have impacted the number of participants. This is because an additional eight musicians contacted me stating they would like to participate but did not go ahead with doing so. The technical issues experienced when conducting the survey via 'Esurveyspro'. These include: the survey website generating a lengthy URL, which when sent via email would split across lines, resulting in the link not working; the website being 'offline' when musicians were attempting to complete the survey and; ECU student emails flagged as spam by Hotmail resulting in emails sent to potential participants being rejected. The survey remained 'online' for approximately five weeks through September – October 2008. The questions asked in the survey are shared in the tables displayed in Chapter Three. The research interviews were then conducted throughout November – December 2008. The research interviews were conducted via email or telephone at the convenience of both myself and the interviewee<sup>14</sup>. Musicians were asked why they answered 'yes' or 'no' to the survey questions and to share their experiences of how the regulations had impacted them.

Despite only having a small number of participants, this has not impeded my ability to undertake this research or construct it as a case study. This is because by having a small number of participants, I was able to go into more depth with the findings I have.

The sample group included in this study is very broad, as shown in the figures in Appendix One and shared in Chapter Three. For example the age range musicians is wide reaching, with the youngest participant being 21, while the oldest is 53. The majority of musicians perform on an irregular basis in 'Pop/ Rock' 'bands' and their occupations range from working in related music industry fields - such as arts, music retail, live event or, media - to professional positions such as law and psychology. One quarter of the musicians additionally rely on performing as a source of income. Having such a wide spread sample group has resulted in a wide range of views and experiences.

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<sup>14</sup> The interviews that were conducted by phone were recorded and transcribed.

## **Limitations:**

There are three limitations to my study which impact the scope and depth of the findings presented in this thesis. First, a relatively small word count has restricted the depth of analysis, as well this study's scope. For example, venues and audiences, which are an integral component to the live music industry, are not included in this study. In doing so, aspects surrounding the impact government regulation can have on the culture of live music are not addressed. Second the choice of genres, coupled with their grouping, has resulted in some genres (such as 'experimental', 'electronica' and 'jazz') not being included in this study. If these genres were to be included then perhaps more musicians would have participated. Third, a small sample group has resulted in limited and possibly misrepresented findings on the impact of government regulation on the live music industry. A larger sample group would yield wider results and findings more reflective of the larger music industry.

Overall, it is important to understand that this study has not been undertaken in order to find the best way to regulate live music, nor is it an attempt to evaluate the effectiveness of the regulations; it is simply exploring how the government's regulation of live music impacts upon musicians' performances.

## **Thesis Overview:**

**Chapter One:** Governmentality and the regulating of the live music industry.

In Chapter One, I present Michel Foucault's theory of governmentality and discuss how it works in liberal societies such as Australia. In this chapter I define the term governmentality, as well as the various components of this theory as they relate to my study. These components are: varying 'mentalities' to governing, the notion of using regulations to 'guide'

behaviours and, a reliance on 'self-governing'. Each of these components will be defined and related to the regulating of the live music industry. The argument presented into this chapter is that the use of governmentality helps to rationalise and give authority to, the governments' regulation of the live music industry.

**Chapter Two:** The 'mentalities' of regulating the live music industry vs. the 'free-flow of creative talent'.

In Chapter Two, I discuss why live music is important to the development of music careers. In particular I explore the importance of being able to perform live to the creative development of music and the development of musicians' performance skills. I then analyse the individual regulations which are the focus of my study. These regulations are: the regulating of volume under the Department of Environment and Conservation's EPR, the provision of developmental funding under the Department of Culture and the Arts' CMGP and, the distribution of copyright revenue under the Australian Performing Rights Association's LMR. These regulations are analysed in relation to how they are examples of governmentality and how they have the potential to either hinder or facilitate the 'free-flow of creative talent'.

**Chapter Three:** The impact of the governments' regulating on the live music performances of Perth's original contemporary musicians.

In Chapter Three, I draw on the personal examples from the participants who were interviewed in my study. The overall chapter findings are: first how performing live does and does not help with the creative development of songs; second how the regulation of volume does and does not hinder the 'free-flow of creative talent and, third how the provision of funding through the CMGP and LMR's have helped finance the development of music careers.

## **Chapter Four: Conclusion.**

Chapter Four is the conclusion to this thesis. This chapter discusses the key finding in this study which is that the relationships musicians have with venues, audiences and, regulators are integral to determining whether or not the regulations hinder or facilitate the 'free-flow of creative talent'. Relationships were found to be important because they determine the manner in which musicians' will 'self-govern' in accordance with the regulations and the way in which regulatory breaches are handled.

In the following chapter I give a contextual background to the importance of live music to the development of careers. I then discuss the regulations specific to this study and offer an analysis of the regulation in light of Foucault's theory of governmentality.

## **Chapter One: Governmentality and the regulating of the live music industry.**

Michel Foucault's theory of governmentality has been adopted in my study to rationalise why and how the live music industry is regulated by the government. This chapter's aim is to give a working definition of this theory and explain why it has been applied to my study. The argument presented in this chapter is that the theory of governmentality is a useful tool in explaining how government regulating works as well as why and how the State and Federal Government's regulate the live music industry. In particular, governmentality helps rationalise the use of numerous regulations to regulate one industry as well as the involvement of individuals in the regulating process.

First, I define the term governmentality and discuss how this theory works in liberal societies, such as Australia. I then discuss the three components of governmentality applied in my study. The three components are: the varying 'mentalities' to governing, the notion of using multiple regulations to 'guide' behaviours and a reliance on individuals to 'self-govern'. Each of these components of governmentality are defined and related to the regulations explored in this study. The regulations are: the Environmental Protection (Noise) Regulations 1997 (EPR), the Contemporary Music Grants Program (CMGP) and the Live Music Returns (LMR).

In Mitchell Dean's book *Governmentality* (1999) he interprets Foucault's theory of governmentality to mean the 'mentality' of the governments in charge of society. This 'mentality' is the government's rationale for governing their society and the in which the government chooses to do so (p. 16). For example, as discussed in Chapter Two, Perth's live music industry is regulated via a combination of legislative and funding regulations. These regulations all differ in their 'mentalities' (what they regulate) and their rationales (why they are being regulated).

As my study explores, governments will use multiple regulations to guide behaviours. Multiple regulations are used because as Rose (1996, p. 42) explains, governmentality is complex in nature, involving countless 'guides' on the right way to behave. "[Governmentality] extends to the concerns of rules to the ordering of multitudinous affairs of a territory and its population in order to ensure its wellbeing." Applying Rose's idea of governmentality to the live music industry is interesting because, there is not a singular 'wellbeing' that is a priority when regulating the industry. The industry's 'wellbeing' is dependant upon numerous 'mentalities' which 'guide' various components of the industry's functioning.

The reason numerous 'mentalities' have been adopted to regulate the live music industry is because the industry is regulated in accordance with three beliefs: that live music performances "have the potential to spill out and confront the rest of society" (Fiske, Hodge and Turner, cited in Homan, 2003, p. 12); that if the government is not involved local music will not reach its full potential and, that musicians deserve to be recognised and adequately remunerated for their music under copyright law (Market Equity, 2002, p. 1; Cottle, 2008). Due to these varying 'mentalities', several regulations are applied to the industry, which are handled by varying levels of government.

For example at a State Government level, the volume at which live music is performed is influenced by the regulation of noise under the EPR. The EPR has been developed by the Department of Environment and Conservation and is enforced by a combination of Local Government's and Police (Erceg-Hurn, 2006, p. 3). Comparatively, the Department of Culture and the Arts (DCA) has allocated funds in excess of \$8 million to help with the development of the local music industry (DCA, 2009, p. 2).

As discussed in Chapter Two and Three, the CMGP has not been developed for 'local' live music but, a provision of funds such as this helps with the development of the wider music industry (Jimi personal communication, November 26, 2008). Last, the LMR as developed by the Australian Performing Rights Association (APRA) is aligned with the Federal

By adopting these two components of governmentality - the varying 'mentalities' to regulating and the use of multiple regulations to guide behaviours - authority is given to the government for the use of legislative and financial regulations to govern a single industry. In the case of my study, this is the live music industry. The regulations included in my study - the EPR, CMGP and LMR - all differ in their 'mentalities', but, all work to guide (either explicitly or as a consequence) the live music industry. While these regulations have adopted varying 'mentalities' and are all separate regulations, they do have one aspect of governmentality in common. This aspect is the reliance on 'self-governing' which I will now discuss.

According to Foucault (1997, p.68), when the governments of liberal societies, such as Australia, regulate the behaviours of individuals in mass society, they rely on individuals to be involved in this process. This involvement is the reliance on individuals to 'self-govern' their behaviours. As Foucault explained in his essay 'Governmentality' (1991) individuals are required to know "how to govern oneself, how to be governed [and], how to govern others" (p. 87).

As discussed in Chapter Three, it was this reliance on 'self-governing' and the knowledge of how to be governed and how to govern that determined the impact the regulations had on musicians' performances. For example, the EPR establishes the level of noise that is allowed to emanate from one premise to another, and includes how this level is to be adjusted for music (DEC, 1997, p. 4). However, this regulation does not specify how live music venues and most importantly musicians, must 'self-govern' to ensure the volume of live music sits within these allowed levels. It was this reliance on 'self-governing' under the EPR, which meant that the relationships musicians have with their audience and the venues they perform in, will determine: whether musicians will or will not perform their music at a level which does not come into conflict with the EPR as well as, how the venues deal with musicians at the time noise complaints occur. Personal experiences and examples of this occurring are discussed in Chapter Three.

In comparison, the 'self-governing' under both the CMGP and LMR determined whether musicians accessed funding and copyright remuneration available under these regulations. For example the CMGP relies on musicians to 'self-govern' and apply to receive the funding. In order for musicians to successfully receive this funding they must have an understanding of the 'mentalities' of the program and know how to govern themselves in order to be successful in their applications. Additionally, the CMGP has been established by the DCA but is administered by a peer-review panel comprising of members of the local contemporary music industry (DCA, 2009, p. 25). By having the funding allocations decided in this manner, the music industry is responsible for its 'self-governing'. This 'self-governing' has been brought into question by two musicians interviewed in this study. In Chapter Three, I elaborate on Jimi and Stevie's criticisms of this process, referring to the panel as 'mates of mates' (Jimi personal communication, November 26, 2008; Stevie personal communication, November 18, 2008).

Comparatively, the LMR, while collecting copyright revenue on behalf of musicians, requires musicians to 'self-govern' in accordance with 'mentalities' of the LMR to receive the revenue. The 'mentalities' of the LMR include becoming a member of APRA and reporting all the songs performed to the organisation (APRA, n.d.a). This study found, that in order for musicians to do this, they must have a relationship with APRA and know how to govern their behaviours in order to receive the revenue.

In conclusion, Foucault's theory of governmentality gives authority to the way the live music industry is regulated. In particular, governmentality rationalises why governments will use numerous regulations to guide the behaviours within one industry as well as the reliance on individuals in this process.

In the next chapter, I explore the regulations specific to my study, relating the regulating of the live music industry to Foucault's theory of governmentality as discussed in this chapter. I also discuss the importance of



performing live to the creative development of songs and the development of performance skills in relation to whether or not the governments' regulating of the live music industry hinders or facilitates the 'free-flow of creative talent'.

## **Chapter Two: The 'mentalities' of regulating the live music industry vs. the 'free-flow of creative talent'.**

As discussed in Introduction, Perth's live music industry is regulated through a combination of legislative and funding regulations. Since 2001, the Western Australian State Government (WASG) has adopted a 'mentality' with regard to regulating live music which works to facilitate its 'free-flow of creative talent'. This 'mentality' has resulted in the development of funding programs and legislative amendments.

The aim of this chapter is to explore the regulations specific to my study. These are the Environmental Protection (Noise) Regulations 1997 (EPR), the Contemporary Music Grants Program (CMGP) and, the Live Music Returns (LMR). I explore these regulations in light of Foucault's theory of governmentality. As discussed in Chapter One, the use of Foucault's theory helps to rationalise the adoption of multiple 'mentalities' to regulating one industry and the reliance the regulations in my study place on 'self-governing'. The argument presented in this chapter is that the 'mentality' of regulating live music can work to either hinder or facilitate the 'free-flow of creative talent'. The analysis presented in this chapter is done to provide a contextual background to the findings presented in Chapter Three.

First, I discuss the importance of live music to development of music careers. In particular I discuss the importance of being able to perform live to the creative development of songs and the development of performance skills. Then I analyse the regulations under the categories of the regulating of volume and, the allocation of government funding and copyright revenue. This discussion is important because it provides the context for the findings presented in Chapter Three.

Prior to the development of audio recording technologies, all music was experienced 'live', with the musician performing their songs directly to an

audience (Shuker, 2005, p. 153). As a primal way to experience music, live music performances are a popular and unmatched social activity (Stokes, cited in Homan, 2003, p. 88; Homan, 2005, p. 9). They allow for a unique and direct connection between artist and audience. According to Richard Kingsmill, music director for Australian youth radio broadcaster triple j live music performances are “confrontation[al], theatre; a testing of the band by the audience and the audience by the band” (Kingsmill, 2008).

Live music is ‘confrontational’ in two ways. First, musicians are in close proximity to their audience, and second, the music is traditionally performed at a loud volume. The closer musicians and audiences are the more authentic the experience, with loud volume helping to further enhance this. (Den Tandt cited in Shuker, 2005, p. 153; Erceg- Hurn, 2006, p. 16; Fiske, Hodge and Turner, 1987, p. 19). These ‘confrontational’ aspects of live music are further enhanced by musicians theatrically performing their music.

As Perth music photographer Lisa Businovski (cited in Ballico, 2008c) states “[during live performances] communication is acted out – and because [musicians] are on stage – there is [an] over exaggeration of movement, because they are moving in time with their music.” Through a combination of confronting the audience and theatrically performing the music, an environment to test the music is created. This testing includes: the creative components of the songs (lyrics, vocals and instrumentation); the best way to perform them and; the best audience for which to perform. Through this testing, a relationship is developed between musicians and their audiences.

The relationships between musicians and audiences facilitate instant and direct feedback. As discussed in Chapter Three this feedback can be invaluable for musicians who write and perform their own music. According to Homan (2003, p. 12) it is these relationships formed in the local live music industry which are important to help develop musicians’ music careers. As he asserts, the local live music industry “is widely regarded as an ‘incubator’ for artists seeking international success... Musicians; managers; and; recording companies share a belief in the value of the... live circuit in

preparing artists for regional/ global success." By hosting live music performances in licensed premises, relationships between musicians and audiences have a place to be formed (Fiske Hodge and Turner, 1987, p. 17).

While hosting local music within pubs and clubs makes it easily accessible to musicians and audiences, it requires venues, and subsequently musicians to adhere to regulations as a consequence of doing so. As Fiske Hodge and Turner (cited in Homan, 2003) explain, live music performances "have the potential to spill out and confront the rest of society" (p.12). This belief means venues have a responsibility to ensure musicians and audiences "behave responsibly" (Homan, 2003, p. 14) to prevent live music from disrupting the "quiet and good order of the neighbourhood". As Homan (2003, p. 9) explains:

The communal 'free flowing' aspects of the gig are increasingly beset by a range of individual, commercial and legal requirements to behave 'responsibly'... The seemingly everyday act of attending [and performing at] a music venue becomes a moment around which a series of regulatory systems revolve.

For the purpose of my study, the "regulatory systems" I have explored are: the regulating of volume; the provision of government funds and; the allocation of copyright revenue. What is interesting about these regulations is that they do not all work to hinder the 'free-flow of creative talent'. Some of the regulations work to facilitate the development of the industry and this 'free-flow of creative talent'.

For example, as discussed in Chapter Three, the regulating of volume and the manner in which 'self-governing' occurs in relation to the EPR can hinder the 'free-flow of creative talent'. This hindrance has occurred because musicians have had their performances interrupted in order to ensure the regulations are adhered to. This interruption has subsequently interfered with live music's 'testing environment' which in turn can potentially impact the creative development of songs and the development of performance skills.

In contrast, the allocation of government funding and copyright revenue has helped facilitate the 'free-flow of creative talent'. For example, Shaun, a musician interviewed in this study has received government funding which has allowed him to tour extensively. This means Shaun has been able to test his music to an audience wider to metropolitan Perth; helping to creatively develop their music and performance skills. Additionally, Shaun received enough copyright revenue from one year's worth of live performances to buy a new laptop. As he creates his music using this piece of technology, this has further helped facilitate his 'free-flow of creative talent' (Shaun personal communication, December 2, 2008).

The varying 'mentalities' to the regulations that guide the behaviours in the live music industry can be illuminated through Foucault's theory of the governmentality. While, as discussed in Chapter One, governmentality in a general sense refers to the 'mentality' of the government (Dean, 1996, p. 16), governments will adopt multiple 'mentalities' to guide the behaviours of individuals (Rose, 1996, p.42). The regulating of the live music industry is a great example of how government's adopt multiple 'mentalities'. For example, the regulations included in my study regulate the volume of live music performances, provide funding to help musicians develop their careers and allocate copyright revenue. The use of multiple 'mentalities' is even more complex as these regulations are handled by different government departments. The first regulation I will discuss in relation to how it is regulated and the 'mentalities' of doing so is the regulating of volume under the EPR.

### **The regulating of volume:**

The volume of music being performed is an integral component to the 'confrontational theatre' of live music (Erceg- Hurn, 2006, p. 16; Fiske, Hodge and Turner, 1987, p. 19). While the 'mentality' of several musicians in my study is that loud volume is integral to performing live, the 'mentality' of the

government is that noise in mass society it must be controlled. The volume of music performed in Perth's live music industry is regulated through the EPR.

The EPR has been developed by the Department of Environment and Conservation, the State Government department in charge of conserving WA's environment (DEC, n.d.). The EPR is in place to protect public health and safety in relation to being exposed to noise. The EPR sets the allowed levels of noise to be received at one premise from another at a particular time of day or night. (DEC, 1997, p. 4). For music, the allowed levels are determined by considering numerous factors. These include: the time of day or night at which the emission is occurring; the land zoning of both the venue and the residence receiving the noise and; the type of sound emanating from the venue. (1997, pp. 4 -7). Due to these factors, the allowed levels vary from venue to venue, with the average level being 50 decibels. (Erceg-Hurn, 2006, p. 3).

Despite being adjusted for music, it can be hard for Perth's live music venues to adhere to the allowed noise levels for two reasons. First, the average volume inside venues is 95 decibels (Erceg-Hurn, 2006, p. 3), and second, many of Perth's most popular and active live music venues are in close proximity to houses. This means the likelihood that noise complaints will occur is high. Musicians can experience numerous consequences if their performances result in noise complaints being made. These consequences include the loss of performance opportunities and, having venues interfere with performances to get musicians to lower the volume. This interference can diminish the testing environment created through performing live.

For example, Jimi, one of the musicians interviewed for this study, has been threatened with being banned from performing at a very popular local music venue because of noise complaints. Noise complaints have resulted in the venue interfering with his band's performances in order to get them to lower the volume. By doing this, the testing environment created through performing has been diminished. This has in turn affected Jimi creatively developing his music and developing his performance skills (personal

communication, November 26, 2008). I explore this finding in more detail in Chapter Three.

The government's 'mentality' that the volume of live music needs to be controlled is further complicated by the reliance on individuals (musicians and venues in particular) to 'self-govern' in accordance with the EPR's allowed noise levels. The EPR specifies the allowed levels for music but, it does not specify the manner in which these levels are to be adhered to. This is because, in accordance with the 'mentality' of guiding behaviours in liberal societies, musicians and venues are required to 'self-govern'.

In order to effectively 'self-govern', musicians and venues need to know how to be governed and how to govern. A key finding of my study, as explored in Chapter Three, is that the relationships musicians have with venues play a key role in determining whether each knows how to be governed and how to govern. It is these relationships which determine whether musicians will know the allowed noise levels for venues and, whether venues will know the best way to handle musicians when noise complaints are made.

For example, as discussed in Chapter Three, Keith and Stevie knew how to 'self-govern' their behaviours in a way which did not come into conflict with the allowed noise levels. Both musicians obtained this knowledge through developing relationships with venues. For Keith, this meant he knew the allowed levels vary venue to venue and that he must perform within these levels (personal communication, November 15, 2008). For Stevie, the relationship he has with live music venues has resulted in him developing a belief that they are too loud and as a consequence, he chose to perform his music at a volume lower than the assigned levels (personal communication, November 18, 2008).

While the 'mentality' that the volume of music must be limited and that this regulation potentially impedes the 'free-flow of creative talent', not all of the government regulation of the live music industry shares this potential. For

example, the two other regulations included in this study - the CMGP and LMR - both exist to provide funding and financial remuneration which as discussed in Chapter Three, have helped develop music careers by providing supportive funding and financial remuneration through copyright regulation.

### **The allocation of government funding and copyright revenue:**

The role of financial aid and remuneration in the facilitating and supporting Perth's music industry was revealed as important to numerous musicians in my study. The Department of Culture and the Arts (DCA) has provided funding in excess of \$8 million to the contemporary music industry in Perth and greater WA since 2001 (DCA, 2009, p. 6). This funding has been used for the development of a grants program to help facilitate the industry's development on a local, nation and international level. Of particular focus in this study is the development of the CMGP in 2001.

The CMGP provides funding to musicians under numerous categories on a periodical basis. The categories are: 'Commercial Development', 'Touring', 'Mentorship and Skills Development', 'Production', 'Quick Response Program' and 'Artflight'<sup>15</sup> (DCA, 2009, pp. 12 -15). None of these categories are specific to funding local live music performances but, funding has been granted for local live music as part of larger projects (DCA, 2007; DCA, 2008). Live music is funded in this program however but, it is for regional, national and international tours (DCA, 2009, p. 13) As discussed in Chapter Three, it was revealed by Jimi that while the CMGP does not primarily exist to fund local live music, an injection of funds into the wider industry is integral in helping to develop local live music (personal communication, November 26, 2008). This is because other areas of the local music industry, such as the recorded product, can be used to help promote local shows and vice versa. Additionally, Shaun, who received funding for touring outside of Perth, was able to establish himself as a touring musician, helping to

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<sup>15</sup> The last two categories available to musicians are not specific to music, instead forming part of larger funding programs for the wider cultural and arts sector.



improve his local live performances (personal communication, December 2, 2008)

A peer-review panel decides the CMGP funding allocations. This panel consists of 36 members of the Perth music industry, with approximately eight panellists deciding the outcome of each application. The panellists all demonstrate specialist knowledge on at least one area of contemporary music (DCA, 2009, p. 25). The membership to the panel is decided by the Minister for Culture and the Arts, who “gives consideration to achieving a broad, balanced and fair representation” of the interests of contemporary music and the community (2009, p. 25). The panellists who decide the outcome of individual applications remain anonymous and must be free from any conflict of interest with the application being assessed (2009, p. 25).

As discussed in Chapter One, by the DCA utilising a peer-review process to the administering of the CMGP, it is relying on the industry to ‘self-govern’. This is because the local contemporary music industry is required to decide how the funding is specifically allocated, and not the government. A further example of ‘self-governing’ is the reliance on musicians to apply for the funding.

Musicians are required to make an application in order to receive funding from the CMGP. In the application, musicians must specify the amount of money they are applying for and, how this funding will be used (DCA, 2009, pp. 16 -19). In order to successfully receive the grants, musicians need to know the priorities of the program and the best way to support their application. By requiring musicians to know this information, it is an example of needing to know how to be governed – two components key to effectively ‘self-governing’ (Foucault, 1991, p.87). In helping musicians to know this, the DCA provides advice on their website<sup>16</sup> and in the Contemporary Music Grants Handbook (2009). Musicians are also

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<sup>16</sup> The website can be viewed at: [www.dca.wa.gov.au/funding/grants](http://www.dca.wa.gov.au/funding/grants)

encouraged to meet with the DCA's Contemporary Music Officer to discuss their application prior to submission (2009, p. 17).

Further helping to support local live music from a financial standpoint is the remuneration available to musicians through the Australian Performing Rights Association's (APRA) Live Music Returns (LMR). When licensed premises co-exist as live music venues they are required to obtain copyright licences relevant to the performance of music to the public. In Australia, this is APRA's Live Music Licence (LML). The LML is aligned with the Australian Copyright Act of 1968 (ACA) which includes provisions regarding the performance of creative works. Under this Act, copyright protected works must be credited and the copyright holder remunerated when it is used:

Copyright law gives composers the right to control and negotiate a fee for certain uses of their music. These include the right to play or perform music outside the domestic environment...If your business uses music in any of these ways, you need permission from the copyright owners (APRA, 2008b).

By centralising the process of royalty collection through the LML, live music venues do not need to negotiate the performance of music with each individual copyright holder. Instead they pay a percentage of their annual live music budget to APRA who redistributes the funds to the copyright holders. The budget is a sum total of the performance fees paid to musicians and the venues takings from music performance ticket sales (APRA, n.d.a).<sup>17</sup> As the LML centralises the collection of performance royalties and does so on behalf of musicians, with the money redistributed to musicians when they claim their LMR.

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<sup>17</sup> The amount musicians receive from the LML collections will vary from year to year. The amount paid also depends on the percentage of copyright each musician who wrote the song holds. The amount paid to musicians however, is generally 80 cents per song (Live performance returns, n.d., p. 1).

Brett Cottle, chief executive officer of APRA, explains that the LML and LMR are aligned with the ACA because of cultural and commercial values:

The music obviously has a commercial value; it has cultural value and it ought to be paid for wherever it is consumed in our [APRA's] view... In that [live music performance] situation the consumer is directly connected with the artist but the copyright system sits alongside that very nicely... The promoter or the venue plays a licence fee to play the music in public and everybody wins. The songs are valued, the artist and writer are properly rewarded and the artist is not disconnected from his or her audience (Cottle, 2008).

By adopting this 'mentality' and subsequently providing copyright revenue for musicians, it is an example of how the government regulation of the live music industry can work to facilitate rather than hinder its development and the 'free-flow of creative talent'. This study has found, as discussed in Chapter Three, copyright remuneration, as well as the funding available under the CMGP has helped to facilitate the development of music careers.

In conclusion, the governments' regulating of the live music industry does not necessarily exist to hinder its development. As explored throughout this chapter, regulations, such as the EPR have the potential to hinder the free-flow of creative talent whereas regulations, such as the CMGP and LML have the potential to help facilitate it. The varying 'mentalities' of these regulations can be rationalised under Foucault's theory of governmentality. In particular, the adoption of multiple 'mentalities' to guide behaviours and the reliance on individuals to 'self-govern' in accordance with the regulations.

In the next chapter I analyse my study's field research. This is done in regard to the reliance on 'self-governing' techniques and how government mentalities' can hinder or facilitate the 'free-flow of creative talent'.

### **Chapter Three: The impact of the governments' regulating on the live music performances of Perth's original contemporary musicians.**

The varying 'mentalities' with the regulations that guide behaviours within Perth's live music industry have the potential to either hinder or facilitate the 'free-flow of creative talent'. On the one hand, the regulation of volume can impede the experience of performing live for musicians who consider performing at a loud volume is important to creating a 'testing environment' for their music. On the other hand, the allocation of government funding and copyright revenue can help finance the development of musical careers.

The aim of this chapter is to analyse the field research collected in my study. The argument presented throughout this analysis is that due to the reliance on 'self-governing' techniques, relationships between musicians and audiences, musicians and venues, and, musicians and regulators, were found to be crucial in determining whether or not the regulations hindered or facilitated the 'free-flow of creative talent'. As discussed in Chapter One, these relationships lead to knowledge about how to govern and how to be governed; two key components to being able to effectively 'self-govern' under Foucault's theory of governmentality (Foucault, 1991, p.87).

This chapter is separated into three sections. First I discuss the importance of performing live to the development of music careers. In particular, I discuss my study's findings regarding the importance of performing live to the creative development of songs and the development of performance skills. Second, I discuss the regulating of volume and third; the allocation of government funding and copyright revenue. Throughout this analysis the personal experiences of musicians are shared to reveal to what extent the government's regulating of the live music industry has helped to hinder or facilitate the 'free-flow of creative talent'.

## **The importance of performing live to the creative development of songs and the development of performance skills:**

The testing environment created through the 'confrontational theatrics' of live music performances is important to the creative development of songs and the development of performance skills. As the following chart shows, the belief that performing live aids in the creative development of songs and the development of performance skills was strong:

Figure one: The importance of performing live to the creative development of songs and the development of performing skills.

Question	Yes	No
Do you feel performing live helps with the creative development of songs?	10	2
Do you feel performing live helps with developing performance skills?	10	2

It was overwhelmingly found in my study that musicians consider performing live important to the creative development of songs and the development of performance skills. This view was almost absolute with the exception of three musicians. One felt performing live did not help with the creative development of songs or the development of performance skills. The other two felt that performing helps with either the creative development of songs or the development of performance skills, but not both. This finding was discussed further in the research interviews with regard to the individual responses given by the respective musicians. I will begin the discussion here with the views of Jimi.

Jimi, a psychologist, aged 28, is a band member performing music from the 'Indie/ Alternative' genre on a monthly basis. Jimi's band improvises their music during live performances, and therefore, performing live is crucial to

its creation. He explains: "The only time for it to be created is [when performing] live. There is no rehearsal or practice or writing or anything so everything's happening in the moment... The performance is the creation" (personal communication, November 26, 2008). For Jimi an integral component to this creative process is the feedback provided by the audiences facilitated through live music's testing environment:

You can tell whether they're [the audience] is leaving the room or nodding their heads as to how you're going and, because we're doing stuff that's improvised we've actually got much more scope to actually feed off the audience and respond to their response to the music (personal communication, November 26, 2008)

If Jimi did not perform, not only would his band not be able to create music in this fashion, he would not be able to develop his performance skills. As he explains: "The additional positive pressure of having an audience drives you to play certainly harder, and louder" (personal communication, November 26, 2008). The importance Jimi places on performing live is unique compared to the rest of the musicians interviewed because his band improvises their music. Shaun and Keith also believe performing live is important.

Shaun, aged 25 who works in customer service, is a solo artist who like Jimi performs 'Indie/ Alternative' music. Shaun performs weekly creating electronic music heavily grounded in the genres of 'Dance' and 'Punk'. For Shaun, performing live is a great way to test the creative components of his songs. He explains: "Making electronic music, it can be easy to get a bit lost in your own little world and performing is a good opportunity to get a feel for how your music will actually affect people" (personal communication, November 18, 2008) Like Jimi, performing live also helps Shaun to develop his performance skills. He claims:

I am a much better singer now because I have done so many shows; I've had the time to learn the technique... Interacting with people also gives me an awareness of the fact that I have an audience, which is really good for my confidence when I'm creating new material (personal communication, December 2, 2008).

Similarly, Keith, a 21 year old 'Pop/Rock' musician performing fortnightly in his band feels testing material through performing live helps with its creative development and the development of his performance skills. He explains: "[Performing] gets you in that frame of mind where you can see people's reactions to certain things and helps you decide what works, [and] what doesn't [work]" (personal communication, November 15, 2008).

In contrast Stevie, aged 53, works as a public servant and performs irregularly in a 'Pop/Rock' music band which incorporates elements of the 'Blues' genre, does not feel performing live helps with either the creative development of songs or the development of his performance skills. Stevie believes that creating music in his own time and having a rigorous rehearsal schedule is more important than performing. He explains:

We have quite rigorous and thorough rehearsal time, meaning we actively hone our music skills by rehearsing. Personally, gigging does not improve my skills, practicing does. When I review my performance at gigs, I find that I am simply making different errors each time, i.e. there appears to be no 'gig specific' errors I make that would be removed by more gigging (personal communication, November 18, 2008).

My study found that performing live was overwhelmingly important to the creative development of songs and the development of performance skills. Being able to perform at a loud volume was also found to be an integral component of this process. Through regulating the volume, it can potentially hinder the 'free-flow of creative talent'. This study found, that the belief that regulating volume impacted performing live varied from musician to musician.

## The regulating of volume:

The volume of music performed was largely found to not come into conflict with the allowed levels established in the EPR by my sample group. As the following chart shows:

Figure two: Live performances and the regulating of volume.

Question	Yes	No
Do you consider your volume when performing live?	11	1
Do the assigned noise levels impact where you can perform?	4	8
Do the assigned noise levels impact on song choice?	2	10
Have you had a performance stopped because of noise complaints	3	9

As this chart shows, only the allowed noise levels impacted a small number of musicians. This impact included influencing where they could perform, the songs they choose and whether their performances were stopped. The finding that the volume of music performed by only a small number of musicians came into conflict with the EPR, could be explained by the high number of musicians who considered the volume of music when performing live. However, as explored in the research interviews, some musicians considered the volume of their music because they felt it was crucial to giving their audiences a unique experience. For example, Stevie considered the volume of his music because he did not feel his audience needed to be "blasted" with loud volume, while Jimi and Shaun considered their volume because they felt performing loudly was crucial to giving their audience a unique experience (Stevie personal communication, December 2, 2008; Jimi personal communication, November 26, 2008; Shaun personal communication, December 2, 2008).

Neither Keith nor Stevie experienced an impact from the EPR when performing. Both musicians consider the volume of their music when performing, for reasons which do not come into conflict with the assigned



levels. For example, Keith considers the volume of his music because “some places have [noise] restrictions” and also because of personal health and safety reasons (personal communication, November 15, 2008). Similarly Stevie suffers hearing loss and believes venues are too loud. He explains: “It’s too late for me [so], I try to keep our volumes reasonable. Also, we are an older band and our punters are generally older too; they don’t want or need to be blasted” (personal communication, November 18, 2008). By considering the volume of their music due to the needs of the venue and audiences, Keith and Stevie have developed a relationship with their audiences and venues. These relationships can lead to an understanding of each parties needs in relation to regulating the volume of live music.

In contrast, Jimi and Shaun perform loudly because it is crucial to giving their audiences a unique experience. As such, Jimi and Shaun have had their performances impacted by the EPR. As Shaun explains:

My music is heavily grounded in dance music and punk, both genres which traditionally rely upon volume for impact. Also, my performance is very much about creating an intense experience for the audience and having it [the music] loud is an important part of that (personal communication, December 2, 2008).

Jimi feels performing at a high volume enhances the experience for the audience, giving them a listening experience different to a CD or mp3. Due to the importance Jimi places on volume, he feels the EPR’s assigned levels are limiting what his band can creatively do. As he explains:

We like to play through multiple amps [amplifiers] because it gives us a particular ‘sound’ and enables us to have cascading delay between current amps. We’ve also got lots of instruments going at once... so it [the assigned levels] impacts kind of ‘our thing’, its part of what we do (personal communication, November 26, 2008).

For Jimi and Shaun, the manner in which venues enforced the EPR had the most impact on their performances. For example, Shaun has had the public

address (PA) system at one venue lowered on several occasions. He says that lowering the PA impacts on his performance as his music runs from his laptop to the PA (personal communication, December 2, 2008). Similarly, Jimi's performances at one venue have been interrupted by an irate security guard on several occasions. This has involved the security guard coming up to the stage and trying to shout over the band to turn down. As he explains:

Mid-performance, a security guard came up directly in front of the lead singer and was trying to shout over our performance at him...all I see is the security guard going up to the face of the vocalist, mid-song, mid-singing... I didn't quite realise what the volume was, I only found out after the fact [that it was] the volume and [by] watching the guitarist move and go to his amp and turn it down (personal communication, November 26, 2008).

Lowering the volume of music takes away from the performances 'confrontational theatrics', and diminishes the 'testing environment' for the musicians' and audience. As Jimi explains:

[An interference] can just completely mess up the vibe we've worked to create... [The] volume is part of the thing where people go out to see a band. It's one of the aspects that's enjoyable for punters in that the volume adds a new level of experience... It's kind of part of the deal (personal communication, November 26, 2008).

While whether or not the EPR's allowed noise levels have hindered the 'free-flow of creative talent' has differed for the four musicians I interviewed, the experiences they shared demonstrate the importance of relationships in regulating the live music industry. This is because relationships are a key component to being able to effectively 'self-govern'. As discussed in Chapter One, 'self-governing' requires knowing how to govern and how to be governed (Foucault, 1991, p. 87) and relationships can help share information on how this can be achieved.

The role musicians' play in assisting venues to comply with the EPR is important and as such, musicians need to know the allowed levels for the

venues and the maximum volume they can perform at without breaching the EPR. As the EPR's allowed levels differ venue to venue, it is important to for musicians and venues to develop a relationship in which they share this information. Through developing this relationship, the ability for venues and musicians to 'self-govern' in accordance with the allowed levels, would be achieved. Additionally these relationships could potentially help venues and musicians 'self-govern' in a manner which grants musicians the creative freedom associated with performing live while simultaneously ensuring the venues do not breach the EPR. Developing these relationships would involve developing strategies prior to performances of how to let musicians know their music is getting too loud. One strategy could be having a signal to let the band know they need to turn down. As Jimi explains:

One of the problems is there's no way of actually communicating [with the band]. They [the venue] haven't set up a way to communicate with the band mid-performance. If there was some form of signal or something like dimming the house lights and things it's quite an easy way to go 'Hey guys can you turn down', if that was established before performance (personal communication, November 26, 2008).

Despite the EPR impacting each musician differently, the need to 'self-govern' in order to abide by the noise regulations highlights the importance of relationships between venues, musicians and audiences. These relationships determine how musicians 'self-govern' and the manner in which venues deal with musicians when they have received noise complaints from nearby residents. The relationships musicians form with funding bodies is similarly important to the relationships they form with audiences and venues with regard to the EPR. This is because in order for musicians to access this funding they must develop a relationship with the bodies involved in administering the funding. This relationship must exist because in applying for the funding, musicians are 'self-governing' in accordance with the regulations 'mentality' that musicians must seek these opportunities out.

members claiming their LMR. Overall this study has found the number of musicians that have relationships with funding bodies to be high. The reasons musicians did not develop relationships with the funding bodies and access the funding and copyright remuneration varied from musician to musician. Beginning with Shaun, I will now explore the relationships musicians developed with the funding bodies.

Shaun was the only musician interviewed who had successfully applied for funding under the CMGP and was concerned that if the CMGP is not renewed it will impact their live performances in Perth. Shaun is also a member of APRA and subsequently claims his LMR. Having access to this funding and financial remuneration has been very beneficial for Shaun's career. The funding Shaun received under the CMGP has helped Shaun establish himself as a touring artist. He explains:

[It has helped me to establish myself] as a touring artist to the point where I run an almost self-sufficient Australian touring operation that generates a significant percentage of my income. This would not have been possible without the initial boost the DCA funding provided (personal communication, December 2, 2008).

The funding Shaun received was not specifically for local live performances but for touring outside of Perth. Eastern states and regional tours (both priorities of the funding program) are often promoted alongside local shows or will include a Perth show prior to or at the conclusion of the tour. Therefore, by Shaun accessing funding for tours outside of Perth, it is helping him to develop his local live performance career. Further helping develop Shaun's music career, is the remuneration he has received from claiming his LMR. Shaun performs weekly resulting in the return he claimed for the 2007 – 2008 year, making him enough money to purchase a new laptop, one of the instruments Shaun uses to create his music (personal communication, December 2, 2008).

For Shaun to be able to claim his LMR and successfully obtain funding through the CMGP, he needs to have a relationship with these funding

bodies. This relationship facilitates his ability to 'self-govern' in accordance with the 'mentalities' of these programs. In particular one of the 'mentalities' of both the CMGP and LMR are that musicians need to seek out these opportunities. Developing a relationship with the funding bodies is crucial to knowing what is available, how to have successful applications and claim copyright remuneration.

The assistance Shaun has received through receiving CMGP and LMR funds is unique in my study. In contrast, Stevie was not successful in his application for funding from the CMGP. Additionally, Stevie is not an APRA member, so therefore is unable to claim LMR. The reason Stevie is not a member of APRA stems from a belief that they do not 'fit' with the directions of his band. As he states "we are original, independent and proud. APRA is not part of our directions" (personal communication, November 18, 2008). As Stevie only performs irregularly and in a band, the amount of revenue he would receive would be significantly less than the amount Shaun receives.

Due to not being successful in the applications made under the CMGP, Stevie also has a negative view of the program. In particular Stevie has a very negative view of the peer-review process which could be attributed to not being successful in receiving the funding. As Stevie states:

Valid reasons were given in all cases but basically, the peer review panel mechanism means that there is an implied degree of bias in the decisions; at the very least, the money goes to 'mates of mates' and, we were and still are, too low profile to merit success in applying. I have given up applying, incidentally (personal communication, November 18, 2008).

For Shaun and Stevie, the relationships they have with the funding bodies are integral to determining whether they will access the funding and remuneration available to them. The relationships Jimi and Keith have with these bodies is equally as important but, different. Instead of just being concerned with either a positive or negative view of the organisation, the relationships Jimi and Keith have are concerned with knowing what funding

is available to them. Requiring this knowledge is part of the 'self-governing' process of these regulations. As stated earlier, the 'mentalities' of the CMGP and LMR include requiring musicians to seek out these opportunities.

Neither Jimi nor Keith had applied for CMGP funding, nor were they members of APRA. Both understood that the CMGP provides funding for contemporary musicians under numerous categories and both felt the funding was valuable to the development of the local live music industry (personal communication, November 26, 2008; personal communication, November 15, 2008). Interestingly however, Jimi had a similarly negative view of the CMGP's peer-review panel as Stevie. Jimi states:

It's only supporting the 'in' crowd [of musicians] and those that are within the industry and are 'mates of mates'...they [successful applicants] are also in industry roles such as marketing and promotion and advertising and they'll all be mates and they'll all be supporting one another.... you can see the justification at their [the panel's] end will be 'it's quality and calibre of the band' but if you look at the rationale for the funding which is meant to be supporting of the arts then it's certainly not meeting that end ... I understand there needs to be some criteria and standards... [And it] is supposed to be transparent but there certainly appears to be a hidden agenda there (personal communication, November 26, 2008).

Despite this view Jimi still feels the funding is valuable to developing the local live music industry, explaining:

[If there is] less money in the general music economy in Perth then there's going to be less inclination for venues to be supporting music. It's all going to be about money and, venues need to stay open and running and the bands [have to have] the money to keep going and promote their shows and get people to come along and pay door fees and for drinks ... It's that kind of musical economy that is within the Perth local independent music scene and any change to funding is going to have a flow on affect no matter how you look at it (personal communication, November 26, 2008).

Similarly, Keith feels the funding provides a 'fail safe' for musicians looking to develop their careers, explaining: "if I do decide to want to put on some form of larger event. There's less chance of having a large event going if you

can't sort of get backing behind it" (personal communication, November 15, 2008) While Jimi and Keith understood the role the CMGP plays in helping develop the local live music industry, they lacked knowledge about APRA and LMR. If these two musicians were to develop a relationship with these funding bodies, they would be able to 'self-govern' in accordance with the 'mentalities' of these regulations. These 'mentalities' include requiring musicians to seek the funding opportunities out as discussed in Chapter Two.

Keith knows that if he were to become a member of APRA he would be able to claim copyright revenue for his performance through the LMR (personal communication, November 15, 2008). Keith performs fortnightly so could stand to benefit reasonably from receiving this copyright revenue. Despite knowing that he could claim for this revenue, Keith is not a member of APRA. Keith is not a member of APRA despite making some initial inquiries about doing so. Keith was sent an information pack by APRA and given a set number of days to return the form. He explains:

I actually sent out for an application once but, I'm pretty sure what happened was, they sent out the application and said 'you have this many days to fill it out' and I didn't have some of the information, meaning I couldn't really get to it in time and I just haven't bothered since (personal communication, November 15, 2008).

It is unclear as to when Keith had contacted APRA about becoming a member. Since early 2008 however, all membership applications can be done via the APRA website<sup>19</sup> provided the musician has an email address (which Keith does). Similar to Keith not knowing the easiest way to become an APRA member is Jimi's lack of knowledge of the LMR. Jimi was not aware that APRA collects copyright revenue from live music performances, instead thinking 'performance' referred to 'radio broadcast'<sup>20</sup>. As he explains:

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<sup>19</sup> Further information can be obtained and online applications can be made via: <http://www.apra-amcos.com.au/musiccreators/joinapra/aprawritermembership.aspx>

<sup>20</sup> More information on the collection of copyright royalties from radio broadcast can be found at: <http://www.apra-amcos.com.au/MusicCreators/JoinAPRA.aspx>

We certainly don't know much about APRA. I mean we understand they're set up to provide a small amount of royalties to performers when our music's played. We've had our songs played on RTR[fm] a couple of times but, that's about as much performance as we're gonna get in regards to broadcasting (personal communication, November 26, 2008).

When told that the collection of performance royalties by APRA is done based on the live performance of songs, Jimi said becoming a member and claiming for performances is something he would look in to it (personal communication, November 26, 2008). If Jimi were to become a member of APRA and claim under the LMR, he would be 'self-governing' in accordance with the 'mentalities' that in order to receive this revenue, musicians need to become members of APRA and claim their LMR.

Both the CMGP and LMR are examples of ways government regulation can help facilitate the free-flow of creative talent, not hinder it. This study found that these funding opportunities have provided great benefits to those who have successfully obtained the funds. For the musicians who did not obtain the funds, negative or non-exist relationships with the funding bodies has influenced this.

In conclusion, the governments' regulating of the live music industry can either hinder or facilitate the 'free-flow of creative talent'. As discussed in this chapter, a crucial element in determining whether the regulations will impact the performances of musicians is the relationships musicians have with their audiences, venues and regulators. These relationships are crucial because, in accordance with Foucault's theory of governmentality, the regulations studied require musicians to 'self-govern' in relation to their 'mentalities'.

In the next chapter, I draw together the key points in my study, paying particular attention to the importance of relationships between: musicians and audiences; musicians and venues and; musicians and regulators.



## Conclusion

As revealed in the previous chapter, the key finding from my study is that relationships are a key component in determining the impact regulations will have on musicians' performances. These relationships are between: musicians and audiences; musicians and venues and; musicians and regulators. Relationships are important because under Foucault's theory of governmentality each of the regulations studied rely on musicians (and in the case of the regulating of volume, venues as well) to adhere to the regulations by 'self-governing' their behaviours (Foucault, 1991, p. 87). This 'self-governing' must be done to ensure that the allowed noise emissions under the Environmental Protection (Noise) Regulations 1997 (EPR) are not breached and, that musicians successfully access the funding and copyright revenue available to them under the Contemporary Music Grants Program (CMGP) and Live Music Returns (LMR) respectively. 'Self-governing' requires knowing how to govern and how to be governed (Foucault, 1991, p. 87) and as such, relationships can help share knowledge of how to how this can be achieved. I will now reflect on the key points made in Chapter's One Two and Three, paying particular attention to what this study has revealed in accordance with Foucault's theory of government and the importance of relationships.

In Chapter One, I explained Michel Foucault's theory of governmentality. According to Dean (1996) governmentality is the 'mentality' of the government in charge of a society. This 'mentality' is the government's rationale for governing, and the way in which they choose to do so (p. 16). As this study has explored, governments use multiple 'mentalities' to guide the behaviours of individuals in mass society. Importantly, in liberal societies, government's rely on individuals to 'self-govern' their behaviours in accordance with the 'mentalities'. In order to 'self-govern' knowledge of how to govern and how to be governed is required (Rose, 1996, p. 42; Foucault, 1991, p. 87). It was this reliance on 'self-governing' that prominently revealed itself in my study. This is because the regulations I explored, all relied on musicians to 'self-govern' their behaviours.

The regulations explored in this study – the EPR, CMGP and, the LMR – all rely on ‘self-governing’ to ensure that musicians effectively guide their behaviours in accordance with their ‘mentalities’. For example, as discussed in Chapter Two, the EPR specifies the allowed noise levels, and how these are to be adjusted for music (DEC, 1997, p. 4). However, this regulation does not specify how musicians, and venues, must ensure they do not breach these noise levels. This means that musicians and venues must ‘self-govern’ to ensure a breach of the EPR does not occur. In comparison, the CMGP and LMR require musicians to ‘self-govern’ by seeking out the funding opportunities available to them. My study found that due to this reliance on ‘self-governing’ the relationships musicians had with their audiences, venues and regulators were integral to determining how this would occur and the impact the regulations would have.

For example as discussed in Chapter Three the relationships musicians have with their audience influenced how they ‘self-governed’ in accordance with the allowed noise levels in the EPR. For example, Stevie considers the volume of his music and subsequently performs at a volume which is lower than the allowed levels because he feels his audience does not want or need to be “blasted” by loud music. Stevie has developed a relationship with his audience and this relationship has through ‘self-governing’ his behaviours when performing live.

In contrast, Jimi and Shaun’s relationship with their audience has lead them to perform their music at a volume which comes into conflict with the allowed noise levels. Both musicians believe their audiences want to experience music at a loud volume however, in considering their volume for their audience Jimi and Shaun have experienced difficulties in being able to comply with the allowed noise levels. As discussed in Chapter Three, this difficulty has lead to venues interfering with their performances in order to get them to lower the volume.

The varying experiences of these musicians show that the needs of audiences with regard to the volume can vary and therefore musicians need to develop relationships with audiences to understand this need. Another relationship which is important in 'self-governing' in accordance with the EPR is the relationship musicians have with venues.

As discussed in Chapter Three, when performing loudly is considered important, the 'self-governing' the musicians and venues do should be done in a way which simultaneously grants musicians creative freedom yet does not result in venues breaching their allowed levels. For example, Jimi believes that if a venue needs to interfere with a performance in order to get musicians to lower their volume, this can be done discretely. Jimi suggests that the venue's house lights could be dimmed or that the venue employee responsible for ensuring musicians know when their performance is getting too loud, could discretely adjust the bands amplifiers as a sign to turn down.

In contrast to the difficult relationship Jimi and Shaun have with live music venues is Keith's relationship. As discussed in Chapter Three Keith considers the volume of his music as he understands that the allowed noise levels vary venue to venue. As the allowed noise levels in the EPR consider numerous factors when determining the emissions from music, Keith would need to establish a relationship with the venues he performs at in order to know this. Similar to the need for relationships between musicians and venues, is the relationships between musicians and regulatory bodies. These relationships determine whether or not musicians will access funding available to them.

The CMGP and LMR rely on musicians to 'self-govern' and actively seek out these funding opportunities. To be able to successfully obtain this government funding and copyright remuneration, musicians need to understand how to apply for funding from the CMGP and the best way to maximise their chances of receiving it as well as how to receive remuneration under the LMR. This study has found the relationships musicians have with these funding bodies determines whether they will access these funds.

For example, Shaun obtained copyright revenue through the LMR. In order to obtain this, Shaun had to develop a relationship with APRA so as to know to 'self-govern' and obtain the remuneration. In order to access this money, Shaun has 'self-governed' his behaviours in accordance with the 'mentality' of the LMR that it is the responsibility of musicians to claim for their LMR. To be able to do this, Shaun has had to develop knowledge of how to be governed and how to govern in accordance with this 'mentality'.

In comparison, neither Jimi nor Keith understood how to 'self-govern' in accordance with the LMR. This is because neither had developed a relationship with APRA, meaning they did not know they could obtain the funding or the easiest way to do so. In contrast, Stevie chose to not 'self-govern' in accordance with the LMR, deciding he did not want to enter into a relationship with APRA. This has resulted in Stevie not obtaining funding from the LMR. Stevie questioned the 'mentalities' of how the regulation was administered by APRA. Similar to the reliance of 'self-governing, and the need for musicians to seek out funding from the LMR is the manner in which the government has established the CMGP.

As discussed in Chapter Two and explored in Chapter Three, in order to obtain funding from the CMGP, musicians must understand the 'mentalities' of the program, how the funding program is governed and the manner in which they must guide 'self-govern' their behaviours in order to be successful in the applications made for the funding. For example, Jimi, Shaun, Keith and Stevie all knew the 'mentalities' of the program, how the program has been governed and the manner in which they must govern their behaviours in order to successfully obtain the funding. In a similar manner to musicians needing to take an active role in attempting to obtain this funding, so is the manner in which it is administered. The CMGP funding decisions are made by a peer-review panel. This panel is made up of professionals with the local music industry. It is this self-regulating technique and the mentality that the program utilises this technique that has resulted in both Jimi and Stevie questioning the program.

Jimi and Stevie questioned the involvement of the peer-review panel in deciding which musicians receive funding. As discussed in Chapter Three, Stevie had unsuccessfully applied for funding while Jimi has not due to the not believing his band would be successful. As Stevie has been unsuccessful in his applications for funding, he has a negative view of the peer-review panel that decides on the applications. Similarly, it is the peer-review process which is the reason Jimi has not applied for funding. So, while the government considers 'self-governing' of this program integral to its success, these musicians have questioned this 'self-governing' process. This therefore shows that despite knowing how to govern and how to be governed, if a questioning of the 'self-governing' techniques occurs, regulations will not be engaged with. One way to overcome this questioning of 'self-governing' could be for Jimi and Stevie to develop positive relationships with the funding program. For example, perhaps if they knew more information about the peer-review process, such as rules regarding a conflict of interest and the priorities in regards to distributing funding, they would be less likely to have this attitude. Despite questioning the 'self-governing' techniques, Jimi still felt however, the funding was important to the development of the live music industry.

For example, Jimi explained that having the funding program in place helped to facilitate the wider local music industry which in turn supports local live music. Similarly, Keith felt the funding was important to help provide a 'fail safe' if he chose to undertake projects which the program would fund. Shaun had the most success in relation to this program, receiving funding which helped to establish their local music career. Through knowing how to govern, how to be governed, as well as meeting the 'mentalities' of the program, Shaun has successfully applied for funding. In order for Shaun to do this, he has had to develop a relationship with the DCA.

In conclusion, my study has found that the relationships musicians have with their audiences, venues and regulators that determine the way they will 'self-govern' in accordance with the regulations' 'mentalities'. It is this

reliance on 'self-governing', coupled with the 'mentalities' of the regulations that have the potential to hinder or facilitate the 'free-flow of creative talent'.

Lastly while my study has revealed some interesting insights into the impact of the governments' regulation of the live music industry, more research into this area is required before any recommendations can be made. As explored throughout my study, live music does not and cannot exist in isolation from other areas of the music industry, nor can it or does it exist in isolation from the wider community and other government 'mentalities'.

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## Appendix One: Sample group demographics.

Figure one: Age range.

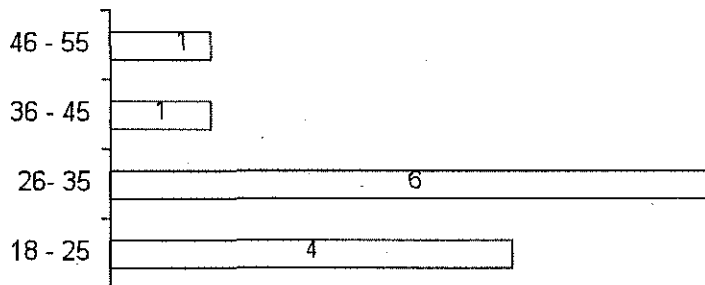


Figure two: Occupations (as specified by participants).

Administration assistant	Driver	Psychologist
Arts	Legal	Public service
Audio lecturer	Music editor	Roadie
Customer service	Musician / Music retail	Student

Figure three: Regularity of performances.

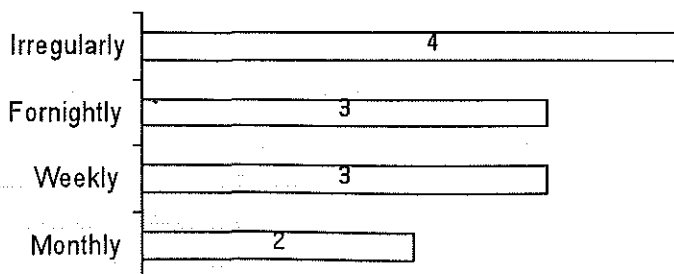


Figure four: Genres performed.

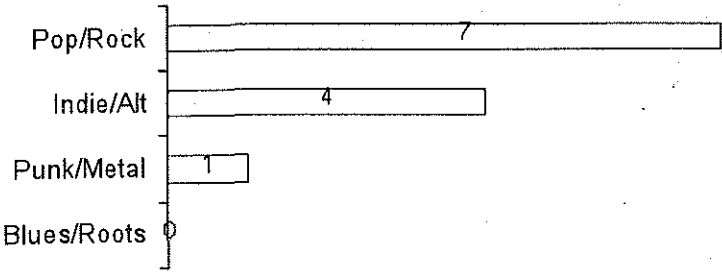


Figure five: Format of performance.

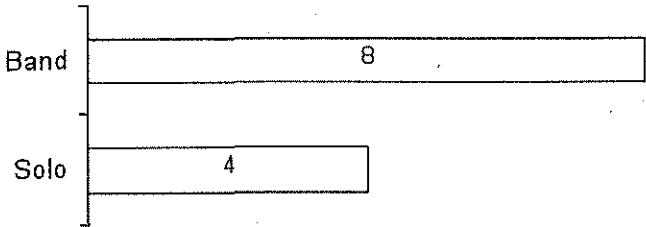


Figure six: Reliance on performing as a source of income.

