ARTS ENGAGE POSITION PAPER ON THE PROPOSED AMENDMENTS TO THE PUBLIC ENTERTAINMENTS AND MEETINGS ACT

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1. Introduction

The Media Development Authority launched a public consultation on its proposed amendments to the Public Entertainment and Meetings Act (PEMA) on 12 May 2014, with the view to 'forge a co-regulatory partnership with the arts sectors'.

A key objective, stated by MDA, is to 'empower arts entertainment event organisers to classify their own performances, while adhering to community standards'. To allow for 'self-classification', MDA is introducing a new Arts Term Licensing Scheme.

MDA consulted various arts groups through closed-door meetings last year, at which the opinions expressed in this paper were conveyed.

Since the announcement of the proposed changes to PEMA, Arts Engage has independently sought the views of artists and arts groups through its Facebook page. A Townhall Meeting was also held on 17 May 2014, with over 40 arts practitioners in attendance.

This paper aims to outline and reiterate the key concerns of many in the arts community regarding the new scheme.

2. Fundamental Concerns

While the intentions behind the new scheme may be well meaning, its nuts and bolts and underlying assumptions are deeply problematic, both in practice and in spirit.

The mechanics of the scheme run contrary to the spirit of co-regulation, self-classification and empowerment. In fact, it is reductive and damaging to the arts industry based on the following reasons:

a) The underlying principles of implementing such a scheme are in conflict with promoting an environment that fosters creativity, shared responsibility and accountability;

b) The concepts of 'self-classification', 'co-regulation' and 'empowerment' have been misrepresented, and are not demonstrated in the scheme;

c) The subjective, arbitrary nature of classifying arts content, the penalties associated with misclassification, and the lack of clarity on the appeals process raises questions of fairness and transparency.

3. Underlying Principles

The underlying principles of implementing the Arts Term Licensing Scheme are questionable for the following reasons:

i. The scheme and its use of 'content assessors' drawn from within the arts groups are in conflict with the idea of artistic integrity and the spirit of artistic endeavor. In order to truly nurture creativity and push the upper limits of artistic expression, the burden of self-censorship cannot and should never be placed on the artists. Compounding that burden with the threat of punitive measures renders the whole exercise pointless.

ii. The scheme ignores the need for greater individual responsibility on the part of consumers. Every industry has the right to defend itself, by legal means if necessary, against spurious complaints. The arts industry in particular should have the right to open dialogue with such complainants, and a chance to redress in the event that the complaints are proven to be groundless or without merit.

iii. There is a great deal of subjectivity in the mechanics of the scheme and its implementation, which will be to the detriment of all concerned. In the past, there have been cases of different ratings being given at different runs of the same show, even

though there were no changes in content. If the MDA licensing officers cannot apply its own standards consistently and evenly across the board, how can artists be expected to do so?

4. Misrepresentation of 'Self-Classification', 'Co-regulation' & 'Empowerment'

4.1 'Self-Classification' is a Misrepresentation

The term 'self-classification' suggests that arts groups had a part to play in developing the classification guidelines, and the groups are undertaking the classification voluntarily, autonomously and freely. This is not the case at all. Art works are subject to prescribed guidelines and criteria pre-determined by MDA, without adequate and prior consultation or discussion.

Furthermore, 'self-classification' suggests that censorship does not take place, and that art works would only be classified and never banned. This is not true under the proposed scheme as there continues to be a 'Not Allowed For All Ratings' category (a euphemism for 'banned'). Artists, who are 'content assessors', are thus put in the absurd position of possibly having to ban the works of their own or other arts companies.

4.2 'Co-Regulation' is Misconstrued

The Censorship Review Committee in 2010 stated as one of their classification principles that 'classification boundaries must be set according to community standards determined via an engagement process involving the regulator, community and the industry'.

In other words, the artists, the MDA and the wider public should engage with one another in an open and transparent process to determine classification boundaries.

The reality of the situation, as mentioned earlier, is very different:

a) Under the new Arts Term Licensing Scheme, arts practitioners are to be trained by MDA as 'content assessors' to execute MDA's guidelines.

b) The 'content assessor' is an individual, functioning as an independent agent instead of the arts company's representative.

c) In executing MDA's guidelines, 'content assessors' are essentially MDA officers by proxy.

d) 'Content assessors' are personally liable for his/her actions and decisions, and therefore directly accountable for the consequences of pushing the boundaries of classification.

e) Producers and arts practitioners are pitched against 'content assessors', who function as censors, but neither the producers, practitioners nor the 'content assessors' has any input in the developing the guidelines or MDA's classification codes.

f) The conflict of interest present in an artist who is also a 'content assessor' is also sufficient to create division between them and their colleagues, and between them and the larger artistic community. It is patently unfair to subject artists to such a dilemma, all in the name of 'co-regulation' and 'empowerment', especially when the true beneficiaries of the Scheme are the MDA officers who no longer have to process so many licensing applications.

g) The threat of penalties can have disastrous effects on 'content assessors' and their companies. It places the burden of compliance squarely on individuals' shoulders and forces them to put their artistic work aside for it.

h) Under the threat of hefty fines and penalties, we expect self-censorship to be more prevalent as producers, practitioners and 'content assessors' begin to fear the consequences of wrongly implementing the classification codes.

i) In this scenario, there is no longer contestation between MDA's position and the artists' position. By opting into the scheme, artists are implicitly in agreement with the state on the classification guidelines, and therefore there is little need for dialogue between the state and the artist.

The new Arts Term Licensing Scheme, instead of enabling a direct engagement between artists and the wider community, will see artists functioning as extensions of the MDA within the arts community, trained by the MDA to police along sanctioned guidelines, and suffer penalties in the event of misclassification.

This is self-censorship, not co-regulation. There is no genuine partnership and shared responsibility between artists and the regulator under such circumstances. We therefore question how an arrangement like this can, in any true sense of the word, be referred to as 'co-regulation'.

4.3 Concept of 'Empowerment' is Misrepresented

MDA has positioned the Arts Term Licensing Scheme as a move towards 'empowering' artists to make decisions concerning the classifications of their works.

How artists are empowered by such a scheme – one which employs them as proxies of the state's policing mechanism for the arts – is incomprehensible.

It misleads the general public into believing that the scheme liberates artists and artistic practices.

It also misleads them into believing that the scheme should be welcomed, not least for its considerable reduction of administrative paperwork and cost-savings generated by the MDA's own licensing requirements.

This claim of 'empowerment' egregiously evades the entire problem of self-censorship and its impact on the artistic process.

No other developed nation in the world requires the performing arts to be rated or classified in such a manner.

5. Penalty Framework is Problematic

The idea that artists must be punished for 'non-compliance' simply puts paid to any notion of co-regulation and partnership.

Presently, there is no concrete information on the procedures or steps that will be taken should a work be misclassified, and the appeals process thereafter.

In response to a question in Parliament, the Minister for Communication and Information had stated that the MDA would be the final arbiter who determines if a misclassification has been made, and the measures that must be taken to respond to it.

How can there be any sincere engagement or genuine tripartite relationship, when artists, instead of being given an opportunity to publicly defend their decisions and choices to their audience or the public, are instead taken to task for not falling in line?

How are those members of the public who complain ever to be held accountable for their opinions, when the only action comes from the MDA and lands on the backs of the artists?

Indeed, we must also question why it is that the individual artists who train as 'content assessors' should suffer a penalty for misclassification, when under the present system, Licensing Officers in MDA are not liable for misclassifications. This is a case of double standards.

The penalties associated with misclassification, and the lack of clarity on the assessment and appeals process raises questions of fairness and transparency. Unfortunately, the mechanics of the scheme reveal a lack of trust on the part of the MDA, with regard to artists, and does nothing to ameliorate this situation, but will instead exacerbate it further.

6. Conclusion

The current model of the MDA as gatekeeper and mediator between artists and disgruntled members of the public is deeply flawed. It sets up a false dichotomy of 'artists versus community', perpetuating the notion that society needs to be protected from its artists.

Artists and arts practitioners in Singapore are part of the community-at-large, not apart from it. We are also citizens, parents, members of religious groups, live in the 'heartlands', and we pay our taxes – like everyone else. It is misguided to presume that artists' interests are at odds with community's interests.

We therefore request for the relevant policy-makers to consider and acknowledge our strong objections to the Scheme. We also strongly recommend that:

1. The authorities delay the tabling of this Bill in Parliament;

2. MDA openly engage both artists and the general public in a wider and more robust round of consultations before such a scheme is rolled out.

Until these concerns are addressed, we, the undersigned, have no choice but to reject MDA's new Arts Term Licensing Scheme.

Signed and supported by

1. Wild Rice
2. Theatreworks
3. The Finger Players
4. The Necessary Stage
5. The Theatre Practice
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7. Dream Academy
8. Singapore Repertory Theatre

9. Toy Factory
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41. Post-Museum
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