



Service Fee Update – August 2011

In response to industry requests and as part of the on-going task of refining the process required to instigate an industry based Service Fee to help maintain PATA's operations we are providing this detailed update.

There are three sections to this Update:

1. The Big Picture for PATA and Council's options to maintain operations
2. The Industry Service Fee
3. Frequently Asked Questions

1. PATA - The Big Picture

PATA is a 13 person Council that has been formed by key venue, producer, touring and regional arts organisations who are active in national performing arts touring; the Australia Council currently financially supports it but this will finish in early 2012.

Background

Most (if not all yet) of the key organisations involved in performing arts touring in Australia decided over the last few years that they wanted to work together to build stronger, more sustainable, more accessible and more easily understood touring mechanisms.

To do that they first had to work out how to sit down together and build a forum that would enable the necessary conversations to take place. This was not an easy process, and it is still a work in progress. What the parties agreed on was the need to

have to a place of trust that invited positive and constructive dialogue. As key representatives of the industry they determined that it would be made up of the three broad sectors that make up the performing arts touring in Australia –

- Producers,
- Presenters, and
- Tour Coordinators

They also decided that an Independent Chair should moderate it. Three major stakeholders were also asked to formally participate as Observers (APACA, RAA and AMPAG).

PATA, the Performing Arts Touring Alliance, was established in April 2009 and all involved signed a Memorandum of Understanding that encapsulated the spirit and purpose of the “alliance”.

The newly formed PATA Council wanted to:

- Act as a cohesive and objective voice for key stakeholders and government, providing quality and informed strategic and policy advice.
- Be the key forum that stakeholders can use to address challenges and opportunities in terms of touring professional performing arts nationally, and
- Be the primary place for benchmarking, research, tools and advice for the national performing arts touring industry

The PATA Council recognized that in order to begin to achieve these goals it would need resources. The Australia Council responded positively to PATA’s aims and agenda and provided initial financial support to help establish its operations. This support was provided on the basis that it believed that the industry should find the means to make PATA self-supporting.

The Challenge

The PATA Council considered at length how it could meet the Australia Council’s challenge. Its aim was to design a mechanism that was as fair, equitable and as low cost as possible in order to maintain a small but effective Executive Officer capability.

It also had to be a process that did not require significant resources to manage when in fact only moderate resources were being sought.

Some of the options considered included:

- Charge a membership fee – given the Council already had key organisations on it that were membership based (RAA and APACA) and was seeking to

represent the interests of other membership based bodies such as the state-based Arts Centre organisations introducing another membership based body was not regarded, at this point, as a viable option or one that could be implemented within the timeframe that had been imposed.

- Charge fees at all stages in the touring life cycle i.e. at tour development stage, Producers who self present and self-tour, tour-coordinators and presenters. The problem with this approach – whilst “fair” was that it was unworkable in that PATA was not in anyway contractually involved in the transactions. Given the large number of parties likely to be involved it would also be a real administrative nightmare. It would probably cost more to collect than would be raised.
- Establish a PATA Levy on (all?) tickets sold at venues associated with PATA around Australia (APACA and state PAC’s). Notionally this levy could be made on “national” touring shows or be broader depending on fees charged and amounts raised. A levy per ticket across Australia would be low cost – perhaps 20-50 cents per ticket but require a significant effort in terms of detailed feasibility study and design process, implementation and on-going administration effort.

2. The Preferred Approach –

A Service Fee charged at the point of Tour Co-ordination/Presenter Interface. This method:

- Had the least administration burden on all parties in that the fee liability could be added as a simple clause in the Presenter/Tour- Co-coordinator contract and the fee collected in the same way as royalties. (The Live Performance Entertainment Industry Service Fee was used as a model).
- If required PATA could directly invoice Presenters in the knowledge that the Fee had been agreed to as part of the contract rather than establishing a separate mechanism.
- Tour Co-coordinators could pay fees in one lump sum once a tour had been completed. Alternatively Tour Coordinators could provide PATA with a consolidated report that would facilitate direct invoicing.
- The Fee was directly related to the key objective of PATA – national touring through its key stakeholders.

- If Presenters applied the extra cost of the fee to ticket prices (the expected approach) then the per-ticket cost was very moderate in most, if not all, cases.
- The flat \$145 per season fee was not onerous to the vast majority of stakeholders and was simple, and cheap, to administer. More complicated models cost more to manage and therefore the fees have to be higher.
- Fees raised were likely to meet the industry body's modest operating needs and start to be collected at the required time i.e. from the first half of 2012.

Fee Capped

Following discussions with the field the PATA Council has proposed that the total fees payable by any single Presenter in 2012 will be \$1,015 (7 seasons).

It was also agreed that the 2012 fee and cap structure would apply to 2013 – that is frozen – this to enable the PATA Council to review the effectiveness and impact of this model in the second half of 2012.

Who is authorised to collect at this time?

The following bodies (on behalf of their members) that are associated with PATA have agreed in principle to support and participate in the Service Fee collections scheme:

(Some of these have raised some specific issues and/or are working with PATA to determine detailed processes however for 2012 tours being delivered by or through these bodies Presenters should continue to budget to pay a fee or \$145 per season in addition to the tour fee.)

- Regional Arts Australia and the Blue Heeler Network members
- Arts On Tour NSW
- Performing Lines
- APACA
- INAPAC
- VAPAC
- Circuit West
- Bell Shakespeare Company
- NARPACA

Discussions continue with other organisations associated with PATA and advice and updates will be provided to the industry on an ongoing basis.

3. FAQs - Frequently (and occasionally) Asked Questions

In developing the Service Fee Model a few questions have been regularly posed, these include:

Are there any exemptions for hardship or special cases?

The general topic has been raised and discussed and any specific requests will have to be dealt with on a case-by-case basis. The establishment of PATA and the decision to sustain it by means of the Service Fee model are both initiatives taken by our industry as a whole via representative and responsible bodies.

If a Presenter has a specific issue the in the first instance the PATA Council believes the discussion should take place between that organisation, the relevant Tour Coordinator and the body that they are a member of. In certain cases it may be appropriate to find an alternative way to contribute to PATA's operations.

An example that has been discussed is one where the tour is going to places where there are no Presenters as such and/or all performances are free and in reality the Tour Coordinator is in effect the Presenter. In that instance the Tour Coordinator would be invited by PATA to propose an alternative to the "per season' Fee model.

Large numbers of exemptions and non-payment in the end would require either a higher fee or an alternative model to be found.

What if I refuse/don't pay?

Payment of the Service Fee will be a contractual obligation in the same way as paying royalties is. If a Presenter refuses to sign off this condition then a dispute clearly arises between them, the Tour-Coordinator and the membership organisation.

The PATA Council members, who work to represent the needs of the industry on a voluntary basis, will review this Fee Model by May 2012 to determine its fairness, effectiveness and efficiency.

Why aren't Producers being charged?

The PATA Council members are still working on developing an efficient and effective mechanism that would enable the collection of a Fee from Producers. One issue is that Producers would almost certainly pass the fee straight on as part of their sell-off cost.

In the end, like all other costs not funded, the money comes out of the ticket price paid by the public.

Suggestions have been made that should PATA become a membership-based body that Producers could make their contributions via an annual fee. Assuming they felt compelled to join that is possible, but these costs would still likely to find their way through to a sell-off fee in the end.

I only present one-night stands so how come I pay the same as venue that is presenting a week?

The overwhelming majority of Presenters engaged in national performing arts touring, outside of a handful of major capital city and suburban Arts Centres present 1 or 2 days/performances at the most. The decision to use the “per-season” model is seen as the simplest and fairest option. It means that if you are also doing workshops or schools performances or similar they are all covered by the one \$145 Service Fee. Longer season presenters are usually also making larger contributions to overall tour costs and make tour schedules more viable. Tour coordination costs associated with a one night stand are also essentially very similar to the costs associated with a longer season

The Fee will also be capped at a maximum of \$1,015 for any one presenter per calendar year.

How much is required and how much is the Service Fee expected to raise per annum?

As per the presentation PATA made to the Long Paddock the basic costs of maintaining PATA at the current levels is approximately \$90k PA. We expect that the Service Fee will raise around 2/3 of this with the balance to come from contributions from partner organisations and special project funding.

Why won't the Australia Council just continue funding PATA at he current level rather than cause another “drain” on the industry?

Of course it would be a lot easier for everyone if PATA could just continue to be funded but from the beginning the Australia Council has made it clear to the Industry that it would NOT provide on-going funds. The initial “seed” funds given were both a significant gesture of good faith and a strategic investment in developing a new stand alone industry body.

This body (PATA) is also one that can be expected over time to be a tough advocate to Government that will potentially be at odds with the Australia Council on some issues. It needs to be independent if it is to be an effective voice for the industry.

Are sell fees being quoted inclusive of the fee or exclusive?

Sell Fees should be quoted EXCLUSIVE of the Service Fee e.g. \$2000 per performance plus 12% royalties plus the \$145 PATA Service Fee.

Tour Coordinators as they work through the details of 2012 tours will reconfirm fees over the next few weeks.

I'm a Tour Coordinator and I am not sure exactly what I am meant to do?

In May this year PATA prepared a template letter with the title "Service Fee – 2012 National Tours". You should have received this, completed it to suit your circumstances and distributed it. It lays out much of the process and is a useful reference.

If you didn't get it or weren't sure about it then we will be helping get everyone up to speed. The PATA Council has three Tour Coordinators on it – you should speak to them as are helping to get this process launched.

An example of an appropriate contract clause using the LPA's EIS Fee as the basic model has been circulated and here is another suggestion for you to think about and modify to suit your circumstances:

Clause x.x Performing Arts Touring Alliance Service Fee

The Licensee/Presenter must pay a Performing Arts Touring Alliance Service fee of \$145 plus GST.

If, and this is PATA's preference, you will collect these fees as part of your normal invoicing process then no more should be required in terms of the contract. Once the tour has finished and as part of your settlement and reporting process you forward the total collected for each tour schedule along with a copy of the itinerary to PATA.

If, and PATA has also agreed to this method, you wish PATA to invoice directly then you will need to add the following to the contract clause:

The Licensee/Presenter must pay a Performing Arts Touring Alliance (PATA) Service fee of \$145 plus GST and agrees to pay this directly to PATA upon receipt of a PATA TAX Invoice within 14 days of the completion of the Season.

Once you have completed contracting all the Presenters for the tour you will need to confirm this to PATA and forward a copy of the tour schedule with sufficient information to enable PATA to raise the Tax Invoices.

What we are trying to avoid is spending PATA's very limited admin resources on managing this fee process as each hour spent is an hour less available to address the industry's concerns.

I am a Producer who doesn't work through a Tour Coordinator – what should I do?

At this stage Bell Shakespeare will be working this way from 2012. The model is the same as for Tour Coordinators with the exception that you should seek endorsement from PATA to make this collection. Presenters will be referred to the PATA website for a list of authorised collecting organisations.

How can I become more involved in the development of PATA/ I'd like to join the PATA Council?

PATA has now launched on its website a Peer registration process to provide a pathway to joining Council if you are working outside of a clear membership based and PATA aligned body.

This initiative also invites industry members who wish to be more involved the development national performing arts touring to register with PATA>

See: <http://www.pata.com.au/howtogetinvolved/howtogetinvolved.html>

And some specific questions posed recently by NARPACA and INAPAC and PATA's answers:

From NARPACA:

The service fee is only payable by those presenters that participate in tours delivered *by the bodies listed?*

Yes at this stage – it is hoped that other tour coordinators may participate in the future

Is it a tour-by-tour (assuming one season per tour) fee?

The fee is payable for each tour on a per season basis

Is it applicable for INTRASTATE as well as national tours?

No – the tour must meet the PA definition of a national tour

Where does arTour's state touring sit in this mechanism – will they be charging the fee for their state tours, or just those delivered by their blue heeler?

See the answer above

Is the fee payable for tours that come through any mechanism (as long as it's one of the signatory bodies) – not just Long Paddock?

Yes

Is NARPACA expected to collect the service fees from members on behalf of PATA, or will the body delivering each tour handle that? (assuming NARPACA is not the “tour coordinator”)

No – the fee is charged by the tour coordinator as part of the contracting process (and may be collected directly via Invoice by PATA if this method is chosen.

From INAPAC (questions summarised)

Can INAPAC members pay PATA directly?

Yes, possible but not preferred – see FAQ’s

Can Tour Fees for 2012 be reconfirmed with the PATA Service Fee clearly outlined?

Yes – PATA will request that Tour Coordinators do this.

Can PATA’s 2012 KPI’s be published?

Yes- and a progress report update against the Australia Councils very detailed funding agreement requirements will also be published on the PATA website in September.

Can the Fee and cap remain in place for 2 years – until 2013?

Yes

Can PATA consider request for real hardship? Also noted that some Centres would struggle because 2012 budgets had been set.

See FAQ above – short answer is that in the first instance the request should be considered by INAPAC and/or Tour Coordinators and consideration given to an alternative means to make the contribution. In terms of budget development advice was provided to the industry at the Long Paddock in April this year that the Service Fee being adopted. It would also appear that many tours will take place in the 2012/13 Financial year. It would also seem that there is some opportunity for a minor change to ticket pricing to accommodate the Fee if required.

Could a membership structure be considered by PATA as opposed to a Fee based model?

Yes – the PATA Council has this on its agenda to consider for the future but will clearly need to work through this idea with the other member-based bodies that PATA represents, including INAPAC.

Can the model for appointment to the PATA Council be re-examined?

Yes – and note that as of late August PATA has established a Peer Register to help it make new appointments.