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Screen Producers Australia's submission to the House of Representatives Standing Committee on Communications and the Arts

Screen Producers Australia (SPA) was formed by the screen industry businesses representing large and small enterprises across a diverse production slate of feature film, television and interactive content.

As the peak industry and trade body, we consult with a membership of more than 500 production businesses in the preparation of our submissions. This consultation is augmented by ongoing discussions with our elected Council and appointed Policy Reference Group representatives. Our members employ hundreds of producers, thousands of related industry practitioners and drive more than \$1.2 billion worth of annual production activity from the independent sector.

SPA's members are drawn from all elements of the production ecosystem, including emerging and established producers, production businesses, services and facilities. Our members vary in size from large internationally owned entities, to partnerships, to sole traders and other corporate entities, and are found in every region, state and territory of Australia.

On behalf of these businesses we are focused on delivering a healthy commercial environment for the screen industry through ongoing engagement with elements of the labour force, including directors, writers, actors and crew, as well as with broadcasters, distributors and government in all its various forms. This coordinated dialogue ensures that our industry is successful, employment levels are strong and the community's expectations of access to high quality Australian content have been met.

Screen Producers Australia welcomes the opportunity to provide a submission to the Committee's inquiry into Australia's creative and cultural industries and institutions.

For further information about this submission please contact Holly Brimble, Director of Policy (holly.brimble@screenproducers.org.au).

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1 Executive Summary

- SPA welcomes the opportunity to contribute to the Committee's inquiry into Australia's creative and cultural industries and institutions.
- The economic and cultural value of the production and widespread availability of Australian content remains widely accepted, and has been supported by successive Governments and the Australian public for decades.
- The sector creates an annual \$5.34 billion in value add to the economy, supports over 30,000 jobs, creates export earnings worth over \$250 million a year, stimulates activity in adjacent industries and delivers massive benefits to tourism and soft diplomacy.
- The creative dividend to Australians is also uncontested, with the creation of content that reflects who we are as a nation and which helps us understand our past, and define our present and future. It also contributes to the presentation of Australia to the world, through unique and recognisable cultural content.
- This submission presents a range of data sources to help illustrate the cultural and economic value of the sector, and of creative industries as a whole and we welcome the work of the Committee to recognise these outputs.
- In line with the terms of reference for the inquiry, this submission also outlines the impact of COVID-19 on the Australian production sector. Like many parts of the economy, the industry was abruptly disrupted by the pandemic, but has innovated and adapted to enable recovery and the resumption of economic activity and employment.
- The sector was, however, further disrupted by Government decision-making in connection with the pandemic, with the suspension of broadcaster Australian content regulation exacerbating the economic disruption caused by COVID-19.
- However, the most significant factor affecting the future availability of Australian content to audiences will be the major reforms announced by the Government in September 2020. Whilst the reforms include an expanded tax incentive and additional direct funding, we are concerned that the net impact of reduced broadcaster regulation and less accessible tax incentives overall, will be negative for industry and for audiences, and will result in a sudden structural disruption.
- Whilst the Government has chosen to transition regulation away from legacy media platforms, it is yet to complete the transition through imposing regulatory quotas on new streaming platforms. This reform, more so than time-limited additional direct funding, will be the key to offsetting the challenging aspects of the Government's reform announcement for industry, and to ensuring Australians can access Australian content on the platforms they are using.
- SPA looks forward to engaging further with Government and other stakeholders as the reform process progresses.

2 The economic and non-economic benefits of the Australian creative and screen industries

The terms of reference for the inquiry include:

- The direct and indirect economic benefits and employment opportunities of creative and cultural industries and how to recognise, measure and grow them
- The non-economic benefits that enhance community, social wellbeing and promoting Australia's national identity, and how to recognise, measure and grow them

There are a range of relevant data sources which can help the Committee assess these benefits. In particular, reference should be made to the following reports:

- Screen Australia's *Screen Currency Report*¹
- Screen Australia's *Drama Report*²
- Olsberg SPI's *Study on the Economic Contribution of the Economic Contribution of the Motion Picture and Television Industry in Australia*³

The Government's recent *Supporting Australian Stories on Our Screens* options paper⁴ is also a useful collation of data regarding the economic and cultural contribution of Australian screen industry, noting:

- A \$5.34 billion value add to the economy from film and video production, post-production, broadcasters and channel providers in 2015-16, up 7.2 per cent from 2011-12
- Important indirect benefits to the economy, through driving demands for goods and services, such as rental services, financial services and electricity
- Stimulation of activity in adjacent creative industries, such as the performing arts, music and design
- An estimated total economic contribution of screen content under Australian creative control of \$2.6 billion in 2014-15.
- Benefits to tourism, with an estimated 230,000 international tourists visiting or extending their stay in Australia each year as a result of viewing Australian content, generating an estimated \$725 million in tourism expenditure
- Support for over 30,000 jobs

¹ <https://www.screenaustralia.gov.au/getmedia/1b1312e5-89ad-4f02-abad-daee601b739/screencurrency-sa-report.pdf>

² <https://www.screenaustralia.gov.au/fact-finders/reports-and-key-issues/reports-and-discussion-papers/drama-report>

³ https://anzsa.film/wp-content/uploads/2020/02/Study-on-the-Economic-Contribution-of-the-Motion-Picture-and-Television-Industry-in-Australia_Final-Report.pdf

⁴ <https://www.communications.gov.au/have-your-say/supporting-australian-stories-our-screens-options-paper>

- Export earnings worth over \$250 million a year
- Australians believe Australian screen content is recognisably different, important to support and valued for its diversity
- 76% of Australians are in favour of Government support to the sector

We also note the release of data from the Bureau of Communications, Arts and Regional Research (BCARR) regarding the economic value of cultural and creative activity.⁵ That research found that cultural and creative activity contributed \$115.2 billion to Australia's economy in 2017-18, a 34% increase over the decade – up from \$86 billion in 2008-09.

State of the independent screen production sector

To better understand the state of play for the independent screen production industry, Screen Producers Australia commissioned Deloitte Access Economics to produce an industry census in both 2018 and 2019. The census looks at the key trends, estimates the economic activity and provides an outlook for the industry.

The data contained in the Deloitte report is sourced from 2017 and 2018, however, many of the economic markers in the report will have more recently been affected by the impact of the coronavirus and associated interruptions to industry activity. The report nevertheless provides a useful 'business as usual' picture of the industry.

Key data from the report is extracted at [Attachment A](#). The key findings are:

- The Australian screen industry plays an important role in the Australian economy, with revenues of \$1.2 billion and exports of \$163 million.
- The sector is also a significant employer, supporting around 30,000 people.
- Relative to other Australian businesses, screen producers are much more likely to be exporting.
- Australian ideas drives screen content in Australia, with 9 out of 10 ideas coming from within the country.
- Whilst the independent screen sector is a significant contributor to the economy, individual businesses are facing difficult conditions and narrowing profit margins, with small businesses in particular facing profitability challenges
- In terms of the outlook for independent production businesses, broadcaster bargaining power was the top ranked challenge, followed by high labour and capital costs, and international competition.
- Licence fees paid by broadcasters for use of the commissioned content are declining over time, and do not compare favourably with jurisdictions with regulated terms of trade.

Cultural contribution

A recent report from A New Approach, titled *A view from middle Australia: Perceptions of arts, culture and creativity*,⁶ provides a new insight into the cultural value of the arts and culture more generally in Australia, of which screen content is an important subset.

⁵ <https://www.communications.gov.au/departmental-news/economic-value-cultural-and-creative-activity-0>

⁶ <https://www.humanities.org.au/new-approach/report3/>

The key finding is that arts and culture are “*fundamental* to the Australian way of life; indeed, to being human.”⁷

The report confirms the key cultural contributions that sectors such as the screen sector make, including:

- Acting as a source of joy and inspiration⁸
- Helping us to understand each other - bringing communities together and encouraging diversity and acceptance of difference⁹
- The role arts and culture play in children’s development, including enhancing self-esteem and self-expression, and building social and intellectual skills¹⁰; and
- Stimulation of creativity¹¹

The research made clear that middle Australians value Australian content for its capacity to reflect their lives back to them, its capacity to help them understand their own experiences, and also for its ability to promote Australia on the world stage.¹² Arts and culture is seen as more than just entertainment.¹³ Screen content is particularly effective in these areas.

A recent survey from the Australia Institute found that three in four respondents said the arts have “improved their mood and quality of life during the pandemic.”¹⁴

The importance of screen culture has indeed been magnified by the pandemic and the increased time people are spending within their homes. An April 2020 study by the UK’s Policy and Evidence Centre found that eight in ten people agreed that film and TV help in dealing with challenging life circumstances such as COVID -19.¹⁵ That study also found significant increases in TV downloading and streaming activity during the pandemic shut down period.

These sources confirm the view that screen content continues to play a vital, and valued cultural role in contemporary Australia, and that there is continued legitimacy in the cultural policy objectives that sit behind screen regulation and incentives.

Continuous recognition of screen sector’s cultural and economic value

The cultural and economic value of Australian screen production has been recognised as central and Australia has a long history of bipartisan political support.

This support has taken the form of regulation (television quotas), incentives (various tax offsets and schemes) and direct funding support (Screen Australia and its

⁷ Ibid. p 244

⁸ Ibid. p 24

⁹ Ibid. P 24

¹⁰ Ibid. p 7

¹¹ Ibid. p 32

¹² Ibid. p 8

¹³ Ibid. p 24

¹⁴ <https://www.theaustralian.com.au/arts/survey-australians-underestimate-arts-workforce-compared-with-coalmining/news-story/a0c2b094b5a3d4eb702160f68a80657d>

¹⁵ <https://www.pec.ac.uk/assets/publications/Digital-culture-consumer-tracking-study-2020-Week-1.pdf>

predecessors and state/territory funding bodies) over many decades. There has also been support for ancillary inputs through support of training institutions the Australian Film, Television and Radio School (AFTRS) and the National Institute of Dramatic Arts (NIDA).

This consistent and bipartisan support is reflective of the inherent value of Australian screen content for the Australian public, and the recognition by successive Governments of this and the economic value of the sector.

3 Impact of COVID-19 on the production sector

The terms of reference for the Committee's inquiry seek input on the impact of COVID-19 on the productions sector. This section of the submission outlines the impact to date and the ways in which the independent production sector has initiated a response and recovery to the crisis.

Impact of COVID-19 on screen production

Like much of the economy, the screen ecosystem has been seriously disrupted by the coronavirus pandemic.

Commencing in March, in order to comply with official health advice and social distancing requirements, much of Australian production activity in scripted drama content temporarily shut down. A SPA survey at the time indicated that the number of affected productions reached 119, including some of Australia's most beloved stories and formats. The reported budgetary figure on the line as assessed at the time was almost half a billion dollars (comprised of \$232 million in actuals and \$239 million in estimates). This disruption meant that thousands of hard-working creative Australians were out of work. We note the landmark JobKeeper and expanded JobSeeker payments, which continue to take effect across our members.

Whilst the impact on drama productions was been extensive, there were some parts of our industry and types of production which, have been productive throughout the impact of COVID-19. Animation and some factual work (with significantly increased cost and risk) in particular, has been able to continue.

Following the initial wave of disruption, the industry demonstrated drive and creativity to innovate and find options to return to work, and in so doing many businesses and jobs were saved and were able to start the slow process of recovery. An example of the industry's ability to adapt and evolve to changing conditions was the early return to production of serial *Neighbours*, which made headlines internationally for its innovation and early return to work.¹⁶

A key development was the development and release of COVID-Safe Guidelines, which provide support and assistance to producers to eliminate and minimise the risks associated with exposure of personnel to COVID-19 while returning to work on production.

A further key development was the announcement by the Government of a \$50 million Temporary Interruption Fund to assist with insurance challenges. The need for the fund arose from the exclusion of COVID 19 from new insurance policies. Restarting or starting productions without adequate insurance was not a practical possibility in most cases, given the unsustainable risks that productions would have to bear. An absence

¹⁶ <https://www.abc.net.au/news/2020-04-20/neighbours-resumes-as-aussie-tv-adapts-to-coronavirus-rules/12161150> #estimates

of insurance cover also poses substantial barriers to financing, as financiers were unlikely to commit unless the risk of interruption/loss arising from COVID 19 was covered.

The Government's Temporary Interruption Fund provides much needed assurance for eligible productions and we understand the fund is now fully committed and has enabled 20 productions to obtain cover. Similar schemes have also been announced overseas, notably in the UK and Canada. We support ongoing review of the scheme, including to assess whether additional capacity is required and whether the availability of the scheme should be extended past its initial 12 month duration.

As a result of a combination of the industry's hard work, the COVID safe guidelines and the Temporary Interruption Fund, a considerable amount of scripted production has returned, notwithstanding the challenges faced in Victoria as a result of the second wave of COVID-19 in that state.

Impact of temporary suspension of quotas

Despite the industry's efforts to mitigate the impact of COVID-19 on the sector, the sector was seriously disrupted by Government decision-making in relation to the pandemic.

In April 2020, the Government and the regulator, the Australian Communications and Media Authority (ACMA) announced a decision to extend regulatory forbearance to commercial free-to-air broadcasters as regards their Australian content sub quotas, and subscription television as regards their drama obligations, for 2020.¹⁷

We understand the decision was made in response to concerns that insufficient supply of sub quota content would occur as a result of interruptions to productions due to coronavirus.

However, the decision to apply blanket forbearance for the entire year was a blunt instrument that meant that the regulator was prevented from taking into account the level of production that could continue or restart after a number of months of temporary interruption, or the content that was already completed and supplied to broadcasters.

As noted above, whilst some productions were impacted by shut downs, the impact was not the same across all kinds of productions, and there were some kinds of productions which could proceed.

Consultation with the screen sector prior to making the forbearance decision would have enabled these factors to have been taken into account.

A complete suspension, instead acted to disincentivise new commissions, which might otherwise have been made. The effect was been an unnecessary complete slow down of the development and commissioning process.

¹⁷ <https://www.paulfletcher.com.au/media-releases/media-relase-immediate-covid-19-relief-for-australian-media-as-harmonisation-reform>

This could easily have been avoided through more nuanced decision-making, and consultation with industry. For example, regulatory forbearance could have been applied on a case by case basis, with consideration given to evidence of disruption to individual slated projects. This would have avoided the unnecessary interruption to commissioning which occurred throughout 2020, and would have saved jobs and investment in the sector.

4 Future economic and cultural contribution of the independent production sector

Whilst this submission has outlined the cultural and economic contribution of Australian screen content, and the impact of COVID-19 on that output, the major determinant of the future contribution of the screen sector will be the impact of the recently announced Government reforms to screen sector regulation and incentives.¹⁸

On 30 September 2020, the Minister for Communications and the Arts announced:

- Changes to commercial free-to-air television quotas which will substantially reduce demand and commissioning of drama, and children's content, and also potentially documentary content
- A reduction of 50% in the drama expenditure applicable to subscription television
- An increase in the rate of Producer Offset for television to raise it from 20% to 30%
- A decrease in the rate of Producer Offset for feature film to lower from 40% to 30%
- An increase in the expenditure thresholds from \$500,000 to \$1 million for the Producer Offset and PDV Offset
- Exclusion from the tax Offsets of previously included expenditure relating to overheads, copyright and overseas activity
- Additional funding of \$30 million over 2 years for Screen Australia
- Additional funding of \$20 million over 2 years for the Australian Children's Television Foundation
- A voluntary reporting scheme for streaming services in relation to their investment in Australian content

These announcements were in response to a consultation process which commenced in April 2020 with the release of an options paper titled *Supporting Australian Stories on Our Screens*. SPA made a submission to the consultation,¹⁹ supported a joint submission made by screen sector guilds and bodies,²⁰ and also supported a submission from the Screen Export Council.²¹

¹⁸ <https://www.paulfletcher.com.au/media-releases/media-release-new-funding-in-budget-to-deliver-australian-screen-content>

¹⁹ <https://assets-us-01.kc-usercontent.com/89c218af-4a5a-00a2-9d83-3913048b3bc7/e1a32a48-4342-4b0d-aacc-e356ed16b9e1/20200702%20-%20SPA%20Options%20Paper%20submission%20-%20v%206.pdf>

²⁰ [https://assets-us-01.kc-usercontent.com/89c218af-4a5a-00a2-9d83-3913048b3bc7/8b7f2bd8-0cb5-463f-a6c8-cfe853a97c30/Options%20Paper%20Response%20-%20Screen%20Industry%20Guilds%20and%20Organisations%20-%2020030720\[1\].pdf](https://assets-us-01.kc-usercontent.com/89c218af-4a5a-00a2-9d83-3913048b3bc7/8b7f2bd8-0cb5-463f-a6c8-cfe853a97c30/Options%20Paper%20Response%20-%20Screen%20Industry%20Guilds%20and%20Organisations%20-%2020030720[1].pdf)

²¹ <https://assets-us-01.kc-usercontent.com/89c218af-4a5a-00a2-9d83-3913048b3bc7/607c43a7-5963-4433-98a7-4992954875ce/20200701%20-%20SEC%20Submission.pdf>

The SPA submission supported wide-reaching reform of regulatory and incentive measures under an overall objective to double the output of Australian content and to double employment and investment in the sector.

4.1 Overall impact of reforms

Whilst the increase in the Producer Offset for television, and the increased direct funding are welcomed, it is likely the net effect of the announced reforms will be negative for the industry, in terms of production activity, investment levels, employment, business sustainability and hours of content produced.

This is explored in further detail below with an exploration of the impact of each of these announced measures.

However, the overall impact is best understood by noting the lack of an announcement of regulatory action to require a contribution to Australian content production by new streaming platforms. Despite regulatory disparity being a dominant theme in the policy narrative associated with the consultation process, the Government has to date announced only a voluntary reporting initiative for the streaming platforms.

A decision has clearly been taken to transition the regulatory burden from legacy media platforms, through the reduction in commercial free-to-air and subscription television quotas. However, without a corresponding transfer of that stimulated demand to new streaming platforms, the Australian screen sector is likely to be substantially disrupted and impaired. The consequence is a substantial decrease commissioning activity, investment, employment and hours of Australian content produced.

The case for regulation of streaming services has been fully explored and explained and is predicated on the widespread popularity of the services and the rich rewards these services draw from operating in the Australian market. As at May 2019, 71 per cent of Australian adults had at least one subscription or pay-as-you-go service in their household.²² Netflix the most dominant provider derives up to \$1 billion in revenue from the Australian market,²³ yet pays only nominal tax and Australian programs represent only 1.7 per cent of titles for the Netflix catalogue.²⁴ Australians are migrating their viewing to these platforms yet they are not able to see meaningful levels of Australian stories on the platforms they are now using.

Whilst the Government has left the door open for further consideration of regulating streaming services (and has outlined a voluntary reporting scheme), the decision not to align the timing of the reduction in legacy broadcasting regulation with the timing of a transition to regulation of new platforms is problematic. Not only would have a proper transition offset the impacts of legacy quota changes, it may also have offset some of the other negative implications of the announced reforms (outlined below).

²² ACMA, *Communications Report 2018-19*, p 91

²³ <https://www.startupdaily.net/2019/10/netflix-australia-company-tax-2018/>

²⁴ Dr Ramon Lobato and Alexa Scarlata, *Australian Content in SVOD Catalogues: Availability and Discoverability*, RMIT University, 2019, p 7

SPA will pursue opportunities to continue its dialogue with Government on this issue and will seek the earliest possible action to resolve the timing disparity.

4.2 Changes to commercial free-to-air television quotas

Australian content quotas on commercial free-to-air television have been the cornerstone of Government intervention to ensure the production and widespread distribution of Australian screen content, alongside subscription television regulation, tax incentives and direct funding. In its submission to the Government’s review, SPA recognised that the quota system had come under pressure from changing technology and consumer habits, as well as a regulatory disparity with emerging platforms. SPA therefore proposed widespread reform to bring all content platforms under a modernised and harmonised regulatory scheme.

The Government has decided against pursuing this modernisation opportunity and has instead announced a substantial lessening of commercial free-to-air television quotas.

Under the outgoing system, commercial television licensees must broadcast:

- 860 points of first-release Australian drama in prime time over three years
- 20 hours of first-release Australian documentary per year
- 260 hours of children’s (C) programs per year (of which 130 hours must be first-release, 25 hours must be first release Australian children’s drama, and eight hours must be repeat programs)
- 130 hours of preschool (P) programming per year

This system will be replaced with a single points target (250 points) which can be made up of any combination of genres (drama, documentary, children’s), with no genre minimums and only a ceiling of 50 points towards documentary.

The points will be accrued according to total production budget, which is a substantial change from the current system which incentivises according to the actual finance contribution (licence fee) paid by broadcasters.

Genre	Points per hour
Commissioned documentary	1
Commissioned children’s content (non-drama)	1.5
Commissioned drama (<\$450,000 production budget per hour)	1.5
Commissioned drama (\$450,000 - \$700,00 production budget per hour)	4
Commissioned drama (\$700,000 - \$1 million production budget per hour)	5
Commissioned drama (\$1 million to \$1.4 million production budget per hour)	6
Commissioned drama (>\$1.4 million production budget per hour)	7
Acquired Australian film (licence fee less than \$50,000)	1
Acquired Australian film (licence fee more than \$50,000)	2

SPA has assessed the new points system, and in relation to drama alone, estimates the impact will be in terms of \$100 million less investment in production and a loss of 2,800 jobs.

We are aware of claims that this modelling has limitations, because it does not take into account an offsetting increase in demand from new platforms and services. However, in our view it is difficult to foresee this offsetting increase occur in the absence of regulatory intervention on new platforms and services. We note, and welcome, the engagement of the streaming services with local production. However, it is not yet at levels which will offset the decreases in commissioning by broadcasters and which is likely to remain patchy in the absence of a more formalised structure of engagement with the sector.

We also note that the preferred model currently for some streamers is acquisitions, or commissioning as a second investor behind the primary commissioning entity rather than being the primary commissioner. This strategy avoids the risks and challenges of development of content. Acquisitions do not provide the same financing support for a project as direct commissioning, and hence any increased acquisition activity is not a like-for-like substitution for commissioning activity.

It is also likely that commissioning of children's content on commercial free-to-air networks will not take place, given the removal of specific minimums for this genre and the commercial free-to-air networks' stated intentions not to commission children's content in future.²⁵

In terms of adult drama, in what is a fairly straightforward analysis, it is apparent that a network such as Seven or Ten could all but reach their required points output with a serial (soap opera). For example:

- Assume 1.5 points per hour (<\$450k production budget per hour)
- 130 hours per year (as reported in ACMA compliance reports for last year)²⁶
- 130 hours x 1.5 points = **195 points**

With the assumption that 50 points are acquitted through documentary, this leaves 5 points, which could be filled through a small run of special episodes of the serials.

It is also possible that the total budget per hour of a serial such as this could increase in a way designed to access the new 30% Producer Offset threshold (with the removal of the 65 episode cap), making the overall cost of the production cheaper to both the broadcaster and production company and meaning that the serial drama could graduate into the next points category and attract 4 points per hour. This would translate to:

- 130 hours per year x 4 points = **520 points**

This would negate the need to commission any other quota programming and could see the amount of hours reduce without causing any compliance issues.

It is clear that under this model the amount of drama, children's and documentary commissioning will reduce substantially in the coming years. We do not consider it

²⁵ <https://www.smh.com.au/business/companies/seven-halts-children-s-production-in-australian-content-quota-protest-20200225-p5445r.html>

²⁶ <https://www.acma.gov.au/publications/2020-06/report/2019-compliance-australian-and-childrens-content-compliance-tv-content-standards>

likely that this impact will be fully offset by the additional funding announced (as outlined below) or by voluntary commissions from streaming platforms.

Impact on children's television production

Australian children's television producers foresee a substantial threat to their viability arising from the changes to commercial free-to-air television quotas and the absence of a transition of regulation to streaming services. Content made for commercial free-to-air broadcasters would regularly appear on other platforms as second or third windows and receiving high cumulative audiences both in Australia and overseas. Notwithstanding the additional funding announced for children's content, it is likely Australian children will have substantially less Australian content on their viewing platforms as a result of the reforms.

The changes will leave only one readily available door for producers, the ABC, and in the absence of significant additional funding to either it or SBS / NITV will not be able to replace the demand taken from the market through quota changes.

The lack of commissioning from broadcasters will also create significant financing challenges. Most Australian children's productions are co-financed with international territories, but Australian producers are dependent on local broadcaster fees to trigger tax offsets and other funding. The Government's changes will effectively remove those broadcaster fees from the financing proposition.

The change will also impact on the production of programs through the Australian Government's co-production treaty arrangements, as broadcaster licence fees and commissions were an essential element in producers reaching the minimum finance requirements of these treaties. If that finance cannot be brought to the table, it will be very difficult to finance and produce Australian intellectual property at a viable volume for worldwide distribution through the co-production model.

The increase of the Qualifying Australian Production Expenditure (QAPE) threshold for the Producer Offset and the removal of overheads as eligible QAPE (see further below) further exacerbates the financing problem.

The industry has been aware for some time of a momentum building to remove minimum children's obligations from commercial free-to-air television. However, the industry has engaged in ongoing conversations with government about the appropriate means for transition, and the need for a new paradigm for children's content.

What has been sought has been a measured and thoughtful transition of regulation to new platforms, or to incentivise commissioning in any other way. This incomplete transition threatens thousands of jobs and presents an existential challenge to the viability of many children's production businesses.

Whilst the announcement of additional funding to the Australian Children's Television Foundation is welcome, the industry is concerned the funding will not offset the reduction in demand, as it does not directly stimulate the commissioning of projects.

4.3 Changes to subscription television regulation

The Government has announced it will seek to legislate to halve the rate of quota for Australian drama on subscription television. The justification for this rate of decrease is difficult to ascertain.

At present, subscription television broadcasters are required to spend 10% of drama channel program expenditure on new Australian drama. The Government proposes to decrease this to 5%.

The move appears to be consistent with a desire to transition regulation away from legacy platforms and links to measures that have been determined for commercial free-to-air broadcasters, however, as noted above, the disconnect between the decrease in legacy regulation and the introduction of regulation on new platforms, is problematic.

This change will have contractionary impact on drama production, investment and employment, which, as outlined further below, is unlikely to be offset through additional funding measures.

4.4 Changes to the Producer Offset and PDV Offset

Whilst the announcements included a very welcome increase in the rate of the Producer Offset for television from 20% to 30%, this was accompanied by a range of unforeseen changes to elements of eligibility for the Producer and PDV Offsets which will combine to introduce significant challenges to the financing and viability of many film and television projects.

The impact will be particularly felt by feature film producers, given the rate of Offset for feature films will be reduced from 40% to 30%. Smaller producers and smaller projects will also be adversely impacted through the increase of expenditure thresholds for both offsets from \$500,000 to \$1 million.

Changes to the rate of the Producer Offset

SPA has consistently argued for an increase in the rate of the Producer Offset for television for many years, and hence the announcement of an increase in the rate to 30% is welcomed. However, the extent to which the full potential of this measure will be realised depends on the level of commissioning demand from streaming platforms, given the sharp reduction in demand coming from commercial free-to-air and subscription television platforms as a result of quota reductions. There will also be challenges for producers to access the additional lending required in light of the increased Offset and challenges arising from the continued absence of regulated terms of trade.

Of considerable concern however is the reduction in the rate of Producer Offset for features, from 40% to 30%. We are not aware of any call outside Government for a reduction in the rate and the announcement has been met with substantial concern

from feature film producers. The financing picture for feature films was challenged even with the rate of Offset at 40%.

A 10% reduction of the rate, coupled with increased production costs of 15% to 20% (to be incurred as a result of COVID safety plans) could put a gap in finance plans for feature films of as much as 30%, against an existing background of economic uncertainty for local and international film distributors and financiers. This gap is likely to be insurmountable for many feature film projects, particularly when coupled with other changes to offset eligibility announced by the Government.

SPA's members are deeply concerned regarding the impact of this rate reduction.

Changes to the minimum expenditure thresholds for the Producer and PDV Offsets

As part of the announced reforms, the minimum expenditure threshold for the Producer and PDV offsets will be raised from \$500,000 to \$1 million.

The Government's materials suggest this is intended to ensure "on screen quality", however this approach fails to appreciate that with effort and ingenuity, a low-budget production can still deliver a very high quality outcome that delivers cultural outcomes as well as economic outcomes (investment, employment, IP creation, exports, etc). Lower budget productions, due to budgetary constraints, also have an inherent drive towards efficiency, with producers innovating to find ways of doing more with less.

Low budget and smaller projects are also often the means by which emerging producers, writers and directors are able to establish a career within the industry and the removal of Offset support for these projects will act to close off pathways to talented emerging practitioners.

A desire to support only high-end productions and established producers or production companies does not seem to acknowledge that these producers and businesses were at some stage smaller producers and businesses, which were able to break into the industry through small, lower budget projects. This pathway is at risk of being closed off by the changes.

A policy approach that focuses Government support towards larger budget projects (by limiting support for lower budget productions) will not only have an immediate economic impact (job losses, business closures) but will also, in the longer term, inhibit the emergence of the next generation of successful creatives.

Removal of overheads from qualifying expenditure

Currently, under all three tax offsets, productions are permitted to claim a certain percentage of their production spend as overheads not directly related to the making of the film to cover company expenses. The Government intends to remove this capability.

The ability to include company overheads in QAPE is essential to the sustainability of many production businesses. The ability to include production company overheads in

QAPE effectively enabled production companies to charge a production company fee, a vital element of ensuring sustainability given the lumpy nature of production income and the years-long timeframe for development of projects (undertaken with no fees).

The elimination of overheads from QAPE will likely mean producers will not be able to include a production company fee in a budget, and as a result, producers will not be able to derive a sustainable income for what is a high risk expenditure of time and resources. This change is likely more significant for smaller production companies which are usually more likely to be located outside of Sydney.

This change must also be viewed in conjunction with the other Government changes which will combine to make financing of projects incredibly challenging. For example, a feature documentary producer is now faced with a decreased rate of Offset, together with an increased expenditure threshold, the removal of the Gallipoli clause and the inability to include overheads in QAPE. These changes may individually be enough to make projects unviable, but when combined present substantial challenges for Australian producers.

The Government has explained this change as being necessary to “target” government support, however the practical impact will be to make production a questionable business proposition for many in the industry.

Removal of the ‘Gallipoli’ clause

The ‘Gallipoli’ clause is a feature of the Producer Offset which permits overseas expenditure to be counted as qualifying Australian production expenditure (QAPE), notwithstanding the expenditure did not take place in Australia.

It’s existence was an acknowledgement that many chiefly Australian projects may be required to incur some expenditure overseas for genuine location-specific reasons. An example would be a documentary producer who is making an Australian documentary feature or series, but is required to travel overseas to interview a key figure or to shoot at a location that is integral to the project (eg, a location where real events took place and/or contributors live).

The Government has indicated that “Incentivising producers to undertake more production in Australia will assist to maintain jobs in the industry and develop and retain the skills necessary to create quality productions.” However, the removal of the clause is likely to result in a decrease in local jobs, as the removal of the clause will create financing challenges for many local productions that have an overseas element, meaning they will not be viable.

The removal of the clause also acts against the imperative for producers to be able to raise finance from sources outside Australia. This is a practice that has become vital to securing sufficient finance for many projects. The existence of an international element to Australian productions is often the key to these projects attracting international finance and hence becoming viable. Ie, producers are driven to including an international element through market demand.

The clause as it exists now incentivises production that brings financing into Australia from overseas and production that competes on a global level, creating jobs and helping to raise the profile of the Australian industry internationally.

The increase in the expenditure thresholds for the Producer and PDV offsets will make international sources of finance even more crucial, yet the removal of the Gallipoli clause will make securing that finance increasingly difficult.

The 65 episode cap

Under existing rules, the Producer Offset cannot be claimed once a series reaches 65 episodes. The Government has announced this cap will be removed as regards drama series and SPA welcomes this reform.

However, SPA sees merit in the removal of the cap for all genres, and in particular long-running documentary series.

4.5 Funding announcements

The Government has announced an additional \$30 million to Screen Australia over two years from 2021-22 for Australian drama, documentary and children's screen content across film and television. The Government will also fund an additional \$20 million over 2 years to the ACTF to invest in children's content.

Whilst the additional funding is to be welcomed, many of our members have raised concerns regarding the efficacy of the funding for its intended purpose.

The Producer and PDV Offsets were designed to incentivise sustainable production businesses and stimulate those productions with strong marketplace attachment. The recalibration of government support into direct funding takes away a proportion of that stimulus and instead inserts a layer of Government decision-making into the financing process. This is a policy shift that was not outlined in the Government's Options Paper and on which industry was not consulted.

In addition, the quantum of funding is unlikely to match the value of the challenges in financing that will occur as a result of the tax offset changes or the value of losses in investment that will occur as a result of quota changes.

We also query the effectiveness of direct funding as a means of offsetting a reduction in demand through decreased commissioning by commercial free-to-air and subscription television. Funding cannot replace the role played by broadcasters in commissioning production and additional funding into development or production could be ineffective if there is no platform for distribution. This again highlights the problems created by the incomplete transition of regulation from legacy to new platforms.

We also note that the announced funding is for two years only, whereas the changes to the quotas and tax offsets will be permanent, bringing into question the longer-term effectiveness of the funding as an offsetting measure

4.6 Matters not addressed in the Government's announcement

The SPA submission to the Government's review process included a range of reform priorities intended to help support the sector to grow and support an increased output of Australian content for Australian viewers.

Whilst these were not addressed in the Government's announcement, we wish to note those matters for the Committee's information as matters on which Government action is still a priority for our sector. They include:

- A clear articulation of a desired end-state for the Australian production sector, including a content output target
- Mandated terms of trade to facilitate a fair exchange of rights and contracting associated with Government investment in the sector
- Mandatory minimum Australian content requirements for the ABC and SBS
- Consideration of the role of digital platforms in a future regulatory environment with a view to harmonisation
- Flexible, periodic payment of tax incentives
- Modernisation of Screen Australia practices
- A simplified and consistent single points-based Australian content test across all government support/intervention measures
- Measures to protect and stimulate the independent production sector to ensure diversity and access
- Measures to stimulate production activity across different parts of Australia including all states/territories and regions
- A screen export strategy and harmonisation of export branding to assist SMEs to better navigate international markets
- Modernisation of existing international co-production treaties in keeping with Australia's partner territories and countries
- Making permanent the temporary increases to the Export Market Development Grant
- Streamlining of visa processes for imported cast

For further discussion of these issues, please refer to the SPA submission to the Government's reform process.²⁷

4.7 Coordination between levels of Government

The terms of reference for the inquiry invite submissions on the best mechanism for ensuring cooperation and delivery of policy between layers of Government.

This is relevant to the screen sector, where regulation and incentives at a federal level are complemented by a network of state and territory screen agencies and a range of incentives and funding administered at a state and territory level.

²⁷ <https://assets-us-01.kc-usercontent.com/89c218af-4a5a-00a2-9d83-3913048b3bc7/e1a32a48-4342-4b0d-aacc-e356ed16b9e1/20200702%20-%20SPA%20Options%20Paper%20submission%20-%20v%206.pdf>

In its submission to the Government's reform consultation, SPA recognised that state and territory funding bodies are critical participants in the screen sector and argued that their role in the broader screen content ecosystem needs to be carefully considered whenever federal government intervention and support are reviewed.

This was not addressed in the Government's announcement, however it remains important to pursue improvements. This would include coordination where possible of state, territory and federal funding and support systems to align funding rounds, reach consistent terms of trade and not require duplication of red tape across different territories.

4.8 Impact on SPA members

In order to assess the likely impact on the industry, SPA has conducted a survey of members regarding the Government's announced reforms.

The survey provided the following results.

Overall impact of reform measures

- 80% of respondents indicated a negative or very negative impact on their business
 - Over 50% of those who foresee a negative impact have estimated losses of up to \$500k
 - 87% of those who foresee a negative impact have predicted job losses in their business because of the reforms
- 10% of respondents indicated a positive impact on their business as a result of the reforms.
- About a fifth of respondents indicate they will cease operation in the next 12 months as a result of the changes.
- Three-quarters of those impacted negatively do not see the Screen Australia funding as mitigating the impacts.
- 86% of those impacted negatively do not see the ACTF funding as mitigating the impacts.
- Respondents were asked to rank elements of the reforms with a negative impact, and answers indicate a broadly even distribution of concern across all elements of the reform announcement.

Geographical impact

- 81% of respondents outside of NSW/Victoria foresee a negative or very negative impact on their business
 - 27% predict ceasing operations in the next 12 months because of the reforms
- One respondent outside of NSW/Vic foresees a positive impact arising from the reforms.
- 63% of respondents outside of NSW/Victoria foresee job losses at their business because of the reforms

- Of all businesses which predict ceasing operations, 36% are outside NSW/Victoria despite only making up 20% of the survey respondents

Size impact

- 84% of very small producer respondents (less than \$1m production revenue) predict a negative or very negative impact on their business
 - 18% of very small producer respondents predict ceasing operations because of the reforms
 - 71% very small producer respondents predict job losses at their business because of the reforms.
- 9% of very small producer respondents (less than \$1m production revenue) predict a positive impact on their business.
- 81% of small producer respondents (production revenue less than \$10m) predict a negative or very negative impact on their business
 - 18% of small producer respondents (less than \$10m) predict ceasing operations in the next 12 months because of the reforms
 - 80% of small producer respondents predict job losses at their business because of the reforms
- 9% of small producer respondents (less than \$10m production revenue) predict a positive impact on their business.

Genre impact

- No children's producers indicated a positive impact, with 80% of respondents predicting a negative or very negative impact
 - 40% of children's producer respondents predict ceasing operations within 12 months because of the reforms
- No feature film producers indicated a positive impact, with 95% predicting a negative or very negative impact.
 - 21% of feature film respondents predict ceasing operations within 12 months because of the reforms
- 78% of documentary-maker respondents indicated a negative or very negative impact.
- 1 documentary respondent indicated a positive impact arising from the changes.
- 73% of drama-maker respondents predict a negative or very negative impact
 - 21% of drama-maker respondents predict ceasing operations within 12 months because of the reforms
- 21% of drama respondents predict a positive impact.

Full results of the survey are at Attachment B.

Attachment A

State of play for the independent screen production sector – key data from *Screen Production in Australia: Independent screen production industry census*

Revenue, exports and employment

The Deloitte study found that the Australian screen industry plays an important role in the Australian economy, with revenues of \$1.2 billion and exports of \$163 million. This is three times to the size of the music industry in revenue terms.²⁸

The sector is also a significant employer, supporting around 30,000 people.²⁹ This is made up of over 1300 people employed on an ongoing basis in a production business' corporate headquarters, and over 18000 roles linked to specific productions.³⁰ As production staff are hired for a particular production, rather than on a permanent basis, some personnel work on more than one production in a given year. As such, these figures do not denote FTE numbers or individuals employed.

In total, more roles were supported by scripted productions (7,871) than unscripted productions (3,974). An average scripted production supported 119 roles, however some of the larger ones supported upwards of 1,300 roles. For unscripted productions, the average was 52, with some supporting more than 800.³¹

Relative to other Australian businesses, screen producers are much more likely to be exporting. Forty-seven per cent of production businesses received at least some revenue from overseas. This compares to only 7.6% of Australian business more broadly. Australian productions are seen in at least 225 territories.

The lion's share of exports were to other English speaking territories, with a third coming from the UK (38%), and another 21% coming from the United States.³²

The industry has a clear potential to expand its trade output, which is currently under-utilised. SPA supports calls for modernisation and expansion of co-production arrangements, and strategic leadership and direction from Government to expand screen export capabilities.

Australian content

Australian ideas drives screen content in Australia, with 9 out of 10 produced ideas coming from within the country. This trend is also reflected along the value chain, with 72% of filming and 87% of post-production work completed in Australia. Filming takes

²⁸ *Screen Production in Australia: Independent screen production industry census*, Deloitte Access Economics (2019), p 2

²⁹ Australian Bureau of Statistics, 8679.0 – *Film, Television and Digital Games, Australia, 2015-16, 2017*

³⁰ *Screen Production in Australia: Independent screen production industry census*, Deloitte Access Economics (2018), p 14

³¹ *Ibid.* p 14

³² *Ibid.* p 12

place across the country, including across all states and territories and across a mix of regional and metropolitan locations.³³

Financial performance

Whilst the independent screen sector is a significant contributor to the economy, individual businesses are facing difficult conditions and narrowing profit margins, with small businesses in particular facing profitability challenges.

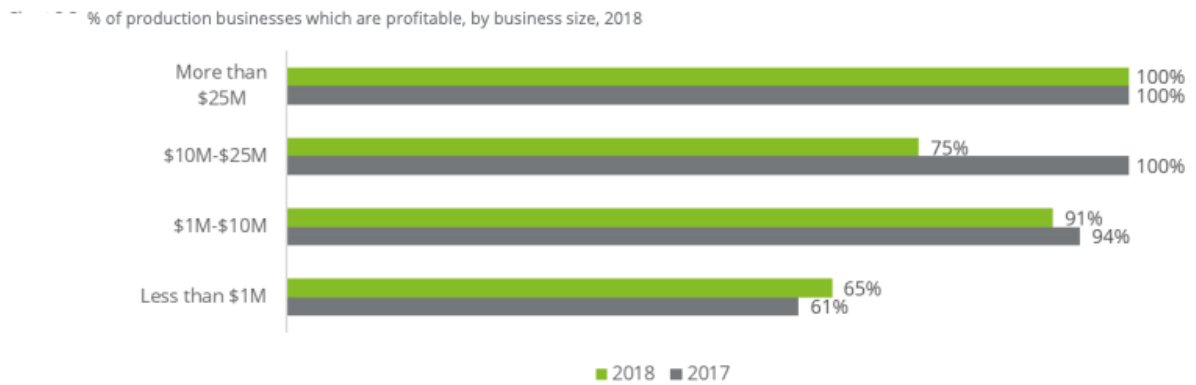
In 2018, one in five businesses made a loss, and another half (40%) only made a slight profit. While this represented some improvement on profit rates in 2017 – where 22% of businesses had made a loss and about 49% had made slight profit, it is clear that profitability remains an on-going issue for the industry.³⁴



As is seen across the economy, larger production businesses were performing better than smaller businesses. All of those screen production businesses with revenue over \$25 million said they were making a profit, compared to 65% of businesses with less than \$1 million in revenue.

³³ Ibid. p 17

³⁴ Ibid. p 19



Source: Deloitte Access Economics and Qualtrics, *Screen Production in Australia Industry survey* (2019).
n = 52 production businesses

Larger businesses are more often located in Sydney, and sometimes Melbourne. They tend to perform better in negotiations and have funding and IP support through their international ownership structures. By comparison, smaller businesses face challenges in the marketplace in terms of retaining IP and negotiating advantageous economic deals.

Funding sources

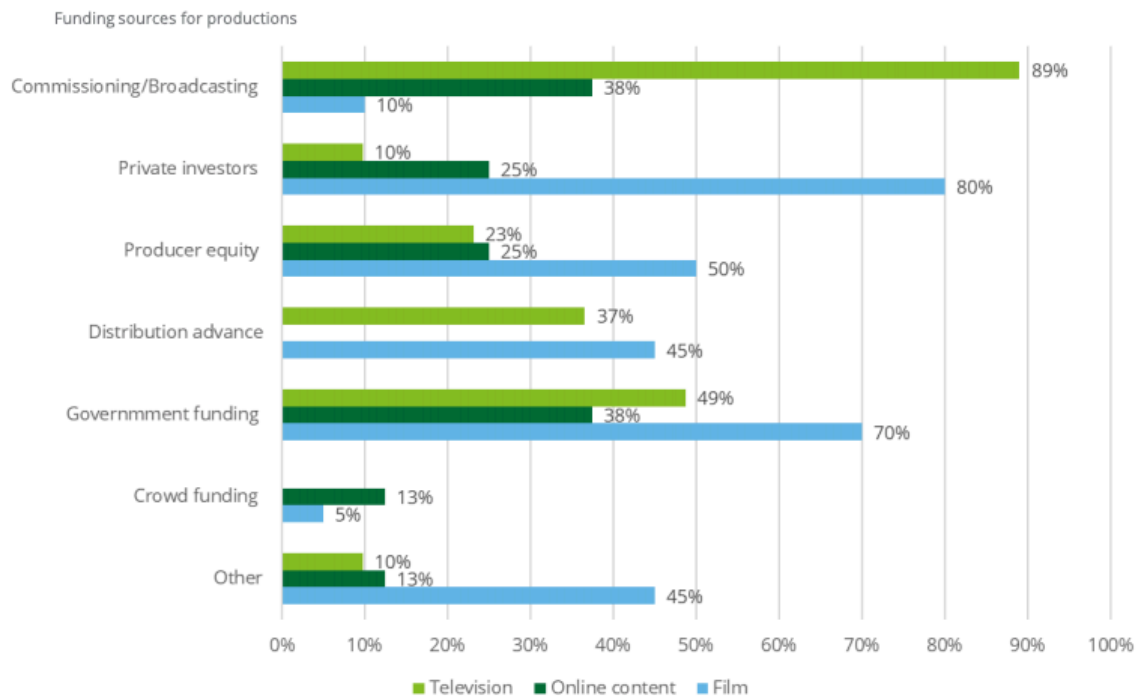
The Deloitte survey demonstrated the variety of funding sources production businesses receive funding through. Two in three productions reported receiving some part of their revenue through commissioning or from a broadcasting network.³⁵

This was followed by government funding (50%), and distribution advances (34%).³⁶

While the major source of demand for Australian-made television lies in commissioning, major films are more likely to receive funding from private investors.

³⁵ Ibid. p 21

³⁶ Ibid. p 21



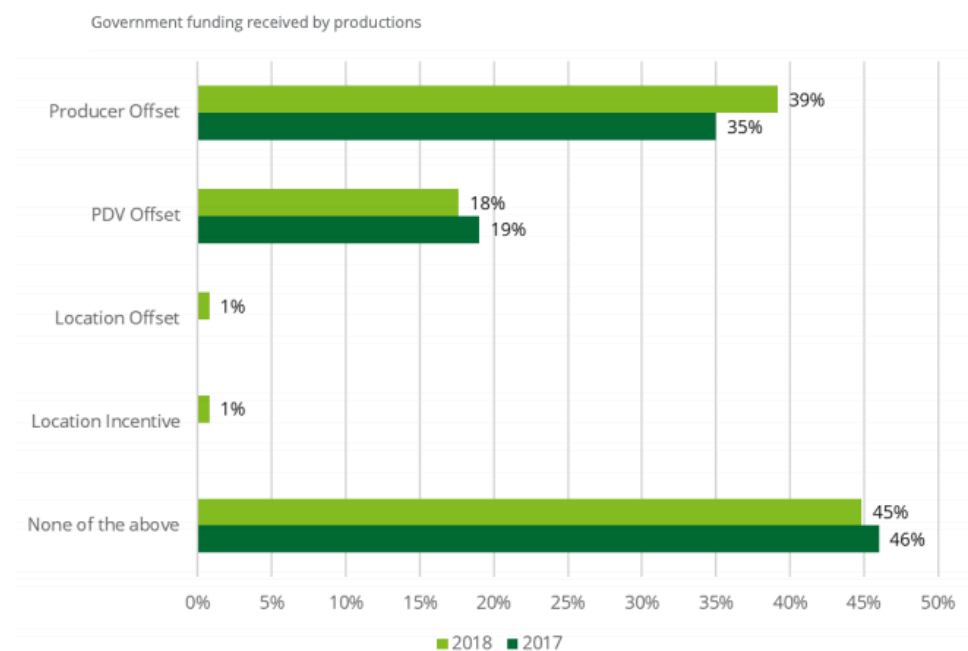
Source: Deloitte Access Economics and Qualtrics, *Screen Production in Australia Industry survey* (2019).
n = 125 productions

In terms of the source of commissions, almost half were from public broadcasters, and 28% were from the major commercial broadcasters.³⁷

Competitive tension in the sector is vital. The more platforms that are commissioning, the greater competitive tension, which delivers better results in terms of content and in terms of the commissioning deals which finance that content.

³⁷ Ibid. p 25

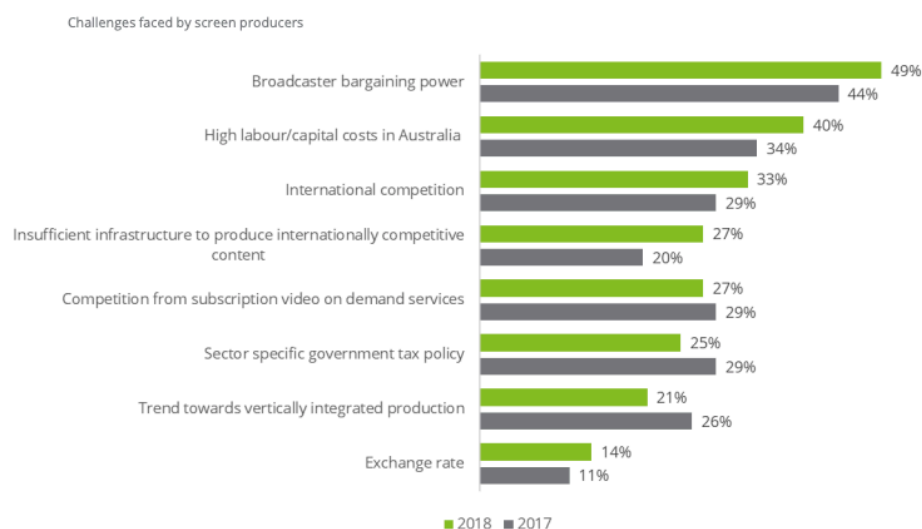
The main forms of government funding received by productions is summarised in the following table:



Source: Deloitte Access Economics and Qualtrics, *Screen Production in Australia Industry survey* (2019).
n = 125 productions

Sector outlook

The Deloitte study also tested the outlook of Australia’s independent production sector, taking into account the top challenges faced by screen producers. Broadcaster bargaining power was the top ranked challenge, followed by high labour and capital costs, and international competition.³⁸



Source: Deloitte Access Economics and Qualtrics, *Screen Production in Australia Industry survey* (2019).
n = 73 production businesses

³⁸ Ibid. p 26

The top line concern was broadcaster bargaining power at 49%, and this is informed by trends in financing, driven by changing viewership habits and global competition.

For television, licence fees are decreasing over time. According to Screen Australia, total broadcaster and distributor funding for TV drama formats has decreased by more than \$25 million, between 2012-13 and 2016-17. In 2008, commercial broadcasters were paying between \$75,000 and \$95,000 per episode for animated children's drama. In 2017, licence fees were only \$45,000.³⁹ In 2018 onwards, licence fees have dipped to all-time lows of \$30,000.

By comparison, the BBC pays between 150,000 pounds and 300,000 pounds per hour for children's animation.⁴⁰

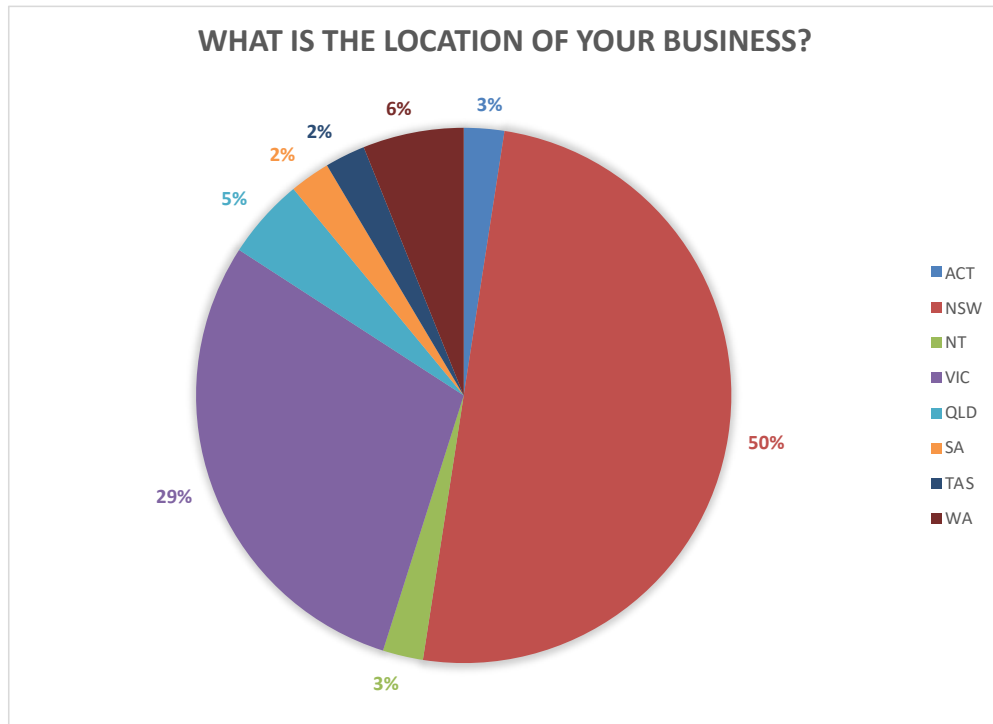
³⁹ *Screen Production in Australia: Independent screen production industry census*, Deloitte Access Economics (2018), p 28

⁴⁰ http://downloads.bbc.co.uk/commissioning/site/tariff_prices_for_independents.pdf

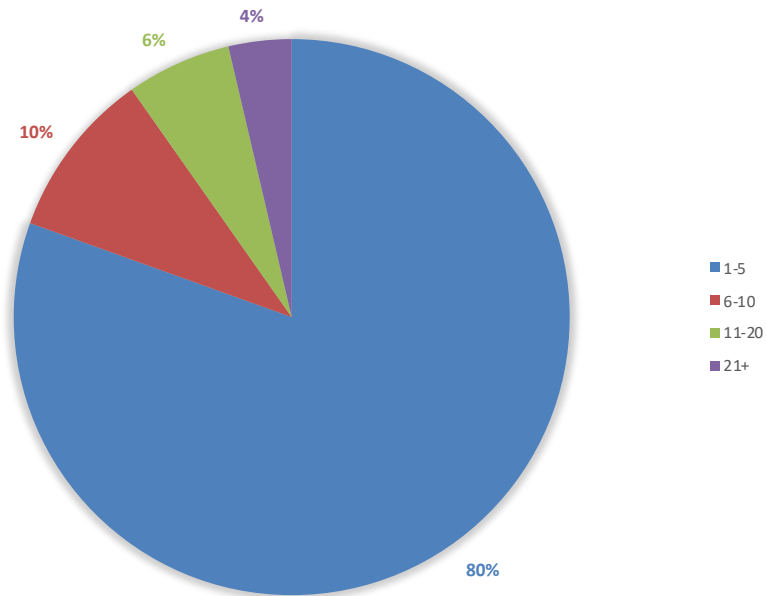
Attachment B

SURVEY RESPONSES

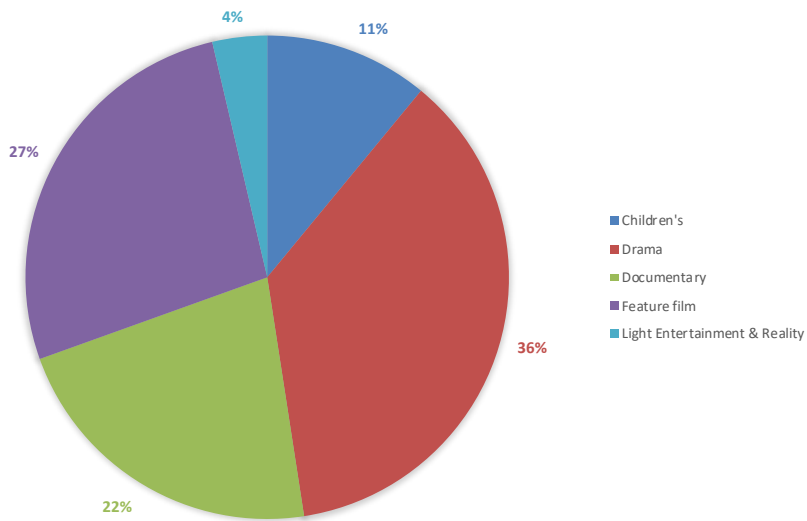
Sample size: 82 active producer businesses from the SPA membership



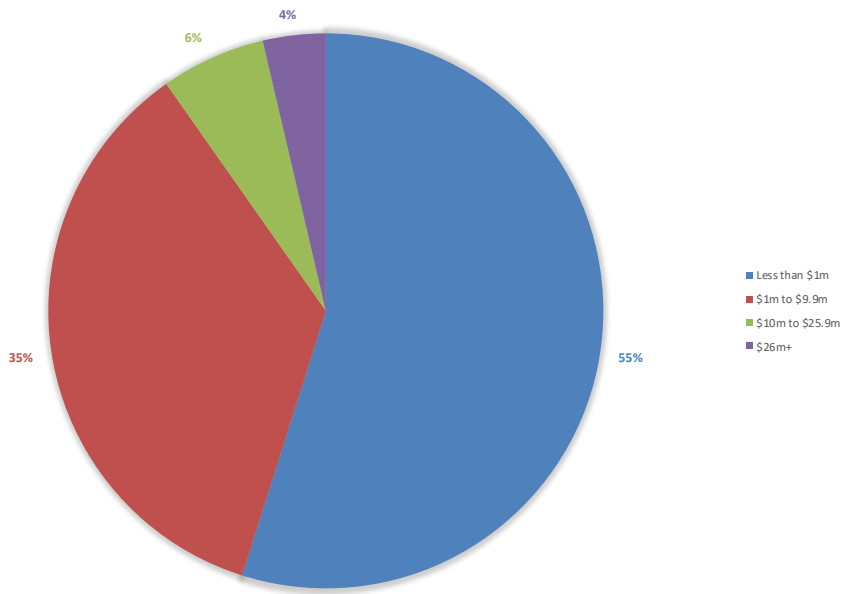
HOW MANY PERMANENT EMPLOYEES DOES YOUR BUSINESS EMPLOY?



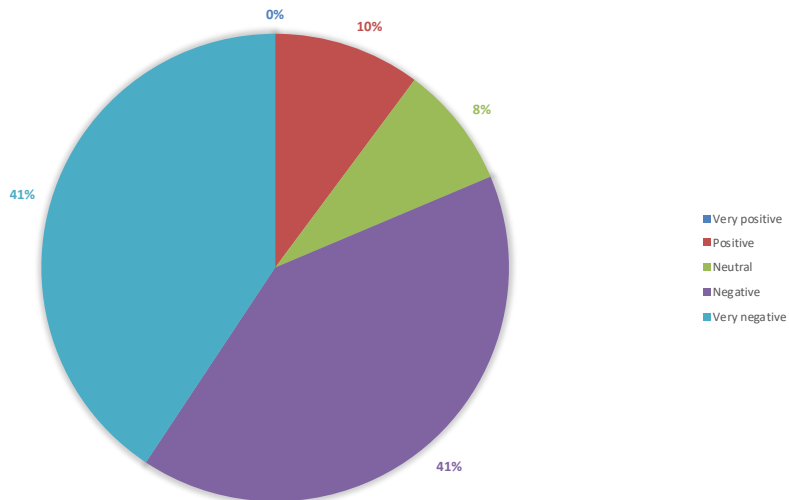
WHAT IS YOUR PRIMARY BUSINESS ACTIVITY?



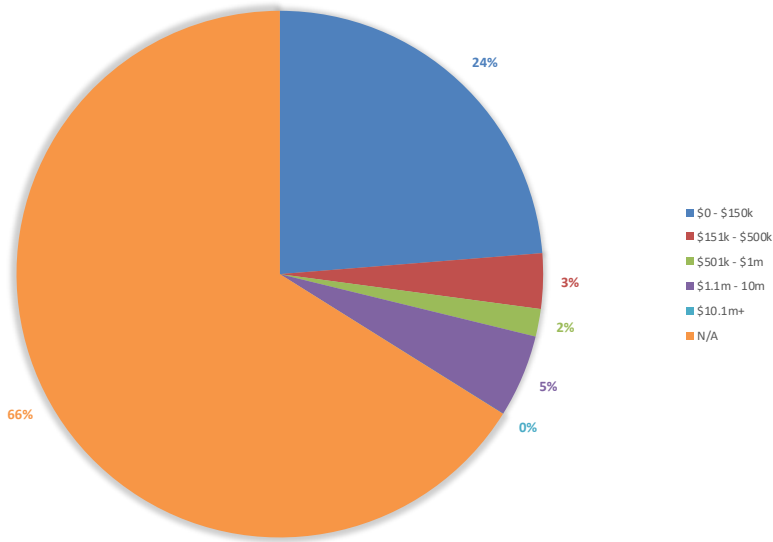
WHAT IS THE ANNUAL PRODUCTION REVENUE OF YOUR BUSINESS?



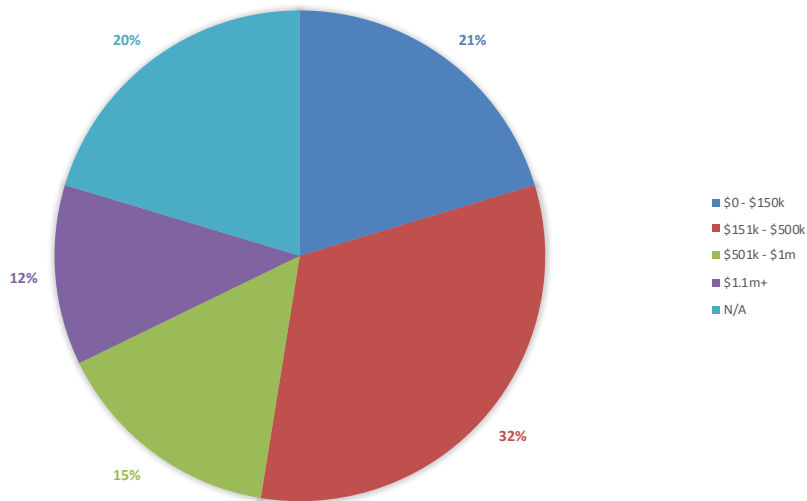
WILL THE GOVERNMENT'S ANNOUNCEMENT HAVE A POSITIVE OR NEGATIVE IMPACT ON YOUR BUSINESS?



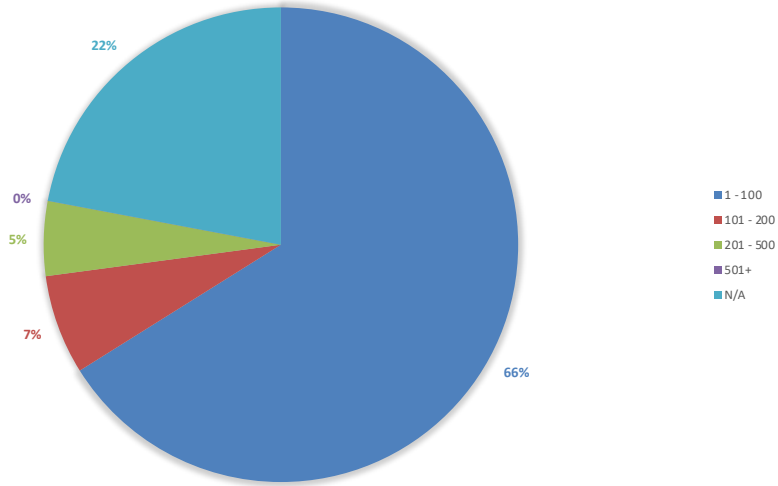
IF POSITIVE, WHAT WILL THE FINANCIAL GAINS BE TO YOUR BUSINESS OVER THE NEXT 12 MONTHS?



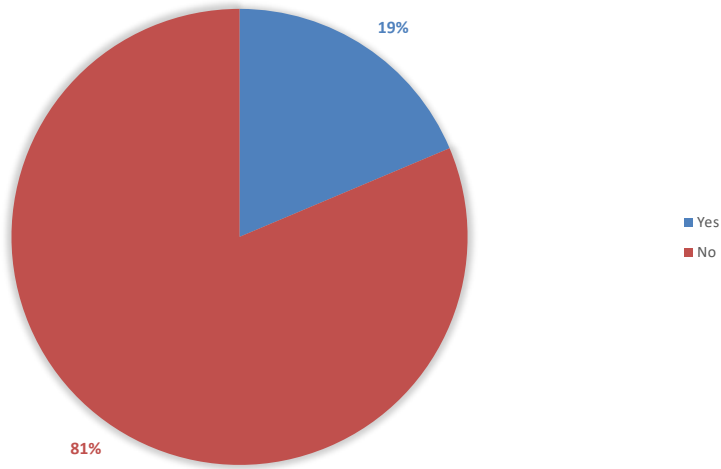
IF NEGATIVE, WHAT WILL THE FINANCIAL LOSSES BE TO YOUR BUSINESS OVER THE NEXT 12 MONTHS?



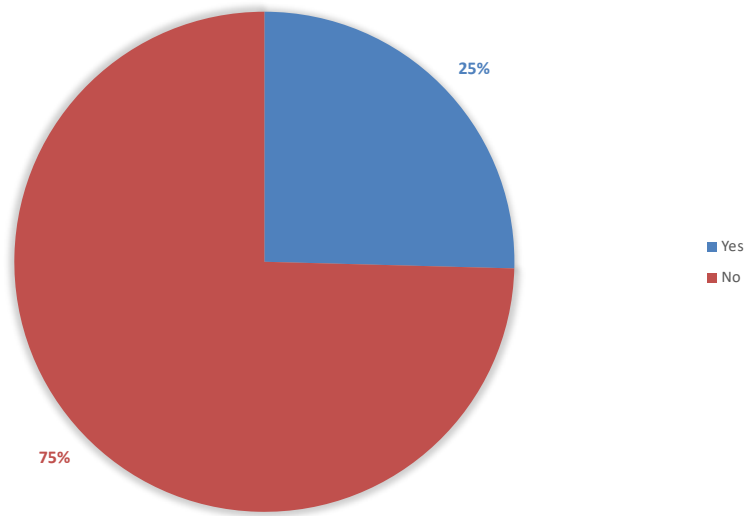
HOW MANY JOB LOSSES WILL THESE CHANGES CAUSE TO YOUR BUSINESS AND PRODUCTIONS OVER THE NEXT 12 MONTHS?



WILL THESE CHANGES CAUSE YOUR BUSINESS TO CEASE OPERATIONS WITHIN THE NEXT 12 MONTHS?



WILL ADDITIONAL SCREEN AUSTRALIA FUNDING MITIGATE ANY OF THE IMPACTS FOR YOUR BUSINESS?



WILL ADDITIONAL ACTF FUNDING MITIGATE ANY OF THE IMPACTS FOR YOUR BUSINESS?

