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Screen Producers Australia's submission to the NSW Cultural Tax Summit

About Screen Producers Australia

Screen Producers Australia (SPA) was formed by the screen industry businesses representing large and small enterprises across production all forms and formats of screen content.

As the peak industry and trade body, we consult with a membership of around 800 production businesses in the preparation of our submissions. This consultation is augmented by ongoing discussions with our elected Council and members. Our members employ hundreds of producers, thousands of related industry practitioners and drive over $3 billion worth of annual production activity from the independent sector.

SPA's members are drawn from all elements of the Australian production ecosystem, including emerging and established producers, production businesses, services and facilities businesses. 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 entire 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 make a submission to the NSW Cultural Tax Summit.

For further information about this submission please contact Jane Mulligan, Director of Policy (jane.mulligan@screenproducers.org.au)

Introduction - the policy context

SPA welcomes this opportunity to bring some critical issues pertaining to the Australian screen industry to the Cultural Tax Summit supported by the NSW and Victorian Governments as part of the process that will have input into the next iteration of Australia's National Cultural Policy, *Revive*.

SPA has welcomed the ongoing strong support by the NSW Government for the screen industry including the additional Budget funding of $35 million for the important *Made in NSW* fund, in addition to the ongoing investment in the PDV and Visual Effects rebate. This is a sign of strong support for the screen industry in the context of significant budget restraint in NSW. Also very welcome is the consultation and development of the NSW Government *Arts, Culture and Creative Industries Policy* which provides a strong foundation for the growth of our industry. Similarly in Victoria, SPA notes the development of the *Creative State strategy* and investment of $3 billion in the creative industries.

Investment programs such as the *Made in NSW* fund are an important ongoing source of support for a state's screen industry that complement investments made nationally by Screen Australia. Economic studies of the multiplier effect of public investment demonstrate that the benefit from programs like this creates a strong return on investment in a myriad of ways. For example, a 2023 Olsberg report showed that for every net dollar invested in international projects, A$5.89 is created in value for the Australian economy, and 60% of below-the-line expenditure is spent with businesses that are not dedicated to the screen industry, such as construction, security, travel, transport, real estate, education, and hospitality. A similar scenario would apply to domestic project investment. Growth in screen production in any state is predicated on growing these programs.

The Cultural Tax Summit process is taking place at a time of heightened anxiety amongst screen industry practitioners. Structural issues pertaining to the availability of local content on digital streaming platforms remain unaddressed; rising costs are putting all financing under pressure and funding for critical agencies at a federal and State level are not keeping pace. Investment by commercial free-to-air broadcasters in drama, documentary and children's programs has collapsed since the 2021 deregulation. Our national broadcasters are still struggling with years of budget cuts that will never be revived.

The result is that less and less Australian screen projects, particularly scripted, are reaching our screens. Producers are being squeezed by both commissioners and production costs. Script development is rarely funded, meaning producers have to work for considerable periods of time at their own expense, before any scarce funding is received. Evidence is that Screen Australia can only fund 30% of projects presented to them and that many of the unfunded projects have great cultural significance, meaning important Australian stories are going untold.

In dealing with governments, SPA's experience has been that too often the economic potential and role of Australia's creative industries as drivers of innovation and technological adaptation are generally unrecognised and are poorly understood by Treasury officials that seem to view arts portfolio programs as merely "nice to have" rather than critical to our economy, which makes funding vulnerable to budget cuts. The dearth of reliable, consistent and joined up economic data that captures what are many thousands of small business enterprises measuring the impact of our creative industries exacerbates this misconception.

SPA welcomes the renewed announcement by Screen Australia to commission a new edition of Screen Currency which will measure the economic, social and cultural value of Australian screen and games production. The previous report was published in 2016. SPA believes this important data such as this needs to be produced on a much more frequent basis.

The Screen Currency Discussion Paper poses several important questions about how the social, cultural and economic value of the screen industry could and should be measured. While there is an undoubted benefit of employment and economic activity, there are a multitude of intangible benefits that touch many important aspects of our lives including social cohesion, cultural identity, soft diplomacy, tourism and personal wellbeing.

The other source of data is the ABS financial and employment statistics for film, video and digital game businesses and production activity for film, television, video and digital games. This survey is done every five years – again way too infrequently for a fast moving industry such as screen. The latest data capturing 2021-22 was published in 2023.

Fortunately, many State and Territory Governments are recognising the need to diversify their economies away from what have been a traditional focus on primary industries, mining and manufacturing and lay the foundations now for a much more diversified service economy including – critically - a strong creative industry sector for the future. This has played out most recently in a number of States and Territories through increased investments to attract production to be made and in studio infrastructure investment. In this context, this opportunity for a broader dialogue and engagement is therefore of great significance for our creative industries.

It is notable that Australia comes in at 105 (down 2 places) out of 145 countries ranked by Harvard Growth Lab's Country Economic Complexity Index (ECI) ranking for economic complexity. Economic development requires the accumulation of productive knowledge and its use in both more and more complex industries. Australia's lack of economic diversity and over-reliance on traditional industries is a factor in this poor outcome. According to the Harvard Growth Lab, countries improve their ECI by increasing the number and complexity of the products they successfully export. Screen is an obvious industry that drives creativity, design thinking and rapid adoption of new technology – all highly valuable to underpin productivity and innovation.

Our industry's hope is that through the repositioning of the screen industry as an integral part of Australia's creative industries and the need to foster innovation, that we can achieve a repositioning of our sector so that we can move on from the situation in which the creative industries disappointingly did not even rate a mention in the Australian Treasury's 2022 Jobs & Skills Summit Issues Paper, "*Future Industries.*"

As a key sector within the creative industries, screen is one of the most accessible and impactful forms of culture available to audiences. We all have a shared ambition to make Australian screen stories more accessible to Australian audiences and to ensure that Australia continues to have a vibrant and thriving screen industry ecosystem in which provides a broad benefit to all stakeholders.

Screen producing businesses and commissioning stakeholders operate within a regulated market and so rely on government, particularly at a federal level, to be responsive to changes in technology and business conditions to ensure that legislative settings match the policy ambition and industry conditions for the sector.

The levers of government centre around regulations on the provision of local content for Australian audiences, funding for the national broadcasters, screen agencies as well as the range of screen industry tax incentives at both a Commonwealth and State level, amongst others.

There has long been bipartisan recognition at a federal level of the need to apply local content rules to streaming platforms. After around eight years of consultations, the Morrison Government finally took a proposal for a 5% revenue obligation to the 2022 federal election. The now Albanese Government, critical of the delay, committed to get this done and better that proposal in 2019, 2022 and 2025. It is the key commitment for the screen industry in the 2023 National Cultural Policy, *Revive* and was planned to commence operation from 1 July 2024. However, due to a range of reasons, including political complications arising from the Australia-US Free Trade Agreement, the screen industry is still waiting for this important reform.

It is critical that any regulatory model is one that has integrity and transparency. Streaming regulation is necessary to bring some stability in commissioning and to address structural imbalances that threaten the sustainability of the independent sector.

However, as important as streaming regulation is, it is but one piece in the complex puzzle of policy settings within which the screen sector functions.

Australian Screen Industry market dynamics

The process for creating screen content is complex and often not well understood. The marketplace within which our industry operates is a complex ecosystem and is also subject to global forces beyond the control of our governments. A change to one of the levers of government quickly flows through the sector which is why industry consultation ahead of changes is critical.

Most of SPA's 800 members are small – often micro businesses that produce a small number of programs in any given year and specialising in one particular genre of content. Feature film producers may only produce one film over a multi-year (up to 5 or 10 year) period. A few of the larger producers may deliver across multiple genres. For most producers, a returnable series or format or feature film sequel is a 'north star' for their business given the effort taken to create original intellectual property and the pipeline of activity that if successful is generated.

Screen Producers operate as the managing-directors of a project. They often take the burden of the risks and are responsible for driving a project forward. They oversee the technical aspects of creating film and television content and run the process from start to finish – from choosing creative content, hiring the cast and director, to editing, marketing and legal.

Within this process, screen producers create content and licence it to regulated broadcasters and streamers (for television and some feature films) and distributors and exhibitors (for feature films).

A licensee may agree to "commission" a new television program (or provide a distribution advance, in the case of a film), and the producer uses that foundational commitment to seek funding from other sources, including from private investors, Commonwealth and State government screen agencies, and via the Producer Offset tax rebate

Most producers in Australia are not vertically integrated and have no corporate relationship with regulated broadcasters or other licensees of their content. There are a handful of producers which also are part of foreign-owned corporate groups which operate broadcast and/or streaming activities, but these are typically in other territories.

The Australian film and television industry involves, as one stream of production, producers creating content and licensing it to licensees such as regulated broadcasters and streamers (for television and some feature films) and distributors and exhibitors (for feature films).

A licensee may agree to "commission" a new television program (or provide a distribution advance, in the case of a film), and the producer uses that foundational commitment to seek funding from other sources, including from private investors, Commonwealth and State government screen agencies, and via the Producer Offset tax rebate.

Once the producer has the funding for a new program committed, it engages creative contributors to bring the project into existence, including writers, directors, cast and crew. As mentioned above, some of these contributors are remunerated having regard to the way in which the program is exploited; for instance, actors on television programs are paid a fee where the program is broadcast for a certain number of "runs" of the program on free to air television (or for a certain number of years on a streamer's platform).

This type of supply chain, where the individual creative contributors are paid having regard to the exploitation of the program on which they are engaged, means it is important for the producer to have as much certainty as possible regarding the likely terms for the licence of its program, so it can ensure that it budgets appropriately for the cost of the contributors, who are usually paid from the production budget for the program.

For most programs, the producer faces significant financial risk, as its role is to pull together various sources of funding and ensure that the program is delivered, whatever exigencies may befall the production process. Further, if any source of funding fails, the responsibility for securing replacement funding stays with the producer, as does the obligation to meet any budget overage (excess of actual costs over those budgeted).

One way that producers seek to manage these risks is to retain rights in the program which do not have to be licensed by the licensee(s) of the program. The recent experience with commissioners from streaming services and broadcasters has been that this is more difficult, including due to relative bargaining positions and asymmetry of information. [*The issue of licensing rights is dealt with in more detail below*]

Streaming platforms are large, established and well-resourced operations. The streamers' subscription-based business model has challenged the advertising-based offering of the free-to-air broadcaster, particularly for drama and documentary content. Streamers have typically not provided information regarding viewing numbers for a producer's program, making it difficult for producers to gain bargaining strength when their production is successful for the streamer.

The streamers, without local content obligations, and with a potentially global audience, have a greater capacity to commission programs from Australian producers on the terms they unilaterally set (always with the alternative of simply instead acquiring existing programming that they license from other territories or their own 'owned' programming, typically at a much lower cost per hour).

Australian screen stories notoriously face tough competition from high profile film and television delivered to our market from the large USA and UK markets. As an English-speaking market, Australia is recognised as facing challenges from the substitutability of content from two of the largest content production markets in the world, in the US and the UK.

A regulated broadcaster can acquire existing hours of content in our most common language from these territories for prices well below the cost of producing new Australian content. These dynamics are the rationale for the Australian Government to have local content rules that have served Australian audiences well for the past 70 years. Without these rules, Australia would not presently have a domestic screen industry of any note.

Proposals to reform screen incentives

SPA has consulted with members and stakeholders and identified a number of areas for action on the levers available to both Federal and State governments to improve business operating conditions for screen producing businesses.

Reform of the legislative and incentive framework for the screen industry lags well behind the changed dynamics of the industry: the shift by audiences to digital streaming platforms from 2015, the changed market and business conditions and the increasingly global nature of the industry.

The funding of screen projects globally has evolved to now depend to a significant degree on a system of tax incentives such as those offered by the Australian government. Screen projects are very expensive to finance but when successful, can have an enormous audience and cultural impact. Very few screen projects reach these heights and a high degree of risk is therefore entailed. Because of this risk/reward proposition, government support is essential to initiate screen production and defray the private sector risk.

Australia's screen incentives are focused primarily on <u>production</u> of the product as that is where the barriers to creation and enterprise exist. This distinguishes screen from many other creative sub-sectors including live performance where the barriers are primarily focused on distribution of the creative work.

Within the framework of screen incentives, SPA has identified a number of key issues for reform. Many of these have been presented to Government on multiple occasions and remain outstanding for legislative action.

PRODUCER OFFSET REFORMS

1. **Reform to Producer Offset to ensure producers retain licensing rights and the producers' margin and equity**

One of the principal financial underpinnings of our industry is the Producer Offset. This offset was designed as vehicle to facilitate equity investment as the mechanism to ensure that screen producers retained a 10%margin in their projects so that they would retain a small share of licensing rights and share with other finance partners in the success of their work. One other way this payment is framed is as a buffer for the producer to enable them to have some cash up their sleeve to deal with the various variables associated with production

The Producer Offset was introduced by the Australian Government in 2007 with the stated intention of providing a benefit to Australia's independent screen producers, as stated by the then Minister for the Arts:

> I take this opportunity to affirm on the part of the government its intention that the independent sector should be beneficiaries of the producer rebate. It has not been the view of the government that eligibility for the rebate should be quarantined only to the independent sector, but it is certainly the view of the government that independent producers should be beneficiaries of the producer rebate.[1]

However, since 2007, rapid changes have taken place in the structure of the global screen industry, including from ten years ago the significant shift to online streaming platforms by audiences.

Streaming platforms as yet have no regulatory obligation to invest in local screen content and have operated to date on an unconstrained commercial basis that has altered the market dynamics of the entire screen industry including in many transactions taking control of the 'producers' offset and therefore equity position and forcing payment of the margin to the streamer instead of permitting the producer to retain this buffer. Streamers have had the benefit of operating in the Australian market, delivering their services over the public National Broadband Network without any reciprocal obligations to audiences.

What is the Producer Offset?
The Producer Offset provides a 30% rebate for non-theatrical feature projects, TV series and other formats and a 40% rebate for theatrical feature projects for Australian productions and Official Co-productions.

The Producer Offset is administered by Screen Australia.

The Producer Offset is a refundable tax offset (a rebate) calculated on a project's qualifying Australian production expenditure (QAPE), for:

40% of an applicant's QAPE for a feature film that was produced for commercial exhibition to the public in cinemas;

30% of an applicant's QAPE for an otherwise eligible project such as a Program produced for television or a subscription service, where the project commenced principal photography on or after 1 July 2021; or

20% of an applicant's QAPE for an otherwise eligible project such as a Program produced for television or a subscription service, where the project commenced principal photography prior to 1 July 2021.

To be eligible for the 40% Producer Offset, a project must be a feature film produced for commercial exhibition to the public in cinemas.

As an industry that has intellectual property as its output, the principal issue at stake in the screen industry is ownership of licensing rights in screen stories. The value of screen stories is located in these intangible rights rather than a physical product.

[1] Senate Hansard, Minister for the Arts and Sport, 18 September 2007

The changed and often unfair commissioning practices instituted by the steamers reflects their market dominance and has quickly established itself within the industry as standard practice. One regrettable consequence is that their aggressive "take it or leave it" commissioning practices have flowed across to other commissioners (purchasers of programs) including the ABC and SBS and others.

However, because the Producer Offset relies on the allocation of funds (not rules) to leverage licensing rights, with the changed market dynamics driven by powerful streaming platforms which have eroded the ability for producers to retain ownership and control of these rights, the framework of the Producers Offset is no longer adequate to protect a producer's taxpayer supported equity share.

Producers are now under significant pressure to hand over all their licensing rights, well beyond the traditional scope of an initial broadcast period of 3-5 years and often, in perpetuity. In the same contracting process, they have had the 'margin' taken from them both removing this financial buffer. If rights are obtained in perpetuity, a producer signs away all future possibility of seeking a buyer for a spin-off series, merchandising or any stake in the future development of their creative work.

The Producer Offset is no longer delivering the benefit to screen producers that it was created to achieve. The obvious remedy that SPA has long argued for, is for Australia to adopt a "terms of trade" framework, similar to that which exists in the UK.

In the context of the Cultural Tax Summit, SPA has consulted its members on a range of reform proposals and this measure is strongly supported by approximately 80% of survey respondents.

Terms of Trade – Screen's Holy Grail

A recent UK report, "Celebrating 20 years of Terms of Trade" highlights how this regulatory framework has boosted the entrepreneurialism of independent producers and effectively addressed the market imbalance driven by buyer concentration that is inherent in domestic screen industries.

Terms of Trade in the UK have achieved record growth of sector revenues of 150% and revitalised the independent sector. Prior to Terms of Trade, UK TV exports were on a very small scale but now international revenues have increased by 649% between 2004 and 2022, establishing the UK as a global content hub and taking UK content to the world.

In Australia, we can only look on in envy at the success that this important framework has achieved for UK's independent screen producers. For sound policy reasons, SPA has long advocated for a similar regulatory framework in Australia and believes that the long awaited and planned regulation of streaming platforms offers the best chance for our screen industry to achieve this screen industry "**holy grail**". SPA has consulted its members on a range of reform proposals and this measure is strongly endorsed.

> *Original IP from Australians and made in Australia should be owned by Australians. Our aim is to create local stories with local talent for the world to see by leveraging our access to the Producer Offset we bring a lot of value to the project and this should be reciprocated with equity. Our original IP made here in Australia should not be able to access the offset on behalf of international companies without us retaining some of the project's success.*
>
> *The retention of rights is paramount for a sustainable future of independent producers and their appetite for risk in development. We're currently moving further towards a fee based model, with no backend, leading to a culture in which there is no ability for producers to build capital to develop and speculate on future projects, which, in turn, will put more and more pressure on funding bodies to take the risk, including upfront fees for producers.*
>
> *Rights retention. Enforcing the intention of the legislation to allow producers to retain Offset equity rights would allow for more sustainable investments and returns.*
>
> [SPA member survey comments]

The lack of such a framework undermines the effectiveness of taxpayer investment in the Producer Offset. If both levers were available, many of the structural issues affecting the domestic industry would be resolved and put our industry on a strong foundation to be better able to negotiate commercial commissions in a tough marketplace.

Over many years, SPA has provided extensive evidence to the Australian Government to highlight the foundational importance to screen producers of a Terms of Trade framework, to ensure that Australian intellectual property, funded in part by Australian taxpayers, is able to stay under the ownership and control of Australians.

For example, in 2023, SPA released an updated report by Lateral Economics on this issue, including case studies, to highlight this issue. The report, "Taking Australian stories and skills to the world in the age of global streaming", highlights how local Australian screen producers will not fully benefit from a reinvestment obligation if they sell away Australian stories, voices, creativity and culture – our precious Australian cultural IP.

The value of these rights is well illustrated by the example of Australia's most successful television show, *Bluey*. The Lateral report describes how while Brisbane's Ludo Studio has licensed global distribution rights to *Bluey* to BBC Studios, it has retained rights, including all future production rights, ensuring that they and the creator are included in all future development of *Bluey*.

With an accompanying Terms of Trade, the Producer Offset could secure a thriving and growing future for Australia's screen industry, with all the benefits that have been achieved in the UK. Without it, Australia's screen industry will continue to struggle in a global marketplace that is stacked against them.

2. Other options to retain Australian IP?

In the absence of a Terms of Trade framework, Australia could consider alternative mechanisms to achieve the same objective. For example, the Producer Offset rules around Qualifying Australian Production Expenditure (QAPE) could be amended to mandate that intellectual property rights belong to the independent producer and require the ownership structure of funded projects to be reported on.

Another regulatory option is for the definition of Australian content. This approach would entail amending the definition of "Australian Program" in the Broadcasting Services (Australian Content and Children's Television) Standards 2020 (ACCTS) to specify that a Program is not an Australian Program unless the intellectual property rights are owned and controlled by a business under the creative control of Australians.

In addition, any contributions made by state agencies such as Screen NSW to a production could be done on the basis of fair contracting and rights retention in a similar structure to Screen Australia's investment requirements.

3. Taxpayer incentives (apart from Location Incentive) should prioritise support for Australian screen stories

The Australian screen industry operates across both local screen projects and international location work. Both are of importance to the industry ecosystem. The local industry has traditionally trained new entrants to the industry, including actors, writers, directors, editors and the whole host of crew. For many, this local training has been the foundation of a successful domestic and international career.

Another consequence of this is that Australia has been highly successful in building its international reputation and securing a growing share of offshore projects to film here. Australia's wealth of creative enterprise, technical skills, cultural alignment, natural landscapes, studio infrastructure and tax incentives have ensured that Australia is a leading location destination for international projects. According to ProdPro's 2025 TV and Film Outlook Report, Australia is currently the 5th most preferred overseas destination for US location work.

The growth in international work has also been in part a deliberate outcome of Australian Government settings and incentives. For example, in May 2023, the Australian Government announced an increase in the Location Offset from 16.5% to 30% to ensure Australia remains competitive with other attractive offshore locations for mainly US production work. This increase has cemented taxpayer support for offshore productions filming in Australia.

The Location Offset mostly incentivises and benefits overseas studios and non-Australian production companies when there is zero retention of IP in Australia. Yes, it's about sustainable employment and a healthy industry but it is also critically cannibalising local independent producers because it is driving up the cost of production for Australian productions - specifically with crew wages. Crew wages have exponentially increased in recent years due to the rates crew are offered and paid on foreign films being produced in Australia by (mostly) US studios - and crew are expecting the same rate for Australian dramas when the money is not there in financing (and we don't blame them because they don't want to take a pay cut from one job to the next)

[SPA member survey comment]

The delayed regulation on streaming services has meant that some streamers simply are not commissioning any Australian content or potentially commissioning up to one single show a year. Others have dropped down anywhere to a quarter to a half of the activity that was undertaken previously laying bare the deceit in arguments that these businesses will deliver production activity and content to Australian audiences independent of regulation.

This diminished output when combined with reductions to currently reduced obligations on commercial television and the sustained budget cuts experienced by the national broadcasters have meant that many screen businesses have had to shut permanently or are in stasis awaiting an outcome of policy reform. Those that have continued to operate have done so by increasingly pivoting their work to rely on a combination of local Australian productions and service work for offshore projects to sustain their businesses through the peaks and troughs of commissions. However, it also exposes a current imbalance in industry support mechanisms.

Australia funds *Ausfilm*, an organisation that is funded to promote Australia as a destination for international film and TV production. There is no equivalent body that has the objective of increasing Australia's screen exports and this absence of focus shapes the way Australian content capabilities are perceived internationally as well as placing brakes on the entrepreneurial behaviours of the local sector looking to build and exploit intellectual property globally. While the export objective is currently located within the many functions of *Screen Australia*, for some many years and for a range of reasons including difficult budget constraints, Australia's screen export efforts have stagnated.

The result is a growing trade gap and imbalance in Australia's efforts to bring international productions to work in Australia compared to Australian efforts to export Australian screen products. As a result, Australia has a massive and growing cultural trade deficit; reportedly, for every dollar of cultural products exported we import eight.

The sudden announcement in May by US President Trump of 100% tariffs on "movies made in foreign lands" sent a shock wave through countries like Australia that has developed shifts within its screen industry around location work often the expense of a strong domestic oriented industry.

As outlined above, the regulation of streaming platforms to ensure Australian audiences can access Australian stories on streaming platforms, as announced in the 2023 National Cultural Policy *Revive*, has not yet eventuated. The result is a regulatory and taxpayer driven framework that now increasingly leans towards international location projects over local Australian projects.

4. Increase Producer Offset for TV

Currently the Producer Offset provides a different level of rebate for feature films (40%) and television (30%). The higher rebate level for feature films was established to support theatrical cinema as a significant cultural medium. Changed audience behaviour that now leans more towards streaming services means that this mechanism has decreased in significance and impact for screen producing businesses.

> *Financing television is becoming increasingly difficult. Licence fees and ROW (rest of world) Advances are not keeping up with the increasing cost of production. Commissioners and distributors are asking for more with less. Deficits in finance plans and series' falling over are all too common and increasing the Offset to 40% for Australian made television series' is vital to continue telling Australian stories.*
>
> *TV: why should they be penalised? The 10% difference could be the difference between a project being financed or not.*
>
> *It would fill the gap that has now appeared in finance plans due to distribution advances decreasing and Screen Australia funds lowering.*
>
> *Increase the producer offset for TV to 40% as there's a significant decline in the volume of projects being commissioned by broadcasters and streamers.*
>
> *TV to 40% would also aid productivity tremendously and streamline Australian content process (it would assist POCU as remove a stumbling block for many productions).*
>
> [SPA member survey comments]

As the comments above highlight, financing of television programs is challenging for producers. Feedback to SPA from members is that they often face a 10% gap in finance plans for television projects. An increase would help to address this gap and could be advanced on a genre-by-genre basis.

SPA supports a Producer Offset of 40% for television projects.

5. Remove 65 hour cap on documentary

In 2021 the Producer Offset rules were amended to remove the 65-hour cap for drama but not for documentary. SPA has questioned the rationale for not applying the same benefit to documentary as is applied to drama.

Documentary is an important and vulnerable genre that plays an important cultural role for audiences. Documentary production is equally important as drama in Australia and this cap should not apply to either documentary or drama to ensure a consistent was across both genres.

The 65-hour cap for access to the Producer Offset that was removed in 2021 for scripted content should also be removed for documentaries.

6. **Other Producer Offset Reforms**

- Finance costs to be included in QAPE – delays resulting from administrative processing add a cost burden to business that is a legitimate cost incurred but which is not recognised as QAPE. This adjustment would assist the cost squeeze on business from events outside of their control.

- Reduce ATO payment times from current 8 weeks from final certificate – the lengthy delay from final certificate to receipt of the tax offset creates an additional financial burden on business and could easily be addressed by the ATO recognising the final certificate as a prompt for quick payment.

- Remove format duration eligibility criteria – eligibility requirement should fit the market commission regarding program format duration, ie children's.

- Interim tax rebates based on spend to date for a financial year, benefit to multi-year animation projects – this approach has been adopted in New Zealand and provides a benefit to business.

BOOSTING CINEMA AUDIENCES

- New P&A rebate - Australian cinema releases struggle to find their audience and to compete against large international projects with significant marketing budgets. While the Producer Offset supports production expenditure, there is no complementary mechanism to assist with the high and unavoidable costs of marketing and distribution. A targeted rebate for eligible Print and Advertising (P&A) expenses would help Australian films secure visibility in cinemas, strengthen their box office potential, and increase the likelihood of recoupment and reinvestment.

PDV OFFSET REFORMS

7. **PDV access for feature documentary**

Currently the Post, Digital and Visual Effects (PDV) Offset (a 30 per cent rebate for work on post, digital and visual effects production in Australia, regardless of where a project is filmed) is not available for feature documentaries.

This exclusion has prevented some Australian screen businesses from partnering with global businesses to do PDV work here.

SPA has raised this with the Office of the Arts and been advised that historically, producers making this format were not considered to be a likely applicant to the PDV Offset given the relatively high expenditure threshold of $5m put in place at the time of its introduction in 2007. Since then, the threshold for the PDV Offset has been reduced to $500,000 and the Department is aware that this exclusion is an issue for Australia's feature documentary makers.

Enabling feature documentary to have access to this incentive would remove a current barrier and facilitate documentary makers in developing these important global partnerships and also bring more valuable PDV work to Australia. Feature documentaries are hard hit by changes in market and local funding and this change would be very welcome by these producers.

Across the board, SPA members have also said that a faster turnaround in PDV offset returns would benefit producers and reduce interest payments on borrowings against this amount.

Feature documentary projects should be able to access the PDV Offset

8. **Announced but not enacted reforms:**

Two important reforms have been announced by the Federal Government but not yet enacted.

Lower Location Offset threshold to $15m
As part of MYEFO, in December 2024 the Australian Government announced the Location Offset threshold would return to $15 million. This welcome change has not yet been been legislated.

Removing the Producer Offset "Above the Line" cap
In May 2024, the Australian Government announced the abolition of the "above the line" cap in the Producer Offset. The removal of this cap put Australian projects on a more equal footing with international projects as the Location Offset did not contain a similar cap.

This measure was announced in the 2024 Budget as applying to principal photography that started from 1 July 2024 onwards for the 2024-25 financial year. However, the measure has not yet been legislated.

STATE TAX ISSUES:

SPA supports the alignment of payroll tax concessions across states.

Currently this concession is offered by Queensland and South Australia subject to a number of criteria around qualifying production expenditure incurred in that state.

In Queensland, this is an uncapped rebate, which enables eligible projects to receive a rebate on the payroll tax paid in Queensland. Eligible projects include television or film drama, factual entertainment series and documentary.

In South Australia, a payroll tax exemption applies to producers shooting feature films in South Australia and may reduce a project's total payroll liability by up to 4.95%. This concession currently provides a competitive advantage to these states.

How to facilitate Private Investment?

As well as public investment measures, Australia could consider a framework to incentivise private investment which remains persistently low.

Screen Australia's Drama Report 2023–24 shows that over the past five years; Australian private investors have contributed on average just $1 million per year to television and SVOD projects (0.17% of total finance) and $20 million per year to theatrical features (4.5% of total finance).

These figures highlight the structural absence of local private capital in financing Australian content. Introducing a targeted tax incentive for individuals and companies investing in eligible productions could play an important role in addressing this gap, provided that the measure is carefully aligned with the existing Producer Offset and related schemes. In designing such a mechanism, it is important to avoid the unintended behaviours that were seen under the former 10BA regime.

There are international precedents which demonstrate that investor-level incentives can coexist effectively with producer rebates or offsets. Examples include:

- France – SOFICA scheme: accredited investment companies channel private funds into French films and TV. Investors receive income tax reductions, while producers still claim the national spend rebate (crédit d'impôt). Safeguards include cultural tests and independent oversight.
- Belgium – Federal Tax Shelter: Belgian companies reduce corporate tax by investing in certified productions. Productions also access regional spend rebates. Safeguards include strict certification, deduction caps, and audits.
- United Kingdom – SEIS/EIS alongside AVEC: investors receive tax relief for backing high-risk production companies under the Seed and Enterprise Investment Schemes, while producers access the Audio-Visual Expenditure Credit. Safeguards require genuine capital at risk and arm's-length investment.

These examples show it is possible to attract private capital into screen production while preserving the integrity of spend-based offsets. SPA notes that private investment is becoming increasingly important in finance plans, as licence fees, government funding and other sources remain stable or decline, while production costs continue to rise.

A carefully designed NSW incentive would open a critical stream of private capital, while maintaining the integrity of the existing offsets and safeguarding against duplication.

Screen Capacity Issues

In partnership with industry, governments have a role to play in addressing capacity issues regarding both infrastructure (ie, studio space) and ensuring Australia has a skilled workforce to grow and develop.

As a leading state for Australian screen production, SPA welcomes the NSW Government investment of $100 million in a capital fund to identify a location of a much needed second film studio for Sydney. This will help to address the current shortage of production space in Sydney. Similarly, a commitment of $5.5 million grant and assistance for noise abatement for the proposed private Coffs Harbour film studio is noted. Other states are similarly recognising the need for additional studio infrastructure with the development of new studio space in Cairns and Perth.

In addition to studio space, screen projects require production office space for short lease to support scaled up production activity. The screen industry would benefit from the availability of a tax incentive available to landlords to meet this need.

In the wake of the Covid-19 pandemic, in common with many other countries, Australia screen experienced an acute skills shortage in certain parts of the screen industry. This was in part created by a high level of international television and streaming location work filming in Australia from 2020-21 to 2022-23. The recent drop in international TV and VOD investment noted in the 2023-24 Screen Australia *Drama Report* has lessened but not abated these skills shortages as different parts of the sector has aligned and realigned around what has been a rapidly changing employment environment.

SPA has welcomed the strengthened training and infrastructure obligations that will now attach from 1 July 2024 to the increased Location Offset that it is hoped will help to address the capacity issues being experienced in the Australian screen industry associated with the increase in offshore productions filming in Australia.

Producers on local screen projects have frequently struggled to compete with international productions for crew and studio space. Efforts to address these capacity issues take time to materialise and build momentum but it is hoped that the Australian Government's strong commitment to addressing skills and training will result in an improvement in this area.

While it is welcome that addressing the capacity and training issues in the screen industry will be through an industry-led approach, SPA notes that this needs to done in partnership with and coordinated by government to ensure that training takes place in areas of skills shortage and that the training meets the needs of the entire screen industry and not just specific international productions. To achieve this, these measures should ideally be managed in a co-ordinated and non-duplicative way to lessen the opportunities for inefficiencies and wastage from this investment.

A 2023 Australian Screen Workforce Development Framework commissioned by *Ausfilm* provided an in-depth analysis of the then issues pertaining to the screen industry "below the line" (BTL) workforce who make up the majority of the screen workforce. BTL crew work preproduction through to post to ensure that each production is delivered on time, on budget, and to the highest quality.

This report estimated that each film and television production in Australia employs on average 50 to 150 crew members across a range of departments. On international productions, crew numbers can range from 500 to over 1000. Animation and VFX companies employ anywhere from 10 to 500 specialist crew per project. As no two productions are alike, the industry relies on the experience of its workforce to adapt to each new production's creative and technical needs.

The range of skilled trades that make up a project's below the line crew is rarely recognised outside of the industry. For that reason, SPA is attaching a list to demonstrate the significant reach of the screen industry across various functions. This list also demonstrates the huge challenge for a producer to ensure that a project is adequately crewed, particularly in areas of trade shortage including regional areas and many of the smaller states.

Also noted in the Workforce Development Framework is that production and post-production periods range from one to nine months on average, although large international projects can run for up to eighteen months. There is often short notice before the commencement of work and scheduling challenges add further complexity to developing a workforce pipeline to increase the talent pool.

Screen Australia has recently commissioned a production infrastructure and capacity analysis (PICA) for Australia's screen production sector. This study will be conducted through targeted industry survey and provide valuable data on the current screen production capacity in Australia, across workforce and infrastructure, and what is required to grow current capacity. Given the comprehensive nature of this study, SPA believes it will be a preferred source of updated data on this issue and therefore commends it to government as a forthcoming input into future policy development.

TYPICAL SCREEN INDUSTRY “BELOW THE LINE” CREW ROLES

Producer's Assistant(s)
Director's Assistant
Production Supervisor
Production Manager
Production Co-ordinator
Production Secretary
Production Assistant(s)
Runner(s)
Production - Casuals
Location Manager(s)
Assistant Location Manager
Unit Manager(s)
Unit Assistant(s)
Unit - Casuals
Travel Co-ordinator
Transport Manager
Transport Assistant
Driver(s)
Base Office Liaison
Financial Controller
Production Accountant
Accounts Assistant(s)
1st Assistant Director
2nd Assistant Director
3rd Assistant Director
Casual Asst. Directors
Script Supervisor/Continuity
D. O. P.
Operator(s)
Focus Puller(s)
lapper Loader(s)
Video Split Operator
Camera - Casual
Steadicam Operator
Steadicam Assistant
Underwater/Aerial Camera Operator
Recordist
Boom Operator
Boom Op/Cable Runner
Audio Playback Operator
Sound - Casual
Gaffer
Best Boy
Electrician 1
Electrician 2
Electricians - Casual
Generator Operator(s)
Pre-light/Rigging Crew

Construction Manager(s)
Construction Foreman
Construction Accountant
Leading Hand
Standby Carpenter
Carpenter(s)
Labourer(s)
Carpenters & Labourers - Casuals
Signwriter
Scenic Artist
Head Painter
Standby Painter
Painter(s)
Set Finisher(s)
Brush-hand(s)
Construction Runner
Construction Electrician
Sp. Fx. Manager
Sp. Fx. Co-ordinator(s)
Sp. Fx. Buyer
Sp. Fx. Assistant(s)
Sp. Fx. - Casual
Mechanical Fx. Co-ordinator(s)
Pyro Fx. Co-ordinator(s)
Model Fx. Co-ordinator(s)
Model Maker(s)
Armourer
Armourer-Casual
Safety Supervisor/Officer
Safety Officer
Safety Adviser
Police
Traffic Control
Security
Ambulance Officer(s)
Fire Officer(s)
Doctor
Nurse(s)
First Aid Officer
Tutor
Chaperone
Nannie
On Set Child Supervision
Overnight Child Supervision
Stills Camera
Extras Casting Coordinator
Stunt Coordinator
Caterers

Assistant Grip(s)
Grips - Casual
Costume Designer
Assistant Costume Designer
Costume Supervisor
Costume Co-ordinator
Costume Buyer(s)
Standby Costume
Costume - Casual
Specialist Costume manufacture
Make-up Artist
Assistant(s)
Sp. Fx. Make-up Artist
Make-up Staff - Casual
Hairdresser
Assistant(s)
Sp. Fx. & Wigs
Hairdressers - Casual
Production Designer
Assistant Designer
Art Director
Asst. Art Director(s)
Art Department Co-ordinator
Art Department Accountant
Draughtsperson
Special Artist(s)
Props Buyer(s)
Assistant Props Buyer(s)
Set Decorator(s)

Set Dresser(s)
Standby Props(s)
Assistant Standby Props
Video Playback Operator
Set/Props Maker(s)
Set/Model Maker(s)
Graphic Artist
Art Dept. Runner(s)
Art Dept. Casuals
Greensperson
Greens - Casuals
Animal Assistants
Action Vehicle Co-ordinator.
Marine Co-ordinator
Marine Specialist
Aerial Specialist
Mechanic
Driver(s)

Wrangler(s)
Animal Assistants
Stable Hand(s)

Key Grip
Grip

Animal Trainer(s)
Horse Wrangler