

31 January 2023

## **Screen Producers Australia's submission to *Treasury Laws Amendment (2022 Measures No. 4) Bill 2022***

### About Screen Producers Australia

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

As the peak industry and trade body, we consult with a membership of more than 600 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 between \$1 billion and \$2 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. 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.

SPA's membership includes a number of screen producers who are actively involved in games development. The Australian video games industry is a screen industry success story and last financial year was worth more than \$226 million in revenue. SPA welcomes the Australian Government's recognition of the need for development and production support for this important and growing sector.

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 submit to *Treasury Laws Amendment (2022 Measures No. 4) Bill 2022*.

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

## Executive Summary

- SPA represents members in the Australian games industry sector and in this submission is concerned with the measures in Schedule 1 of the Bill that pertain to the Digital Games Tax Offset.
- SPA members welcome the Australian Government's recognition of the need for development and production support for this important and growing sector and urges the swift passage of these measures in the Bill through the Parliament.
- SPA recommends a review process takes place within two-three years of operation of the DGTO to identify any unintended consequences or problems for the sector and to provide the opportunity to address these without delay.

## Background

SPA welcomes the introduction of provisions for the Digital Games Tax Offset (DGTO) in Schedule 1 of the *Treasury Laws Amendment (2022 Measures No. 4) Bill 2022*.

The DGTO legislation has been keenly anticipated by SPA members in Australia's gaming industry, since being announced in the 2020-21 Budget.

SPA welcomed the opportunity in 2022 to consult with officials from the Office of the Arts and to receive detailed briefings for members which has provided the opportunity to discuss the legislation in detail and understand the administrative process that supports this. SPA itself has had the opportunity to consult with its members and receive their feedback.

Games development is a vibrant and critical part of our overall creative and knowledge economies, making a significant contribution to jobs and investment.

SPA believes that the new incentive will provide much needed support for games development and brings it into alignment with the other elements of our screen content industry which are already supported by incentives through the tax system.

Tax incentives have proven their ability to support success and sustainability in the film and television sectors, and the expansion of this support to cover games development will aid many SPA members who incorporate games and interactive media into their overall content slates.

SPA also believes that this will also make Australia more competitive on the international stage and incentivise economic activity, job creation, business success and exports.

## Submission

### *Support for swift passage of bill*

SPA members welcome the Australian Government's recognition of the need for development and production support for this important and growing sector and urges the swift passage of these measures in the Bill through the Parliament.

SPA recommends a review process takes place within two-three years of operation of the DGTO to identify any unintended consequences or problems for the sector and to provide the opportunity to address these without delay.

### *Gambling Games*

SPA notes that a digital game is not eligible if it is a “gambling service” within the meaning of the *Interactive Gambling Act 2001*. The Explanatory Memorandum to the Bill further notes that this clause is intended to also exclude digital games “that substantially comprise, have reliance on, or give prominence to” features known as “loot boxes” embedded in games.

SPA agrees with the intention of this clause and asks if the issue of “loot boxes” should be more explicitly addressed in the Bill.

### *Development Expenditure*

SPA notes an apparent inconsistency between what is included and excluded as development expenditure.

Section 378-35(2)(d) allows for expenditure on underlying game infrastructure (ie, game engines and anti-cheating controls). However, section 378-35(3)(b) specifically excludes expenditure on acquiring or licensing software.

As both game engines and anti-cheat controls are generally software that is licensed by the developer, SPA notes that this inconsistency may cause confusion for developers.