

20 June 2018

## Screen Producers Australia's submission on Skilled Migration Occupation List Traffic Light Bulletin

Screen Producers Australia (SPA) was formed by the screen industry to represent 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 nearly 500 production businesses in the preparation of our submissions. This consultation is augmented by ongoing discussions with our elected Council and appointed Policy Working Group representatives. Our members employ over 21,000 Australians and drive more than \$1.2 billion worth of annual production activity from the independent sector.

On behalf of these businesses we are focused on delivering a healthy commercial environment 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.

SPA welcomes the opportunity to provide a submission on the Skilled Migration Occupation List Traffic Light Bulletin. SPA notes that the number of proposed changes is much higher than the previous review. SPA also notes that no clear rationale has been provided to justify removal of these occupation.

SPA would like to bring to the review team's attention several industry-specific measures that ensure that Australian productions employ Australian cast and crew.

### *408 Visa*

The Temporary Employment (Entertainment) Visa (Subclass 408) allows foreign citizens to work in television or live productions as either a performer or in a behind-the-scenes capacity, such as directing, producing and other technician roles. The 408 Visa is unique as it requires production companies to consult with employee organisations. The 408 visa requirements have not been substantially updated since the 1990s and are out of touch with the current commercial and regulatory environment. Delays in decision-making due to lengthy and uncertain assessment and consultation processes are seeing projects collapse or move to friendlier regulatory environments, such as New Zealand. This is reducing inward investment, hurting job creation and damaging career development opportunities.

In 2015 SPA conducted a survey of its membership regarding the then 420 visa. Approximately 95% of respondents said they used that visa in financing and every respondent said they use it when the creative elements of a project requires it. Approximately 75% of respondents said that they were dissatisfied with the uncertainty of the consultation process and outcome. Just over 75% of respondents to the 2017 Screen Industry Business Survey said that greater flexibility in immigration processes would benefit their business to develop and produce more projects.

### *Significant Australian Content Test*

To be eligible for the Producer Offset, the project must obtain a certification from Screen Australia that the project has “Significant Australian Content” or the project is made under a coproduction arrangement (whereby the project is deemed to meet the significant Australian content test). The producer offset provides a refundable tax offset of 40% of Qualifying Australian Production Expenditure (QAPE) on a feature film and 20% of QAPE on a production that is not a feature film (e.g. a television program).

The test for determining whether a project has “Significant Australian Content” is set out in the legislation. In determining whether a production has “Significant Australian Content”, matters to which Screen Australia must have regard are:

- (a) the subject matter of the film;
- (b) the place where the film was made;
- (c) the nationalities and places of residence of the persons who took part in the making of the film;
- (d) the details of the production expenditure incurred in respect of the film;
- (e) any other matters that the film authority considers to be relevant.

The test goes beyond the content of the production and requires investigation into to the place of production, the nationalities of the people who work on the film and the finance plan relating to expenditure. The Significant Australian Content test and various screen agency guidelines ensure the “Australian-ness” of a production will provide protection for local cast and crew.

### *A global market for content and talent*

Australia develops world-class cast and crew through AFTRS, NIDA and other educational institutions, as well as on-the-job training on productions. Unfortunately, the domestic industry does not develop the volume and quality of productions to keep our world-class actors, directors, writers, technicians and crew in Australia. Often, as much as they want to tell Australian stories, as budgets tighten and schedules shorten, they leave to pursue commercially lucrative and career advancing opportunities overseas. Australia’s loss is Hollywood’s gain. Australia will continue to lose our best and brightest directors, writers and actors unless there is a viable, growing and sustainable domestic production industry.

For producers, talent must be sought from overseas or the production will “fall over” or relocate overseas. Producers must be able to act with confidence when financing their projects in the global marketplace. Access to foreign investment

and sales increases the volume of productions as well as production budgets. In a highly competitive international market, this is increasingly important in a climate of static domestic tax incentives. The offsets alone cannot fund current levels of highly creative and culturally relevant Australian content that can compete in a global market. There is often a “gap” in a finance plan for a production after the offsets, direct funding, broadcaster or distributor contributions are being negotiated.

### *Business sentiment*

While there is a strong global demand for content, the market conditions in Australia are challenging. In 2018, SPA engaged Deloitte Access Economics to survey the screen production sector on revenue, employment and business sentiment. On business sentiment, 21 per cent of production businesses responding to the survey expect to reduce their activity in the next five years and almost one in ten production companies are concerned about their solvency. More than a third of producers surveyed cited high labour and capital costs as one of their top three challenges. SPA is willing to share with the Department the Deloitte findings. In these difficult market conditions, any move that could have the effect of making labour contracting more difficult and drive up labour costs would put more production businesses’ solvency in doubt.

### *A regional producers’ experience*

One of SPA’s members based in Western Australia recently contacted SPA regarding their problems in contracting highly skilled crew.

“We are an expanding industry assisted by the excellent Producer Offset scheme brought in by the Liberal Government in 2007, but unfortunately the level of skilled personnel in this country has not been able to keep up with demand. We are finding it increasingly difficult to fill all levels of crew from the most basic junior Production Co-ordinators to Heads of Department. We are battling to find the people to fill the roles and as a result our business, and those of our colleagues, is suffering.

In the past when skills shortages have occurred we have occasionally looked overseas and used the 457 visa to hire skilled professionals. Taking a contract in Australia was only attractive with the prospect of permanent residency (PR) for those individuals. It offered us relief as a business and gave the industry experienced practitioners who passed on their skills to Australians, helping to raise the bar.

Now without the hope of PR, attracting overseas personnel on a TSS is virtually impossible as this requires them to relocate themselves and their family with no prospect of remaining. After their contract of say 2 years they would have to return to their country of origin. It is not an attractive option for highly skilled workers in a specialised field.

Coupled with this is being based in regional Australia. Most television production is based in Sydney and Melbourne and hence this is where the main workforce resides. Attracting Australians to live and work in these areas for long periods, as is required, is nigh on impossible.”

### *Specific occupations*

The particular occupations on the Traffic Light Bulletin of interest to SPA members are:

- Director (Film, Television, Radio or Stage – 212312)
- Film and Video Editor (212314)
- Program Director (Television or Radio – 212315)
- Technical Director (212317)
- Video Producer (212318)

SPA conducted a survey of its membership on the ease at which producers were able to contract these specific positions in the past 24 months. There were 35 respondents to the survey.

- Director: 36 per cent of respondents said it was difficult or very difficult
- Editor: 40 per cent of respondents said it was difficult or very difficult
- Program Director: 57 per cent said it was neither easy nor difficult and 21 per cent found it difficult or very difficult
- Technical Director: 57 per cent said it was neither easy nor difficult and 21 per cent found it difficult or very difficult
- Video Producer: 30 per cent said it was difficult or very difficult.

### *Recommendation*

In light of challenging market conditions, the difficulty experienced by producers in contracting the occupations listed – particularly for regional producers – SPA recommends there be no change to the Traffic Light Bulletin and the occupations remain on the skilled Migration Occupation List

For further information about this submission please contact James Cheatley, Director, Policy and Government Relations ([james.cheatley@screenproducers.org.au](mailto:james.cheatley@screenproducers.org.au))