Australian Writers' Guild
Australian Writers' Guild Authorship Collecting Society

A new National Cultural Policy

Our stories are told together

21 May 2026

100% human produced

The Australian Writers' Guild acknowledges we live and work on Aboriginal land. We pay our respects to Elders past and present. We thank them for their custodianship of land and waterways, stories, and song, and pay our respects to the oldest storytelling civilisations in the world.

WHO WE ARE

The Australian Writers' Guild (**AWG**) represents Australia's performance writers: playwrights, screenwriters for film and television, showrunners, podcasters, comedians, game narrative designers, dramaturgs, librettists, and audio writers. We represent 2,800 performance writers in Australia. Established by writers for writers, the AWG is a democratic organisation run by its members, who each year elect a National Executive Council and State Branch Committees. Our members work together to represent their fellow writers across the industry in a number of committees such as the Theatre, Television and Games committees to negotiate for fair pay and conditions, advocate to government, and serve members' professional needs.

The Australian Writers' Guild Authorship Collecting Society (**AWGACS**) is a not-for-profit collecting society for screenplay authors. With more than 2,000 members and 32 partnerships with overseas collective management organisations, AWGACS has collected more than $25 million in secondary royalties and distributed the monies owed to screenwriters from Australia, New Zealand and around the world. AWGACS continuously advocates for the rights of authors to ensure they are fairly remunerated for the secondary exploitation of their works.

EXECUTIVE SUMMARY

Revive represented a return to actively enabling our sector to grow by the Australian Government, a return that was welcomed by artists and creatives. It had ambitions to create a sophisticated internal and external marketplace of ideas and content, where the cultural and economic power our sector can wield at home and abroad was actively built.

The unregulated use of Generative Artificial Intelligence (**Generative AI**) is an existential danger to Australian writing and the creative sector, and consequently to the creative and professional interests of the members we represent. Generative AI works by copying existing artistic work without the consent of the authors of that work. Before we can assess the impact – positive or negative – Generative AI will have on the Australian cultural sector and its economic impacts on Australia more broadly, the fundamental issue that it has been **built of stolen intellectual property** must be resolved. There can be no economic, cultural or scientific benefit to our nation until a process of transparency, consent and ongoing compensation is afforded to the creative workers who have made AI possible. The fair regulation of AI must be the foundation of our next National Cultural Policy.

As a professional organisation for creative workers, many of our recommendations in this submission revolve around **fair pay and conditions for artists**, with particular emphasis on the widespread industry problem of the non-payment of writers' superannuation.

Unfortunately, our sector is still in an era of significant contraction. The cumulative effect of funding cuts to the ABC, SBS, and the Australia Council (now Creative Australia), the pandemic and critically the suspension and relaxation of local content quotas on commercial television by the Morrison Government have been difficult to recover from. We have regulatory settings that incentivise offshore intellectual property ownership, rather than ownership by Australians. Content quotas, a key part of *Revive* and delivered in 2025, were an essential step but it is critical that we pay attention to ensure these changes are benefiting our whole sector.

Revive was a commitment to Australia's sovereign capacity. It was a commitment to empowering Australian creatives to project our voice globally. We are best understood, and best understand each other, in our complexity, and the more we make the better for us all. It is the conversations, the collectives of voices, the competing conceptions, that tell us who we might be.

We urge Government to continue this important work, to tell our story in all its voice and forms, particularly as we face new threats and challenges. It is the best way to make sure we do so together.

Claire Pullen
Group CEO

A. FIRST NATIONS FIRST

A core promise of *Revive* was to facilitate the implementation "stand-alone legislation to protect First Nations knowledge and cultural expressions". We supported this goal and proposed the formation of a working group of relevant experts comprised principally of First Nations creatives in the screen and stage sector, supported by a relevant industry organisation, other relevant subject matter experts, and the collecting agencies. We recommended that the working group would consider the translation of 'cultural assets' as a class of copyrightable assets into stage and screen contracts, in addition to industry terms of trade and contracts for performed or cinematographic works based on these assets or expressions.

As yet, there is no standalone legislation regarding First Nations cultural assets and expressions and the need for legal recognition is particularly urgent with the advent of AI. There is a pressing need to close these gaps and work on this reform given the significant delay. In our view, this issue and the way it is resolved could impact the treatment of other creative works protected by copyright (i.e. literary, musical and artistic works) and currently non-copyrightable creative works and activities (i.e. acting, dance, screen editing, set design). We discuss this in more detail in Part B of this submission.

AI presents particularly acute risk to First Nations creative workers and the Traditional Owners of cultural assets. It is entirely possible in our current settings (for example) for a generative AI to be trained on fake Aboriginal art or stories, to generate a fake 'Dreaming story', and be made and distributed internationally and in Australia, to the benefit and profit of non-First Nations entities, without regard to cultural protocols or remuneration.[1] AI companies must be compelled to share data confirming whether or not AI platforms have been trained on Australian works, including First Nations works. Without such transparency, all Large Language Models (LLMs) must be assumed to be infringing Australian and First Nations works, committing cultural harm, and are a significant and inherent risk in their current forms.

In the context of First Nations content, cultural protocols around the reproduction and broadcast of the voices and images of Elders and people who have died cannot be adequately respected within AI models.

Even if the input data is 'accurate' and a First Nations person has added it to the 'training' corpus of an AI generator, there is no guarantee that the person who input the data had the cultural authority to do so, or that its perpetual availability or rendering down to parts for algorithmic purposes is consistent with cultural protocols.

First Nations Traditional Owners (as with all creators) must have the right to refuse consent for tech companies to use cultural assets for 'training' AI models, and to have works disgorged at any time. Tech companies that have used these assets without permission (i.e. in the form of images, transcriptions, and the like) should be forced to disgorge that data and demonstrate this has occurred. The regulation must emphasise transparency and First Nations Traditional Owners must be given reasonable assurances that the disgorgement has taken place.

1 James Vyver and Tahnee Jash, "Calls to Protect Indigenous Intellectual Property from AI," *ABC News*, 23 August 2025 <https://www.abc.net.au/news/2025-08-23/calls-to-protect-indigenous-intellectual-property-from-ai-cultur/105680182>

First Nations Traditional Owners and creatives who **do** consent to the use of cultural assets must be enabled to do so on their terms (for example, a tech company may have a restricted licence to use an image; or the right to use a First Nations actor's image only while they are alive). We urge Government to consider the First Nations data sovereignty work of Te Mana Rarunga.[2] There are First Nations companies and artists creating sovereign models, and it should be noted they bear a disproportionate burden when doing so. Ideally, the cost of this development would be borne not by these creators, but the multinational tech firms creating the problem.

The development of legislation to protect First Nations knowledge and cultural expressions, with specific protections against tech companies exploiting cultural assets without consent, should be done in conjunction with the Department of Industry, Science, and Resources, as well as the AI Safety Institute. These organisations should bear the administrative and support costs to develop this legislation since they are seemingly the most enthusiastic about the widespread use of AI in our economy. It would be an undue burden for creators, the organisations that represent them and the Department of Infrastructure, Transport, Regional Development, Communications, Sport and the Arts (**DITRDCSA**) to solely bear the costs of mitigating and managing the risks of AI to First Nations Traditional Owners and creators, as well as the Australian cultural sector more broadly.

Recommendations

- **Establish a First Nations Working Group:** First Nations creatives and representatives from relevant professional organisations should form a working group to develop standalone legislation for protecting cultural assets.
- **AI data transparency:** AI companies must disclose training data and confirm whether First Nations works were used to train LLMs, Generative Adversarial Networks (**GAN**s), or other models.
- **AI regulation:** Regulation that specifically empowers First Nations Traditional Owners to refuse consent for tech companies to use cultural assets for training AI models, and to have works disgorged at any time.
- **Funding from AI companies** to fund the development of sovereign AI models by and for First Nations creators.

2 Te Mana Rarunga, Principles of Māori Data Sovereignty: https://www.temanararaunga.maori.nz/principles-of-maori-data-sovereignty

B. FAIR REGULATION OF GENERATIVE AI

Generative AI is an existential threat to the arts and creative economy. In 2023, Australian screen and theatre sectors contributed nearly $1 billion worth of value in the Australian economy, comprised of $121 million in theatre ticket sales[3] and $930 million in screen productions (both television and movies).[4] The uptake of AI threatens to erode this economic activity. There are approximately 6,000 authors, screenwriters, script and book editors in Australia,[5] earning approximately $553 million per year.[6] At standard population growth levels, this industry would be expected to increase to 6,767 people over the next decade. However, if AI technology reduces jobs by even 5% per year, this industry will have approximately 2,690 jobs fewer than forecast, representing some $1.8 billion worth of wages lost over the next decade.

In a recent survey of our members:

- 81% of respondents believe that producers and broadcasters will look to replace writers with AI;
- 91% were highly concerned about AI programs impacting their livelihood;
- 86% writers stated that, if given the option, they would require AI models to unlearn their scraped material;
- 83% believe it is fundamentally unethical for companies to ingest writers' work for AI models without explicit consent or payment.

Recent industry intelligence indicates that production companies are already erasing entry level writer roles by replacing note takers with AI tools (while at the same time as publicly lamenting the availability of good note takers).

It must be acknowledged that recent research has shown that even without using specific prompts, LLMs can regurgitate entire copyrighted works.[7] Generative AI works by copying existing artistic work either used without the consent of the authors or which has been pirated and illegally published online. In either case, an unauthorised reproduction of copyrighted work has occurred and therefore an author's copyright has been infringed. In addition, any business that uses Generative AI is exposed to secondary liability for copyright infringement. This is because generative AI technologies have been 'trained' on copyrighted material without permission from the original authors. As we learned in the hearings of the Select Committee on Adopting Artificial Intelligence (AI), tech companies crawl and transcribe content of every kind to copy works upon which the models are built.[8] Furthermore, any output that is based on the infringing material – or any output that is generated by Generative AI – cannot be protected by copyright. Copyright does not subsist in material that is not a product of the "independent intellectual effort" of a human author.

---

3 Live Performance Australia, *Live Performance Industry in Australia: 2023 Ticket Attendance and Revenue Report*, 11 October 2024.

4 **Screen Australia**, *Drama Report 2023/24: Key Findings*, 11 April 2025.

5 To use the category of "Author" as defined by the Australian Bureau of Statistics

6 Australian Bureau of Statistics, *Survey of Employee Earnings and Hours, May 2023 (customised report)*, 2024.

7 Liu, Xinyue, et al. "Alignment Whack-a-Mole: Finetuning Activates Verbatim Recall of Copyrighted Books in Large Language Models." arXiv, 2024, https://doi.org/10.48550/arXiv.2410.15555.

8 Senate Select Committee on Adopting Artificial Intelligence. (2024). Public hearings. https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Adopting_Artificial_Intelligence_AI/AdoptingAI/Public_Hearings

The cultural sector welcomed the Government's commitment not to weaken our existing fair dealing exceptions in the *Copyright Act,* a position that is being followed worldwide[9]*.* We agree that Australian copyright laws – to the extent that they deal with copyright infringement – are fit for purpose. The **problem** is that foreign tech companies have flaunted those laws and continue to do so without penalty. Australian creative workers are unable to afford legal action against the likes of Google, Meta and Amazon. Yet this is purely a problem of resource rather than a flaw of our legal system that needs to be fixed with new laws. It is the **enforcement of existing copyright laws** that should be Government's priority.

It is our view that, under Australian law:

1. The copyright of creative workers has been infringed by the developers of Generative AI models;
2. There is no legal defence in Australia for the conduct of the infringers;
3. The infringing party should be penalised and forced to rectify the harm caused to copyright owners; and
4. Individuals and businesses using of AI technology built on infringed work should have concerns about their secondary liability for copyright infringement.

We therefore recommend that Government acts quickly to address the infringement of creative workers' copyright by AI companies by:

1. Requiring consent is given by creative workers before their work is used to 'train' AI datasets, with an appropriate compensation model;
2. Ensuring that the creative workers are aware that the infringement has taken place;
3. Implementing a compensatory and rectification process for infringements that have already taken place, including the removal of work from models; and
4. A no-cost jurisdiction be available to creators to seek remedy where they believe their work has been infringed, where transparency is required and any failure to provide transparency results in a default judgement against the defendant AI company.

Our detailed position on the operation of a potential AI royalty and regulatory framework is set out in our submission to the Copyright and AI Reference Group (**CAIRG**), which has been provided on a confidential basis (**Attachment A**).

However, we must emphasise that the development of any licensing and royalty system is not our primary concern for the purposes of this submission. The primary concern of the National Cultural Policy must be to ensure that the copyright of creative workers is respected. This means if a creative worker has not consented to their intellectual property being used, then they may compel the developer to disgorge that intellectual property from a model, in addition to being provided with some form of compensation.

Our industry generates intellectual property value and is supported by Government on that basis. If we simply allow this industry to be eroded by foreign actors, it calls into question the purpose of a National Cultural Policy. The distortion of the market caused by the theft of creative works, rather than good-faith engagement around the licensing or purchase of these works, has created an untenable situation and is preventing markets from emerging.

9 Hendry, Justin. "UK Urged to Follow Australia's Lead on AI Data Mining." InnovationAus, 9 Mar. 2026, https://www.innovationaus.com/uk-urged-to-follow-australias-lead-on-ai-data-mining/.

Recently introduced French legislation cuts though the endless back and forth between creators, rightly angry at the theft of their work and the destruction of their jobs, and disingenuous big tech executives who pretend the issue of access to copyright materials is insoluble. The French legislation presumes copyrighted works are used in LLMs, but the presumption is rebuttable by complying with transparency obligations[10] and it will reduce costs for AI companies that choose **not** to use specific content. It provides an off ramp for tech companies, but acknowledges the reality of how these models were produced.

It is not the role of the Australian government to protect foreign big tech companies from the legal consequences of their own actions. If these tech companies seek to mitigate copyright risk, complying with the law and engaging with creators in good faith would have been an excellent place to start.

There is an urgency to this issue and it must be addressed in the National Cultural Policy, if we are to have a policy that encourages creators to continue creating.

There is an argument to be made for an urgent solution to the threat of AI. To date, the nascent copyright licensing market for AI training has secured some deals for global rightsholders but failed to deliver compensation back to the vast majority of Australian creators.

The legal and commercial resolutions to this global battle will take time to emerge. Whether the market is left to develop without any new regulation, or government intervenes with new legislation, or rightsholders seek redress through the courts, solutions remain a way off. Meanwhile, our members face an immediate threat to their business models and a decimation of long held assumptions about the cost of production.

Government could deliver for creators in the form of an interim emergency relief package for creators in order to ensure the sustainability of the creative sector. Creators are the most vulnerable participants in the creative economy - with already marginal careers - and we want to ensure we do not lose valuable skilled creators while navigating the disruption caused by generative AI. To lose them would leave Australian culture hollowed out and leave creators without their essential business asset: new intellectual property,

This relief package should be funded either by a temporary AI levy imposed on providers of generative AI services in this market. We refer to our confidential submissions on how these payments might be managed. Such a relief package must be understood as a temporary measure and ought not interrupt ongoing conversations about the longer term structural solution needed from government.

As a longer-term solution, we support the expansion of our Australian copyright framework to protect creative works and activities that are not protected by copyright, including First Nations cultural assets as discussed above.

10 Baud, Emmanuel G., et al. "Navigating Copyright in the Age of Generative AI: EU, French, and UK Developments and Approaches." Lexology. https://www.lexology.com/library/detail.aspx?g=1f8c827a-2e68-41de-aac0-06a951d993e6%20%20r.org/resources/cest-presume-frances-ai-copyright-shortcut/

(i) The economic right to train a computational system

Under s. 31(1)(a) of the *Copyright Act 1968* (Cth), copyright in relation to a literary or dramatic work entails the exclusive right to do any or all of the following acts:

i. *to reproduce the work in a material form;*
ii. *to publish the work;*
iii. *to perform the work in public;*
iv. *to communicate the work to the public; and*
v. *to make an adaptation of the work.*

The right to communicate the work to the public was introduced in March 2001, via the *Copyright Amendment (Digital Agenda) Act 2000* (Cth). Under s. 10 of the CA, "Communicate" means "[to] make available online or electronically transmit … a work".

The introduction of the new right was the government's response to new and changing technology – i.e. the rise of digital media – that has now become an essential part of the way we consume media content.

We propose a similar reform, for similar reasons: the inclusion of "(vi) to train a computational system" in section 31(1)(a) of the *Copyright Act.*

If we were to accept the arguments of the AI optimists who believe the technology rivals the telegraph and railroads, then creating a new economic right to use copyrighted works to train AI models seems like a small but essential change to the way we legally treat copyrighted material, and a reform that will deliver certainty for all parties.

By establishing this new right, there would be clarity about where in the production value chain the right to' train' for AI purposes falls, and make clear which parties need to seek permission and offer payment. In our view no legal uncertainty exists about the ownership of these rights, but if big tech advocates are to be taken seriously and such uncertainty *does* exist, then an amendment like the one proposed here would resolve all ambiguity.

For the avoidance of doubt, we are not suggesting that tech companies should escape liability for infringement of existing economic rights (i.e. unauthorised reproduction, unauthorised communication to the public).

(ii) A moral right against AI training

Under Australian law, 'authors'[11] are granted personal and inalienable "moral rights" in connection with their original works. These rights cannot be sold, and they can be exercised by the author even if copyright is owned by someone else. These rights include the right of attribution under s 193 (the right of an author to be credited as the author of their work), the right not to have authorship falsely attributed under s 195AC-195AH, and the right of integrity under s 195AI-195AL (which is the author's right not to

11 In the context of copyright law, this term is used broadly to refer to the person or persons responsible for creating, through their own skill and effort, an original literary, dramatic, artistic or musical work (which may include a writer, a director, or a photographer for example). 'Authorship' should also be taken to include 'maker' in this submission as it is defined in the *Copyright Act* to refer to the 'maker' of a sound recording, film or broadcast who is the copyright owner.

have their work subjected to derogatory treatment). We note many of our members have put the view the ingestion of their work into AI models is derogatory treatment in and of itself.

In addition to the lack of authorisation to reproduce an artist's work discussed in the above section, generative AI outputs do not credit the artist(s) whose work is being used to 'train' the AI. This failure to appropriately attribute authorship of the source material which has directly resulted in a given output may be a breach of the original author's moral rights, particularly their right to attribution under s 193 of the *Copyright Act*.

"Derogatory treatment" is defined in the *Copyright Act as* any act "that results in a material distortion of, the mutilation of, or a material alteration to, the work that is prejudicial to the author's honour or reputation". It is our belief that the uptake of AI technology across different arts sectors should make the 'right of integrity' a much more prominent feature of our copyright framework.

To 'train' an AI system using an artist's work and to produce an output based on that work is a distortion or mutilation of that work. It is offensive to the artist and devalues their work. It diminishes the artistic process and the years of research and training it may have taken to produce the original work. It is disrespectful to the 'integrity of the creative endeavour' which these provisions were introduced to protect.

From our surveys of our members it remains a strongly held view that incorporation into an AI model constitutes derogatory treatment. This is particularly true now as publicly available LLMs have begun providing 'answers' to queries that include paid advertising[11] and thus artists are exposed to potentially having their works adjacent to products or services to which they are vehemently opposed.

(iii) Protection of creative works and activities that are not protected by copyright

During the 2024 Senate inquiry, it became clear that companies like Amazon and Google had both the capability to, and a history of, scraping copyrighted material available on "the open internet" (not a term that exists at copyright law) in many different formats including "web documents and code ... image, audio, and video data along with text". Amazon was asked, but declined to answer, the question of whether "content on 'Prime Video' [was] ever transcribed, whether using AI or not, and that transcription subsequently used to 'train' AI."[12] Companies that develop AI have the capacity to 'train' their models on audio-visual content (including films and television series available online to stream), meaning that these companies have scraped the copyrighted works of screenwriters, directors, and composers (screen authors for copyright purposes) as has already been discussed.

Yet we now know that AI models can 'learn from' and copy the work of any member of the production team, post-production team, or cast and anyone else involved in the production of that film or series whose creative work is communicable visually or auditorily: e.g. the style and technique of a screen editor or cinematographer, a make-up artist or production designer. These aspects of an audio-visual production are not currently protected by copyright, but AI still copies that work and has the effect of shifting market demand away from those creative workers. These creative workers could foreseeably see their names used as 'prompts', and they are offered no protection against what is clearly a job-destroying use of the technology, noting also that the remuneration for any particular project did not

12 Amazon, Answers to Written Questions on Notice from Senator Tony Sheldon (9 September 2024) (received 9 October 2024) in Senate Select Committee on Adopting Artificial Intelligence, Interim Report (Appendix 1 – Submissions and Additional Information).

include payment for such a use of the final work.

At present, a makeup artist or cinematographer (for example) does not own copyright in the work they have done as it is displayed on a screen. If someone wanted to produce a competing audiovisual product, before AI they would hire a different cinematographer or make-up artist to produce the visual style they wanted – but this was the market at work, a choice between paying worker a or worker b. Now, however, AI can replicate the style of a makeup artist or a cinematographer, and no worker is engaged at all.

AI is a novelty requiring novel regulation precisely because it results in those shifts in the market: there will be far fewer opportunities for emerging practitioners within these creative fields for employment or training. It is therefore critical that **all** creative workers whose output – which is a product of their individual effort, creative aspirations and skill – has been copied by AI companies should be fairly compensated even if the current copyright framework does not consider their creative work to be a 'work' or 'subject matter' for the purposes of copyright subsistence. The Department may consider an expansion of the doctrine of moral rights to cover creative workers who do not own copyright in any of the Part III literary, dramatic, artistic or musical works that a Part IV subject matter (i.e. a feature film, an episode of a television series) is comprised of. In this way, the special connection that each worker has to their creative output, services, or skill and expertise is recognised, even if they do not themselves hold any economic rights in the "work" itself. AI companies would need to seek the creative worker's consent to breach their moral rights and (assuming the creative worker is willing to grant that consent) pay them a fair fee.

We suggest that Government turn to developments in the EU, particularly in Denmark, where creators, as well as ordinary citizens, can own and license their voice, face, and likeliness. We propose that a similar right is introduced in Australia and extended to protect creative workers. Noting the notorious theft of Scarlett Johannessen's voice,[18] creative workers need to be able to ensure their likeness, style and voice are not stolen from them by AI and used to compete with them for work, nor to damage their 'brand' or professional standing.[19] This expanded copyright framework should also contemplate the specific exclusion of artists' names as prompts, and full and ongoing transparency around input (wrongly called 'training') data so artists can have confidence they are not being infringed or taken from.

(iv) Government funding agencies exposed to secondary liability

We are deeply concerned by the use of generative AI by production companies at any stage of development or production of a cinematographic work, be it television or film.

Firstly, there is no evidence that these businesses have sought permission from the relevant copyright owners whose work has been used to 'train' the generative AI systems they use. These companies may not be aware that they should be asking the AI system owner what copyright and liability assurances it can give.

Secondly, given the inherent and ongoing infringement that takes place with the use of generative AI systems, we believe that government funding agencies are exposed to secondary liability if they are funding creative projects that utilise generative AI which is trained on copyrighted material without permission from the original authors, or projects that are in breach of artists' moral rights.

These problems can be avoided if the federal and state funding agencies deny funding to any creative projects that use AI technology as a replacement (in whole or in part) for work that has traditionally been

done by a creative worker at least until the copyright concerns raised in this submission are addressed by government. Any person or company applying for government funding must, throughout the grants process, have obligations to actively disclose any use of AI technology.

Some screen funding bodies have already introduced requirements against AI being used in the creative process as a condition of funding, and we support that: see, for example, Screen Australia's AI Guiding Principles.

C. A PLACE FOR EVERY STORY

(i) Review of screen production incentives

As part of the Australian Screen Industry Guilds (**ASIG**), we have a made a high-level submission on screen production incentives.

By way of further detail, it is our view that the Australian screen production tax offsets – both the Producer Offset and Location Offset – do not sufficiently encourage the creation and ownership of intellectual property by Australians. The incentives could do more to incentivise the engagement of Australian creative workers and ensuring they retain the rights to their works. It has been over a decade since these screen incentives were last reviewed and we consider it appropriate that Government formally consider whether these incentives are delivering the desired outcomes for our sector and whether they provide an appropriate framework to support Australian content creation and creators.

Being tax legislation, it is appropriate that this review is supported by the Australian Taxation Office, ensuring the Office of the Arts can deliver a fulsome view on potential updated purposes, tests and outcomes.

Any tax offsets enjoyed by screen (and theatre) producers should come with an expectation that they are producing Australian content – Australian intellectual property, written, directed and crewed by Australians – for Australian audiences. Tax relief should **not** be available that ultimately benefits US studios that produce Hollywood blockbusters, and offsets should not subsidise the stage production of a foreign play over a new Australian work. Instead, targeted tax relief, and any public money invested in the arts, should be directed to Australian artists with mixed or intermittent incomes, creatives that engage in mentorship, training, or commissioning emerging practitioners, and creators working in high-risk development phases of new products- or just straightforwardly prioritise getting more Australian works made.

We recommend that a review of the screen production offsets consider, at minimum, whether:

a. the 'Producer Offset' continues to deliver outcomes for the local sector and incentivises local intellectual property ownership by creators and the engagement of Australian creative talent; and

b. the 'Location Offset' is too selective or narrow in its job creation benefits, and what the long-term benefits of the incentives in their current form have been over a creative worker's career lifetime. Government might consider, for example, introducing requirements of observerships, placements and attachments for Australian writers on foreign productions that take advantage of this offset.

Currently, in order to qualify for the producer tax offset, the production must satisfy the "significant Australian content" (**SAC**) test at section 376-70(1) of the *Income Tax Assessment Act 1977* (Cth). The SAC test, as it stands, is a highly discretionary test which does not compare well as far as transparency goes against a 'points system', such as the one used in Canada.[13]

Canada, like Australia, uses economic incentives to promote the development of local Canadian content and protect its local screen industry. Like Australia, Canada imposes quotas on broadcasters and tax

13 Canadian Radio-television and Telecommunications Commission (CRTC). "Content Made by Canadians." https://crtc.gc.ca/eng/cancon/c_cdn.htm

incentives are available to Canadian production companies that produce Canadian content. To qualify as “Canadian content” screen content must satisfy several requirements including employing Canadian creatives in key roles on a production (as writer, director, lead actor, or head(s) of department with each role being worth a number of points and the production company being required to accumulate 6 out of a total 10 points). We strongly support a points-based SAC test like the Canadian model. We discuss this reform in more detail in a confidential submission (**Attachment B**) but, in essence, we recommend the implementation of an objective, points-based Significant Australian Content system modelled on the Canadian framework.

Key roles (including showrunner, writer, and director) must be held by Australian citizens or residents to qualify for the Producer Offset, which should be re-named a Produc**tion** Offset, to better reflect the importance of the entire value chain of local production. Foreign productions taking advantage of the Location Offset must provide training attachments for local writers and demonstrate commitment to a local IP value chain.

Recommendations

- **Conduct a review of screen production incentives**: with the ATO supporting DITRDCSA to conduct this review to make sure these incentives prioritise local IP and creative workers;
- **Tax relief tied to fair payment of creative workers:** Qualifying for the Producer Offset must be contingent on paying at least industry-agreed minimum rates and prohibit the use of AI to replace Australian creative workers;
- **Rename the Producer Offset the Production Offset.**

(ii) Professional development

We support the development of more inclusive pathways for emerging practitioners and new ways to support experienced practitioners as they continue to produce world-class work. Ideally, this world class work should find a home here, providing stable and rewarding careers for creative workers, as we showcase Australia to the world.

Good narrative is timeless, and media-neutral. Successful practitioners moving seamlessly across screen, stage, audio, video games or micro content will have sustainable careers, and be better placed to respond to technological or platform shifts. To ensure this kind of long-term sectoral health, we suggest a shift in emphasis from project-based outcomes toward holistic development of the individual practitioner. The current pipeline of funding is heavily skewed toward the finished product, leaving a void in professional development, sustainable careers and mentorship. Establishing formalised, funded pathways that allow veteran creators to pass on their craft to emerging practitioners and ensuring that institutional knowledge is not lost is vital. Focusing on emerging creators is critical but so too is ensuring mid-career artists can transition into senior roles without the constant pressure of a “gig-to-gig” survival cycle.

Financial security for creative workers is essential. It gives Australian writers and artists confidence to take bigger creative risks as well as the ability to spend time conducting research, developing a project or honing their artistic skills. We strongly support a trial of the Basic Income for Artists scheme – modelled on the successful Irish pilot – as a way to provide this financial security.

We recommend the introduction of direct funding for experienced creative workers to engage emerging practitioners as ‘apprentices’. Where an experienced playwright or screenwriter is commissioned to deliver a new play or feature film screenplay or television script they may engage a suitable early- to mid-career practitioner as an apprentice. The apprentice would learn skills on the job and benefit from shared contacts and reputation transference, among other things. Programs like ScriptedInk’s Writer’s Internship Placement Program are good models for what a funded internship program might look like. Scripted Ink. is a not-for-profit organisation that aims to shape, build and invest in the Australian screen industry by creating new pathways for script development. Scripted Ink. supports writers to participate in a paid internship program at Studiocanal, taking on duties like reading scripts, writing coverage, notetaking, and assisting and learning from Studiocanal staff.

We recommend the introduction of an international travel fund for narrative designers. According to the 2024 Australian Game Development Industry Snapshot survey, 93% of the revenue generated in the Australian video game industry comes from overseas sources. The establishment of a travel grant program specific to narrative designers is critical in this environment. Australian narrative designers need access to international professional development opportunities, attend festivals and conferences, and have the opportunity to pitch their projects to overseas publishers.

CASE STUDY: Delivery Partnership for Playwriting

We celebrate and encourage Writing Australia’s commitment to the development of plays and playwrights via the recently launched Delivery Partnership for Playwriting. This fund must remain in place, and grow in size over coming years, to ensure local stories continue to be told on our stages. This growth of funding should not just be a growth in size- though it should expand in size- but grow to include the goal of nurturing playwrights to develop their works, not just to write, but to have table reads, script reviews from playwrights, and run throughs, separate to a production process. The goal should be to create a ready and renewing library of stage-ready Australian plays for companies of all sizes to engage with and stage.

Playwright and play development cannot be performed solely through theatre company commissioning. It is too great a burden for theatre companies to bear to accommodate this work in their already tight budgets, and it creates incentives to narrow the pipeline of works. It would also incentivise a narrower band of works, those which are more likely to be palatable to large companies and their city-based audiences, and to avoid controversies that might alienate major philanthropists. If playwriting support is shaped nationally to accommodate commercially derived production deliverables or ‘bums on seats’, our Australian stories for the stage will be driven by commercialisation. They will lack perspicuity and lucidity. Most playwrights are not commercially driven – and nor could they be, given the relatively small number of new Australian works and stages on which to see those works. When playwrights have something important to say, companies want to produce their plays and audiences want to see their work. Their stories and voices must remain independent. This is why appropriate funding to independent development organisations, such as Australian Plays Transform, is crucial.

Playwrights have raised their discomfort with an emerging expectation that the pitch fully formed narratives to theatre companies. In response to an opportunity for a commission, a playwright’s initial concept might be less formed, but later emerge to show great potential. This is another reason why funding for a national delivery partner is essential to provide the playwright with space, time and

dramaturgical support before they pitch, separate to the commercial needs of companies. Of late, major theatre companies are tending toward programming writers and playwrights with high profiles (those with large social media presence or celebrity status), rather than story. We raise this not by way of criticism of companies that have commercial realties to contend with, but to say that fostering the craft of playwriting requires the production of plays by playwrights. Understanding how craft intersects with this programming trend is an issue that needs interrogation for playwrights in the current atmosphere. The introduction of targeted funds would assist Australian playwrighting practitioners in bringing their work to global audiences.

CASE STUDY: Play translation fund

We support a **play translation fund –** separate from existing Creative Australia funding streams for book authors – to allow our playwrights to showcase Australian work to international audiences.

AWG approached Maison Antoine Vitez (MAV) in France to encourage a review of Australian plays. Their translation team selected [redacted] and with AWG support, and MAV received $5,000 from Creative Australia via their translation fund for literature. [redacted] has received attention and recognition amongst French companies, proving that translations are a viable model for Australian playwrights to share their work with international audiences and diversify revenue opportunities.

[redacted] will be printed and released for purchase in France in 2027. It was selected for a public reading by a reading committee at the iconic Parisian theatre, The Comédie Française, in April 2025. The text was also read in Pont-à-Mousson as part of the Mousson d'hiver festival on 17 March 2025. [redacted] was sent to various theatre reading committees associated with MAV, including Théâtre Le Ciel in Lyon, Théâtre de la Baignoire and La Colline. This example shows how a small contribution from Creative Australia for play translations can stretch a long way and allow Australian playwrights to reach global audiences.

Recommendations:

- A **trial of the Basic Income for Artists scheme**, modelled on the successful Irish pilot;
- A **separate play translation fund** to allow our playwrights to showcase Australian work to international audiences. This means that there must be separate Creative Australia funding streams for translation of works by playwrights and book authors;
- An **international travel fund for narrative designers** (video game writers) to attend international conventions where they can develop their professional networks and hone their narrative design skills;
- Government incentives for theatre companies to commission and stage new local works;
- Grow Writing Australia's Delivery Partnership for Playwriting to ensure local stories continue to be told on our stages and to develop playwrights and plays separate to production pipelines.

D. CENTRALITY OF THE ARTIST

The sustainability of the Australian screen and theatre sectors depends on a robust framework that supports the artist as a worker. Writing is a "portfolio career" characterised by intermittent and insecure patterns. Despite recent reforms, many artists remain excluded from national employment protections. The arts sector is a complex ecosystem and there is no one-size-fits-all approach that will result in better working conditions for screenwriters, playwrights, narrative designers, audio writers and comedians. However, small tweaks can form part of the larger solution. We recommend the following in this section:

- A statutory royalty payable to writers by streaming platforms;
- A review of the Australian secondary royalty scheme;
- Extended "gig worker" protections alongside legally enforceable industry negotiated agreements;
- Confirmation of writers' entitlement to superannuation;
- Tax reform including the introduction of tax incentives for experienced creative workers that engage emerging practitioners as 'apprentices', the creation of two tax free thresholds for creative workers and tax-free arts prizes, fellowships, and government grants.

(i) Royalties payable by streaming platforms

Traditionally, a screenwriter's career has relied on a balance of primary fees supported by secondary royalties to provide stability during lean periods between productions. However, the rise of global streaming platforms and "full buy-out" contracts have eroded these historical income streams. We urge Government to conduct a review into our existing statutory royalty schemes to ensure that they are achieving their intended purpose of remunerating Australian creatives. We also recommend updates to our copyright law to introduce a statutory royalty for online exploitation, following European models.

Historically, the industry standard agreement for drama is the MATA, under which writers are entitled to the following remuneration:

a. A writer's fee calculated as a percentage of the budget for the episode;
b. A share of the production company's gross domestic relicensing receipts (for series of six or more episodes in length); and
c. The writer's share of 'secondary royalties' – these are royalties that the authors of a script are entitled to under the *Copyright Act* 1968 (Cth) when their work is copied for government or educational use or re-transmitted. The royalties are collected by Screenrights and distributed to all parties entitled to such royalties.

The advent of streaming has also led to a shift in industry conditions that has negatively affected Australian creative workers – including the writers we represent.

Under these contracts, producers insist on what is referred to in the screen industry as a 'full buy-out' of rights. A writer, under such an agreement, is required to assign all copyright in a script for use in all territories throughout the world, on all platforms including on technology yet to be devised. In exchange, the writer is paid an additional upfront fee and no ongoing royalties or residuals. There is a huge

imbalance of power between a writer and an Australian production company, let alone an international streamer or studio. Writers who attempt to negotiate above them are told the terms are “industry standard” or “non-negotiable”, eliminating meaningful competition on labour conditions.

Given the inequitability of the upfront remuneration, an update to the Australian secondary royalty framework is worth considering. We recommend a new category of equitable remuneration for the online exploitation of works as is the case in a number of EU jurisdictions including Spain, France, Italy, Belgium, Slovenia and Estonia. These jurisdictions have recognised the value of the copyright owner’s exclusive right to communicate a work online and have taken legislative steps to ensure that copyright owners are remunerated for this new technological exploitation which the jurisdiction’s original copyright law did not anticipate.

This new category of remuneration for online use would guarantee a valuable stream of income for arts workers and contribute greatly to the sustainability of a local screen sector. It is technologically neutral, future-proofing a stream of income for artists as audiences change the way they consume media in an era where streaming and online content distribution dominates.

CASE STUDY: Spain

In Spain, as in Australia, a copyright owner can assign to a third party the exclusive right to communicate their work to the public. However, under Spanish copyright law, this assignment of the exclusive right to communicate a work to the public comes with an unwaivable right to equitable remuneration for all types of online exploitation including both on demand/interactive and linear streaming.

The value of the worldwide exploitation – via global streaming service – of a copyright owner‘s work is immense and the compensation received by a filmmaker for those rights, prior to the reform, was not considered “proportionate” per the EU Copyright Directive 2019. Spain sought to rectify this imbalance through law reform and future-proof a stream of income for artists as audiences consume their media in a completely different way with the advent of streaming and online content distribution.

The EU Member States that have implemented this new category of secondary royalty recognise that authors tend to be in the weaker contractual position when they transfer their rights to a producer, broadcaster or distributor and that they need the protection of law to be able to fully benefit from the rights harmonised under the Copyright Directive. They recognise the imbalance of power between freelance filmmakers and international studios and that only a few of them have real power to negotiate contract provisions that exceed beyond minimal standards.

The collections made by the Spanish authorship collecting society, Sociedad General de Autores y Editores (SGAE) have, since this reform, soared from an average €500,000 during 2015 and 2016 to more than €1.52million in 2019. Derechos de Autor de Medios Audiovisuales (DAMA) reports a similar explosion rising from €53,000 in 2017, to more than half a million in 2018, to reach a total €1.65 million euros collected in 2019; a total €3.17 million euros for both CMOs.

(ii) Secondary royalties

The *Copyright Act* 1968 (Cth) creates a number of **remunerated exceptions** to unauthorised uses of a copyrighted work, provided that the entity making the unauthorised use pays remuneration to the relevant collecting society for that unauthorised use. This scheme is administered by Screenrights.

In 1995, Screenrights' provided the following mission statement:

- 'The Society's purpose is to facilitate the equitable return of funds to audio-visual copyright owners.
- The Society promotes and defends the copyright system as the means of providing an incentive to creativity and investment in film and television.[14]

This mission was more succinctly stated in 2004: 'Screenrights aims to facilitate the use of audio-visual material and to optimise returns for copyright owners through the collective management of their rights.'[15]

In 2000, the *Copyright Amendment (Digital Agenda) Act 2000* (Cth) ('Digital Agenda Act') extended the educational copying scheme to 'electronic' and online 'copies of works by way of a new right to communication, and created a 'new statutory licence scheme to allow the retransmission of free-to-air broadcasts … subject to the payment of equitable remuneration'.[16] This went beyond the original broadcasting scheme, which only applied to ephemeral reproductions of free-to-air broadcasts. The aim of the Digital Agenda Act was to 'ensure that copyright law continues to promote creative endeavour whilst allowing reasonable access to copyright material on the Internet and through new communications technologies'.[17]

Under **s 183** of the *Copyright Act*, Government has a statutory license to copy works from radio, television and the internet for government use. Similarly, under **Part IVA (Division 4)**, educational institutions have the right to copy or communicate copyrighted material (I.e. to make them available or to store them online) provided they pay equitable remuneration to the relevant collecting society. Finally, under **Part VC**, an audiovisual service may retransmit a free-to-air broadcast to another service (such as Pay TV) and has a statutory license to do so provided that the service agrees to pay equitable remuneration to Screenrights. In the screen sector, these payments are collectively referred to as "secondary royalties" because they relate to a 'secondary use' that flows on from the primary use - being the broadcast itself.

It has historically been easier to collect secondary royalties for Australian screenwriters from Europe than to collect them for Australians in Australia. This is unacceptable, and contrary to the original purpose of the various exceptions for remunerated secondary use. In Europe, many countries have legal mechanisms in place that ensure that an author's entitlement to royalties is a matter of law.

We have elaborated on these issues in an accompanying confidential submission (**Attachment C**).

14 Shane Simpson, *Review of Australian Copyright Collecting Societies: A Report to the Minister for Communications and the Arts and the Minister for Justice* (July 1995) 19 [3.3]

15 Screenrights, Annual Report 2003 – 4, 5 <nla.gov.au/nla.obj-1827251928/view?partId=nla.obj-1835755493>.

16 Explanatory Memorandum, Copyright Amendment (Digital Agenda) Act 2000 (Cth) 3.

17 Ibid, 1.

(iii) Expanded ‘gig worker’ protections

More work must be done to ensure that artists do not sit outside the normal legal protections that most Australian workers enjoy. While recent ‘employee-like’ reforms were welcome, artists – among many other workers – fell outside the “digital platform” definition and the reforms could not apply to them. Achieving safer and fairer work lives requires integrating creative workers into our national employment frameworks and making industry-negotiated minimum agreements legally enforceable.

Revive acknowledged that gig work predated digital apps. In Australia, writers, musicians, actors, directors, cinematographers **generally** work on a freelance basis, gig to gig, without minimum employment standards for their work. Creative workers in Australia have “portfolio careers”, referring to a mixture of different jobs usually without any minimum employment standards[18]. Patterns of work across the cultural and creative sector vary, with a large number of creative practitioners undertaking short-term contracts as employees or independent contractors or performing ad hoc and seasonal work. The intermittent working arrangements are insecure and creatives rarely have access to minimum employment standards. As noted by Salvo et al, there is no one definitive characteristic of gig work[19]. Our preference is to not define in the negative, but one definition, following Abrahams is: “someone not paid a wage or salary, [who] does not have an implicit or explicit contract for a continuing work relationship, does not have a predictable work schedule over time, and has a high degree of dependency on the engaging entity for their livelihood.”

Creatives in Australia, such as musicians, actors, writers, designers, cinematographers, and more, generally work on a freelance basis and rarely enjoy minimum employment standards considered the community norm (such as the NES or superannuation) for their work. Many creatives, including writers for screen and stage, are classified as independent contractors rather than employees and, as such, are not protected by the safety net of minimum conditions that apply to employees.

We have elaborated on these issues in an accompanying confidential submission (**Attachment D**).

Negotiated agreements

There are four industrial agreements that AWG negotiates on behalf of its members working within television and theatre, and these agreements have in use, in various forms, for decades.

Three of these agreements govern television writing and are negotiated between AWG and Screen Producers Australia (**SPA**). These are the Series and Serials Agreement (**SASA**), first introduced in 1985, and later the Miniseries and Telemovies Agreement (**MATA**) and the Children’s’ Television Agreement (**CTA**). The MATA, SASA and CTA roll over each year, and the writer’s fees are indexed to inflation. AWG and SPA confirm that the published rates are correct at the beginning of each year.

Minimum conditions for playwrights have also existed since 1979 when a committee led by AWG members spearheaded negotiations with Australian theatre companies. The result was the Minimum Basic Stage Agreement which over the years has been refined and renegotiated into the Theatre Industry Agreement (**TIA**). This agreement is negotiated by an organisation now known as the Confederation of Australian State

18 Power, Katherine ‘The Crisis of a Career in Culture: Why Sustaining a Livelihood in the Arts is so Hard’ (2021).

19 Salvo, J., Shipp, S., Zhang, S. (2022). Defining the Role of Gig Employment in the Post-Pandemic World of Work.

Theatres (**CAST**) which represents the Australian federal government-funded theatres and **voluntarily** negotiates the TIA with the AWG. The TIA 2016 was unilaterally terminated by CAST in 2019 (when the organisation was comprised of the eight largest Australian state theatres). It is still under re-negotiation, though annual increases in fees and other matters have been updated.

There are still those who do not use these agreements, and thus there are workers who are still vulnerable to exploitation (especially those between gigs and those just starting their careers in the industry).

There is currently no recourse for an Australian writer when a production company or theatre company undercuts an industry agreement. While the SASA, MATA and CTA are well-accepted standards, Australian producers do not have any **legal obligation** to use these agreements. SPA does not oblige its members to comply with its own agreements so workers are left with two options: either they take legal action against the production company (with assistance from the AWG) or the production company's conduct is reported to the funding agency (Screen Australia) which notionally has the power to withdraw funding from a producer in breach of industry minima, but has historically been reluctant to do so.

Legal action is costly and inefficient and may give rise to further complications for the average screen practitioner. Firstly, the costs of action are also likely to exceed any underpayments retrieved.

Secondly, in an industry as small as Australia's screen sector, there are a few major employers and therefore only a handful of writers will be employed based on experience and reputation. A writer may be blacklisted and unable to find work if they enter into a legal dispute against a production company over their rights and entitlements. Many members – especially those working in television – express anxiety around reporting breaches of contract or other unfair practices to the AWG.

We note that while Screen Australia's Terms of Trade oblige recipients of funding to comply with "award minimum rates or, where applicable, any minimum agreed between the relevant guilds" [20].

Revive stated that:

> *"Funding bodies should continue to affirm the principle that artists should be paid for their work, including through recognition of Awards, mandated rates of pay and codes of practice such as the Live Performance Award 2020, the Broadcasting, Recorded Entertainment and Cinemas Award 2020, Australian Society of Authors rates of pay,* ***Australian Writers' Guild benchmarks****, and the National Association for the Visual Arts Code of Practice."*

Funding bodies (such as Screen Australia and Creative Australia) should enforce industry agreed minima by making funding contingent on ongoing employer compliance. We applaud the work that has been done by Creative Workplaces in the area of measuring workforce conditions and compliance with existing minima and statues, and we eagerly anticipate the results of the Creative Workplaces Survey later this year.

Australian writers must compete fiercely for work. It is becoming exceedingly difficult for new writers to

20 Screen Australia's Terms of Trade – Information for Recipients (April 2025) state that "recipients of funding support [must] act fairly and reasonably in relation to third parties involved in the funded project." The Terms of Trade define fairness and reasonableness to include "paying at least award minimum rates or, where applicable, any minimum agreed between the relevant guilds, for all work performed by third parties on their project, including key creatives, cast and crew".

secure a commission which means production companies have an easy time undercutting minimum standards in a sector where many practitioners are desperate for their first gig.

As one highly experienced writer and AWG member put it: “with small episode runs, experienced writers must pitch to be involved in as many projects as they can handle to make ends meet. These experienced writers are directly competing with mid-tier and beginning writers in a way they weren’t so much before… newer writers have a very narrow path in the current system…And while many succeed out of talent, hard work and luck, many don’t, and find their careers stalled. Or ending as soon as they have begun.[21]

By making **pre-existing industry negotiated agreements enforceable at law**, a safety net is immediately created for an entire category of workers. The organisations that have negotiated the industry agreements will be incentivised to ensure that the agreements are up to date and appropriate in the modern industry environment. It reduces the administrative burden of enforcement on industry organisations, noting that SPA, the employer association, receives government subsidy for its operations while the Guilds do not.

Recommendations:

- Pre-existing industry negotiated agreements such as the MATA, SASA, CTA and TIA should be enforceable at law;
- Funding bodies (such as Screen Australia and Creative Australia) should enforce industry agreed minima by making funding contingent on employer compliance. Government may choose to outsource enforcement duties to relevant worker industry organisations (provided that the costs of enforcement are covered).

(iv) Non-payment of superannuation

The non-payment of superannuation by Australian production companies is widespread. The AWG’s position on superannuation is clear: writers should be paid superannuation when engaged to write scripts.[22] Superannuation must be paid on script fees both for shows in production, and for writing work commissioned for projects in development (i.e. those shows not yet commissioned to be produced). Many writers are paid superannuation as a matter of course, while others are not.

[redacted] are large Australian production companies responsible for the country’s longest running serials, [redacted] and [redacted] respectively. Both companies engage writers to write scripts, and these writers are generally employed as independent contractors. Since the inception of these programs, hundreds of writers have been engaged to write thousands of scripts by both companies.

[redacted], historically did not pay superannuation to writers. However, as of 2025, writers are paid superannuation on their contracted script and story conference fees. Writers were recently back-paid by [redacted] for the last five years. However, this is just one employer of many doing the right thing. The underpayment of superannuation in the industry remains significant in

21 Ayshford, Blake, Opinion: In Australia, we have already gone from ‘mini-rooms’ to ‘micro-rooms’ (2023)

22 The *Superannuation Guarantee (Administration) Act 1992* (the *SGA Act*) classifies certain independent contractors as employees for the purposes of the Act and thus for the purposes of paying superannuation. Section 12(8)(c) reads:
The following are employees for the purposes of this Act: A person who is paid to perform services in, or in connection with, the making of any film, tape or disc or of any television or radio broadcast is an employee of the person liable to make the payment.

practice. It is not unacceptable that a small organisation like ours must fight for years to enforce a basic legal entitlement for our members.

It should also be noted that the ATO does not make superannuation enforcement activity for Guilds easy, and it does not have an enforcement focus relevant to creative workers. In our experience, it is difficult to get the ATO to engage on enforcement in meaningful ways with the representatives of creative workers. This perversely creates an additional burden not just for the Guilds but for the ATO, and potentially for employers who are not paying entitlements in the absence of ATO advice. Enforcement them falls to Guilds to find work-arounds, and imposes some of this enforcement burden on individual creators, who then need to devote time to enforcing their basic entitlements when they could be writing.

Recommendation

- The **ATO should engage with Guilds** to create an enforcement plan for the industry, increasing awareness of obligations, removing administrative burdens and ensuring creative workers are paid their entitlements;
- The ATO should fund organisations like the AWG to increase overall compliance in a proactive way, for example by funding Guilds to run campaigns educating screen sector employers on superannuation obligations and screen workers on their entitlements. The AWG is willing to be the first and trial run for such a programme.

(v) Tax reform

The Senate Standing Committees on Environment and Communications recently sought comment on opportunities for tax reform and ways to boost the productivity of Australia's arts and creative sectors. We applauded this work but argued in our submission that the challenges faced by Australia's creative sector were not, at their core, tax problems. The structural contraction of our sector stems, in our view, from the cumulative effect of funding cuts to the ABC, SBS, and the Australia Council (now Creative Australia) and – most critically – the suspension and relaxation of local content quotas on commercial television by the Morrison Government.

Without direct investment and regulation, tax reform alone is not enough to reverse the contraction in the sector. Notwithstanding this, our tax and incentives systems can be tuned to produce better results for creators and our communities.

Tax reform can be part of the solution if Government prioritises support for individual artists over organisations or corporations, and encourages work across disciplines or forms. Most writers work as sole traders or freelancers, moving between short-term contracts and creative roles. Few benefit from corporate tax concessions. An example of how until now support for the sector typically plays out was JobKeeper: theatre companies were paid, but playwrights earning an average freelance income of just over $11,000[23] were not.

23 Based on AWG member surveys conducted in FY2021-22.

Two tax free thresholds for creative workers

Creative workers in Australia have “portfolio careers”, referring to a mixture of different jobs usually without any minimum employment standards. Patterns of work across the cultural and creative sector vary, with a large number of creative practitioners undertaking short-term contracts as employees or independent contractors or performing ad hoc and seasonal work. Many creative workers must take on a second job or multiple jobs to make ends meet. Allowing the tax-free threshold for multiple jobs within the creative sector would go far in making a career in the arts sustainable.

Government funds tied to the fair payment of Australian creative workers

No government money should be given in grants where there is not a guarantee that the creative workers engaged are paid an appropriate minima, and there was fair dealing on the terms of any contract. Recipients of grants, whether they be theatre companies, screen producers, game studios or other bodies should be required to warrant they contract under established industry minima and that they comply with all relevant obligations including the payment of superannuation where applicable. Where an agency becomes aware that an artist or creative worker has been treated unfairly or underpaid, the person or entity in receipt of government funds should lose them and be ineligible to apply for further funding.

Income tax averaging

We support clearer, plain-language resources on income averaging for authors and artists and proactive work to make creative workers aware they can access income averaging. Division 405 of the *Income Tax Assessment Act* allows artists to be taxed on their average taxable income, rather than their annual taxable income. It recognises that creative workers often receive income irregularly, with some years boosted by a theatrical production, the release of a film or series, or a particularly large commission that would push them into a higher tax bracket. While income averaging can smooth this out, the current rules are confusing and can be complex to navigate. The Australian Tax Office should provide funding to organisations that have existing communications channels and relationships, like the AWG, to educate members.

Tax free arts prizes, fellowships and grants

Similar to the treatment of the Prime Minister’s Literary Awards, arts prizes, fellowships, and government grants should be tax-free. These funds often cover both past work and future projects that may span months or years. Taxing them reduces the resources available for artists to create and unfairly treats irregular funding as if it were stable income.

Recommendations:

- Introduce tax incentives (in combination, ideally, with direct financial incentives) for experienced creative workers that engage emerging practitioners as ‘apprentices’;
- Create two tax free thresholds for creative workers;
- Require artist and creative minima be paid as a part of any contract or grant;
- Have the ATO produce clearer, plain-language resources on income averaging for authors and artists and establish partnerships with leading creative worker organisations to educate creators on these provisions;
- Tax-free arts prizes, fellowships, and government grants.

(vi) Support for guilds

Like all the screen Guilds, the AWG is a critical part of the creative workforce economy. Creator Guilds and unions perform critical work for all sectors in the arts ensuring the voices of artists are heard. We are democratic, run by creators for creators, and responsible to our memberships to represent their interests faithfully.

As this submission and our ongoing advocacy work across Ministries, Assistant Ministries and Special Envoys, Offices, bodies like Creative Australia, and Departments demonstrates, we provide expert policy advice to assist government in decision-making.

Ongoing investment in professional organisations in the arts sector that represent creative workers is crucial, and we have elaborated on these issues in an accompanying confidential submission (**Attachment E**).

E. ENGAGING THE AUDIENCE

Audiences are getting new content in new ways. Meeting people where they are is key to making sure Australian have access to Australian stories. We look forward to the release of Screen Australia's next round of reporting, and will provide further comment on that once it is available.

We note more work needs to be done to understand audience behaviour post-Covid, and to address the barriers to engagement with culture in all its forms, particularly theatre. This is not necessarily a new problem but an acute one now.

In this as many things, research could provide a way forward, as well as building on existing successes, like the #Ausify campaign.

Review of streaming regulation

We welcomed the introduction of local content obligations on SVOD platforms and look forward to seeing the recovery of our sector. As the government is aware, it was the Morrison-era cuts to local content obligations on commercial television that resulted in networks halving their investment in local drama: from $107m in 2018/19 to $54m in 2020/21. The removal of sub-quotas for forms (children's television, scripted drama, documentary) has seen the functional end of children's TV production outside the ABC and imposed a further burden on our public broadcaster. In the 2023-24 financial year, investment in Australian feature film, adult drama and children's television dropped by 29%.[24] In 2024-25, total drama production increased by **43**%, but the majority of this growth was driven by international blockbusters (with budgets over $50 million) rather than local stories. The number of Australian titles fell by 20%, and the local share of spend fell from 50% to 40%.[25] While streaming platforms contributed the largest share of investment in TV/VOD drama the number of titles and hours produced **decreased**: meaning less work for screen workers and less Australian content for Australian audiences.

24 Screen Australia Drama Report 2023-24

25 Screen Australia Drama Report 2024-25

The introduction of local content quota obligations was an **essential first step** towards the sustainability and growth of our sector. However, we are still in an era of significant contraction, and the industry needs to be confident that the content obligations will be enough to help the sector recover. It is critical to the ongoing viability of our sector that the ways in which obligations are acquitted actually results in more work for Australian screen practitioners (e.g. an SVOD platform might acquit its obligations by spending significantly on a single drama production over the three-year period) and that it may have little impact on local documentary and children's content.

We are in support of the Australian Childrens' Television Foundation's submission to this policy process, and agree with their goals, and their analysis around the particular vulnerability of the sector.

Australia's screen sector is vulnerable and needs appropriate support to sustain content creation. Negative results after a four-year period could cause irreparable damage to the industry and the careers of screen practitioners.

We therefore suggest a mid-way review of the legislation to determine initial growth or contraction in production.

Recommendations

- **Mid-way review of streaming legislation**: we support an interim review of the streaming content legislation at the two-year mark, rather than waiting for the four-year statutory review, to ensure it is effectively reversing the decline in local investment and jobs;
- **Amendments to the regulation**: We continue to support regulatory safeguards to ensure SVOD platforms do not acquit their obligations by funding a single large-scale production rather than commissioning several projects that result in consistent and diverse pipeline of work for Australian screen practitioners. We continue to support genre sub-quotas for children's television, scripted drama, and documentaries to alleviate the production burden currently resting on public broadcasters.