

National Cultural Policy Submission

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Submitted: On behalf of a not-for-profit arts organisation

On behalf of an arts peak body

What challenges and opportunities do you see in the pillar or pillars most relevant to you? Feel free to respond to any or all pillars:

First Nations

The stories of Australia's Aboriginal and Torres Strait Islanders are central to our unique culture. The screen industry has an important role to play in bringing these stories of high cultural importance and value to audiences, both at home and abroad.

It is important that not only do we have the opportunity to see more of these important stories on our screens, but that our First Nations creative workers have the opportunity to tell their stories themselves, from their own voice, language and culture.

Within the consideration of telling Aboriginal and Torres Strait Islander stories, it is also important to ensure that we see a diversity of these stories, both traditional and contemporary, both urban and remote – and everything in between. Indigenous Australians come from a range of different cultural nations, each with unique experiences, customs and languages and these should be recognised and preserved for future generations.

The social and cultural dividend and opportunities from telling Aboriginal and Torres Strait Islander stories extends well beyond the that for the immediate producers, creatives, cast and crew involved but also reaches out to include the communities drawn into the production process, both directly as suppliers and indirectly through reinforcement of the importance of these stories to our culture.

Valuing culture and bringing stories to a national audience sends a powerful message of place and inclusion. This is particularly important in the context of support and deeper engagement with the Uluru Statement of the Heart and implementing a Voice to Parliament. Screen culture can assist by creating stories giving that give voice; assist with truth-telling and empowering First Nations to take their rightful place in Australia's cultural heritage.

Growing Our Aboriginal and Torres Strait Islander Screen Sector

Screen Producers Australia (SPA) regularly runs industry events, skills training seminars and forums and have ensured Indigenous participation and engagement in programs such as "Ones to Watch" and "Genr8" and in our annual industry conference "Screen Forever".

SPA has seen a strong growth in Aboriginal and Torres Strait Islander majority-owned screen production businesses amongst its membership, now numbering 18 companies signalling the capacity that has been building in the sector.

In addition, SPA has other screen producer-members with significant Aboriginal and Torres Strait Islander leadership and contribution that do not have the >50% majority ownership cited above. All of these businesses are making an important contribution to telling unique Australian stories and our shared national culture is enriched by this.

The growth in Aboriginal and Torres Strait Islander businesses and storytelling has not happened without the support of government and its agencies. SPA acknowledges the critical and successful

work that Screen Australia has done over more than 25 years through its Indigenous Department that has supported Aboriginal and Torres Strait Islander productions and training opportunities. In addition, all state and territory screen agencies play valuable roles in building and supporting Aboriginal and Torres Strait Islander productions and the capacity of the sector as well as institutions such as the Australian Film and Television School (AFTRS) and the National Institute of Dramatic Art (NIDA).

Australia's national culture is enhanced by the success of this generation of Aboriginal and Torres Strait Islander screen storytellers. These stories are unique and have a significant cultural and financial export value to the screen industry.

The Role of Government & Agencies

SPA is well aware that without some form of government agency imperative through Screen Australia and other agencies that many stories of cultural significance would not be reaching our screens. Our public broadcasters play a key role now in bringing these stories to Australian audiences, despite their own funding pressures. Expanding these pathways into other platforms will help this sector to grow and find further audiences.

SPA believes that more Aboriginal and Torres Strait Islander stories, on all platforms, would be of significant cultural benefit to all Australians. These stories have a place on all broadcasting platforms not just public broadcasters – that is, on commercial free-to-air, subscription television, as well as streaming and cinema through a combination of incentives and obligations.

Growth in access to Aboriginal and Torres Strait Islander stories will only occur if investment is made in developing creative skills for new entrants and mid-career practitioners and by providing multiple pathways to enter the industry through diverse funding streams.

Importance of Aboriginal and Torres Strait Islander Children's Stories

It is also important that specific investment is made in Aboriginal and Torres Strait Islander children's stories: these stories also complement the objectives of Closing the Gap and the Statement from the Heart. As evidence of the importance of this sub-sector, SPA notes the success of "Little J and Big Cuz" that was created in 11 Indigenous languages and resonated deeply in remote Indigenous communities.

Importance of Including a "Terms of Trade" Framework

Along with much needed growth funding, it is also of critical importance that we ensure that proprietary ownership in the creation of our Aboriginal and Torres Strait Islander stories (together with all our stories) is able to be retained by our story creators and producers and that the rights are not owned offshore by global businesses.

The lack of "terms of trade" protections across the Australian screen industry is a direct threat to the development of Australia's creative economy. This issue is addressed in more detail below and is particularly pertinent to a consideration of Aboriginal and Torres Strait Islander cultural heritage and the need to retain control and ownership of this in a globalised industry.

SPA endorses the application of Indigenous Cultural and Intellectual Property (ICIP) protocols that refer to all the rights that Indigenous people have, and want to have, to protect their traditional arts and culture.

For the reasons outlined above, SPA believe it is important that a National Cultural Policy addresses the challenge of how to build on the successes to date of Aboriginal and Torres Strait

Islander screen stories and ensure this continues into the future through increased support, strong institutions and funding opportunities.

A Place for Every Story

Our screen stories are an important part of Australia's culture and should be seen in every place these stories can be told. This content ranges across Aboriginal and Torres Strait Islander, children's, drama, documentary, games and light entertainment programs.

Unfortunately, our audiences are seeing fewer and fewer Australian stories on our screens both in overall numbers for certain types of production and relative to the total amount of content available. It is important for a National Cultural Policy to examine government policy settings to remedy this decline.

SPA recognises the competing interests and tensions inherent in the screen industry as screen is where the at times competing interests of business and culture intersect quite acutely. Cultural industries are an important part of Australia's creative economy and should be better recognised as drivers of innovation and productivity.

Investing in screen culture and creativity is a high-risk enterprise and most often a high-cost undertaking. A globally competitive and cost-driven marketplace is not always compatible with rewarding creative and cultural expression. Getting the regulatory settings right to facilitate this and balance these interests is the critical challenge for policy-makers.

It is therefore important that a National Cultural Policy carefully weighs up these potential conflicts and finds the right regulatory settings to continue to develop Australia's screen culture, grow our industry to meet the increasing demand for quality content and ensure creative endeavour is both financially sustainable and culturally enriching.

Value of Government Incentives

SPA acknowledges the critical support for the screen industry through the Producer Offset, Location Offset and other incentives. Studies have shown that this expenditure more than pays for itself in returns to the taxpayer.

As a 2018 Report, Impact of Film and TV Incentives in Australia for the Australian Screen Association by Olsberg•SP showed, total Gross Value Added (GVA) generated by the offset production spend in 2016-17 was A\$3.98 in additional GVA for every A\$1 of Offset disbursed. The average for the 10-year history of Offsets was A\$3.86. (SPA understands that further work is being commissioned that will soon update these figures.)

The economic value of telling Australian screen stories extends to include inbound tourism and Australian brand promotion as well as the revenues and jobs they generate. The Producer Offset also provides Australian screen producers with a valuable and influential equity stake in the financing of productions, which of course should be protected through "terms of trade".

[Discussed in more detail below under "Artist"]

Games Sector

SPA acknowledges the important role that the gaming sector is increasingly playing in the screen industry. This is a critical part of Australia's overall creative and knowledge economies, making a significant contribution to jobs and investment as well as engaging a non-traditional screen audience.

SPA has welcomed the new Digital Games Tax Offset that has received strong Australian Government support. This 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.

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 and spin-off concepts. SPA believes that this will also make Australia more competitive on the international stage in this growing genre and incentivise economic activity, job creation, business success and exports.

International Competition

In offering these incentives, Australia is in fierce competition with other countries around the world who also have strong domestic screen industries and who are simultaneously building their local sectors while topping up their important domestic capacity by bringing international productions to their shores. International screen productions while not serving all parts of our sector bring economic value and also access to new technology, infrastructure and career development.

Rationale for Government Support

In considering the dynamics of the global screen marketplace, Australia faces the particular problem of “substitutability” for screen content. We are a relatively small (English-language) nation competing in a global market with behemoths of the USA and UK with their conglomerate businesses, significant economies of scale and historically dominant cultures.

It is therefore little surprise that broadcasters and digital screen platforms are attracted to off-the-shelf, proven programs from these overseas countries and sold in the Australian market for a fraction of the value compared to the cost and challenges of commissioning new Australian stories and investing in their success.

The substitutability factor is the primary case for justifying the market interventions, investment mandates and incentives that have served Australian screen culture so well for the past 50 years. Without this critical government regulatory intervention, it is arguable that Australia would have very little of its own screen culture to celebrate.

Telling Australian Screen Stories

A new National Cultural Policy is a welcome opportunity to re-focus our attention on the value of our screen heritage and to ensure our policy and regulatory settings meet the Australian audience desire for this to continue for future generations to share.

All screen platforms are rightful places for Australian stories: our cinemas, free-to-air, subscription and multi-channel broadcasters and increasingly, online on-demand platforms such as subscription video on demand (SVOD) and broadcasting video on demand (BVOD) services.

SPA notes the increasing trend towards convergence between SVOD (subscription-generated revenue business model) and BVOD (advertising-generated revenue business model) as highlighted recently by the discussion by Netflix of the possibility of a new advertising-based product.

Regulation to require major streaming platforms like Netflix, Amazon, Paramount, STAN and Disney+ to make a reasonable and fair contribution to investing some of their Australian revenue (earned from Australian subscribers) in Australian stories has been on the policy agenda for more than ten years and SPA believes, is long overdue for government action.

There is little doubt that Australian audiences want to see more of their own on our streaming services. Polling commissioned by SPA in 2021 and by the Australia Institute found that three in five (60%) Australian's support requiring subscription-video-on-demand (SVOD) services, like Netflix, and Amazon Prime, to spend at least 20% of their revenue on Australian content. Other research such as the 2021 Media Consumption Survey, found 47 per cent of Australian adults felt that SVOD services don't have enough Australian content.

This issue has been examined in detail in recent years by a number of Parliamentary inquiries in which SPA has participated including the most recent *House of Representatives Standing Committee on Communications and the Arts Report: Sculpting a National Cultural Plan* which recommended that:

... the Commonwealth Government introduce legislation that requires over-the-top (OTT) media services (streaming and video/subscription video on demand services) to allocate at least 20 per cent of their local revenue on new Australian drama, documentary, children's content, commissions, co-productions or acquisitions of content.

International Comparisons

SPA has long considered this issue and considered policy developments in other nations that are comparable in terms of their history of regulation, size of their domestic screen industry, capacity and size of the overall economy. These countries such as Canada and through the European Audio Visual media Directive, many member states including France and Italy are regulating to ensure their audiences have access to their own stories by investment requirements of up to 20-25% of global streaming revenues.

For example, as set out in *Investing in European works: the obligations on VOD providers*, a May 2022 report by the *European Audiovisual Observatory* outlined that in France, SVOD services must devote at least 20% of the net annual turnover they generate in France to the funding of European or French cinematographic and audiovisual production with many specific requirements to be met. *[Discussed in more detail below under "Artist"]*

How Australia's National Cultural Policy Can Address this

SPA's believes that a new investment regulation requiring 20% of major streaming platform's Australian revenue be invested in newly commissioned Australian stories be developed and implemented as soon as possible and that this should be an identified outcome of the new National Cultural Policy.

SPA recommends this figure of 20% for the rate of obligation for streaming platforms with reference to the following policy considerations:

- Access for Australians to a sizeable and diverse range of quality Australian content on the services they are using.
- Addressing the regulatory gap created by deregulation of commercial free-to-air television.
- Ensuring a growing and sustainable independent production sector capable of delivering quality content to audiences.
- Trends and best practice in international regulatory approaches.

SPA further suggests this requirement should only apply to streaming platforms with either more than 500,000 subscribers or more than \$50 million in annual revenue.

This proposition is strongly supported by the screen sector. A recent SPA Business Survey of members showed that SVOD regulation for Australian content regulation was the leading government policy measure identified as being of benefit to members with “terms of trade” also being very important. This shows a high awareness across SPA’s large membership of the opportunities that additional investment could bring to the sector.

No Double-counting

Much also depends on the suite of robust regulatory measures that underpins any regulation of streaming services. For example, SPA believes that only commissioned content should qualify and that each hour of commissioned content can only be counted once by a commissioning entity to qualify for this requirement to avoid double-counting of content across platforms and multi-channels.

Investment Must Support Our Independent Screen Sector

Another important consideration of that should therefore be applied to any regulation of streaming platforms is that this investment in Australian stories should for the most part be directed towards Australia’s independent producers. The concept of “independent” referred to by SPA in this context specifically refers to genuine arms-length transactions between contracting parties so as to ensure competition and diversity across the production industry.

The ecosystem of Australian screen production is characterised by a large number of small, independent producers. SPA itself has around 840 members, spread across the nation, all of which could be considered as SMEs with most being micro-businesses. These independent producers are the strength of the Australian screen industry, bringing new ideas, creativity and diversity of storytelling to our screens.

Therefore, as an integrity measure, any additional investment by streaming platforms into Australian content should include a cap of 20% on how much of this can be allocated within vertically integrated businesses, with the remaining 80% to be directed to independent commissions.

In regard to Australian stories on commercial free-to-air broadcasters, the deregulation of Australian content requirements by the previous government for special genres of children and adult drama has led to a sharp drop in these stories on the most accessible screen platform. As well as streaming platforms, SPA believes that broadcasters also have an important role to play in providing a place for Australian stories. [Discussed in more detail below under “Audiences” below]

How to define “Australian content”

There are two key tests currently in use to determine what qualifies as Australian content (that in the Broadcasting Services (Australian Content and *Children’s Television*) Standards 2020, and the *Significant Australian Content Test* (“SAC test”)).

Any new regulation for Australian stories should ensure that, if for example, the ACMA is to be the chosen regulator for this scheme, it is preferable to adopt the definition in the *Australian and Children’s Television Standard*, given the ACMA has experience and expertise in applying this definition. Conversely, the ACMA does not have experience or expertise in applying the SAC test, and indeed may apply it differently to *Screen Australia*, creating uncertainty and confusion for industry participants.

The Centrality of the Artist

The Important Role of Screen Producers

The Australian screen industry supports a diverse range of occupations: creative, managerial and technical – all equally important as part of a creative team that bring Australian stories to our screens.

Screen producers occupy a diverse and challenging role in bringing great Australian stories to our screens. Without their business skills, creative endeavour would more often flounder for the lack of commercial and organisational acumen.

SPA is proud to represent the diverse group of screen producers that work mostly in the background yet are the engine room and facilitators of the screen industry. Screen producers are both a business, an employer and a creator.

Screen producers take the burden of the risks and are responsible for driving a creative project forward. They oversee the technical aspects of creating film and television content and run the process from start to finish – from identifying creative content, developing a project with writers, hiring the cast and director, financing, hiring crew, post-production and selling the final work. While the work flow is different with animation content, most of the stages can be thought of as similar in terms of the responsibility and processes.

The Artist as Worker

The screen industry is characterised by a challenging and demanding work environment particularly during the shooting stage for live action work. A recent SPA survey of hours of work for crew on a sample of Australian and offshore screen productions over the last three years found that half of all productions had shoot days of more than 10 hours, with 8% being more than 12 hours. Long hours and the intensity of creative and technical pressures can lead to ‘burn-out’ and mental health issues. Toxic workplace culture also has an impact on screen workers.

SPA and the Media Entertainment and Arts Alliance (MEAA) have a strong record of working collaboratively to keep screen workplaces safe. SPA and MEAA jointly drafted the *industry Code of Practice* to deal with harassment and bullying (released 2018) and then jointly reviewed screen safety protocols, leading to new [National Screen Safety Guidelines](#) (2021).

SPA is actively developing an online based learning course called Respectful Workplaces, to train crew on expected behaviours, their obligations under relevant legislation and the effects and consequences of unacceptable workplace behaviour. The learning course will focus on sexual harassment, bullying, discrimination and bystander laws with the materials customised to screen industry workplaces and scenarios.

Delivering a consistent way to train and raise awareness among a mobile workforce of their personal and legal obligations while working on set addresses a major challenge the industry faces in onboarding and training staff and crew. SPA plans to make the learning course available to all industry crew, through SPA Members free of charge, removing financial barriers to the training. SPA also supports the work of organisations dedicated to addressing the mental health challenges, such as ScreenWell.

SPA is partnering with Diversity Australia, the leading professional services firm specialising in diversity, inclusion and cultural change and who have successfully developed major D&I initiatives

across the banking, construction and mining industries to develop the learning materials. The online learning course is expected to launch later this year.

“Terms of Trade” Framework Urgently Needed

For the screen industry, a National Cultural Policy exists within a commercial business framework and as global streaming services increase their presence and influence, the Australian screen sector is increasingly subject to global business drivers.

It is therefore important for a National Cultural Policy to ensure that our screen industry practitioners operate within an economic framework that enables them to create, participate and prosper within this important cultural sector. Without profitable screen businesses that rewards successes, screen culture would lose its characteristics of diversity and dynamism.

That is why SPA believes that screen production deals should be underpinned by fair negotiation of commercial contracts to ensure our screen businesses and that those they employ are all able to operate sustainably and are not disadvantaged by the business practices of global corporate interests.

In a 2021 report commissioned by SPA from Lateral Economics, it was identified that financing deals for screen productions are complex, involving negotiations over a wide range of terms covering responsibilities, bearing of risks, the allocation of IP rights, and licencing arrangements.

The report found that:

In complex negotiations for deals, buyers [streaming platforms] very likely have greater bargaining power than [Australian] production companies and this enables them to secure more rights than they otherwise would be able to. For instance, TV networks are requiring AVOD or SVOD rights as a matter of course and streaming companies seek worldwide screening rights in perpetuity.

These changes are denying Australian production companies potentially large streams of future earnings from successful programs. To the extent that the rights holders are now overseas-owned international streaming companies, these earnings are lost to the Australian economy.

For independent screen producers in particular, the income generated by these rights and royalties can help sustain a small business between productions. The ownership of intellectual property and the ability to monetise rights within the production also incentivises entrepreneurship and provides a return on investment in ideas and creativity.

The retention of high levels of intellectual property is a feature of countries that rank well for innovation. The cultural and creative industries are also proven drivers of innovation. Unfortunately, data suggests this is an area where Australia is falling behind. The 2021 Global Innovation Index ranks Australia 25th in the world, down from 14th in 2014 below a comparable country such as Canada (at 16).

A report on *The impact of Terms of Trade on the UK’s television content production sector* for the Canadian Media Producers Association (CMPA) by Oliver & Ohlbaum in December 2018 showed that since the introduction of a ‘terms of trade’ framework in 2004, the UK independent production sector has grown to become a global leader in TV production, in particular:

- TV related revenues have increased from around £1.5 billion in 2004 to more than £2.6 billion in 2017

- International UK TV rights income grew at an average annual rate of 22 per cent between 2004 and 2008 and continues to grow at approximately 7 per cent.

According to a 2020 UK submission: Public service broadcasting, streaming services and the future for “terms of trade” by the UK Copyright and Creative Economy Centre (CREATe):

“There is a considerable weight of empirical evidence that limiting the assignable dimensions of copyright, or implementing reversion rights can have positive effects in balancing the interests of creators, investors and consumers of cultural works.

The rise in prominence of SVODs has led to many other countries, including France, Italy and Canada considering how to apply a ‘terms of trade’ framework to this new industry environment that is being driven by powerful global digital corporations.

For example, a number of territories now impose limited timeframes over the use of work by the commissioning platform with rights reverting back to the producer company. In the case of France, these rights revert back to the producer after 3 years. This is a relatively simple and clear regulatory framework that would quickly achieve a better outcome for Australian screen producers if adopted here.

SPA believes that in conjunction with any regulation for additional investment by streaming platforms or others, that Australia must urgently implement a “terms of trade” framework in order to maintain the sustainability and viability of our screen industry.

Strong Institutions

The Australian screen industry needs strong, stable and well-funded institutions to provide leadership and industry intelligence to the sector, to direct support and funding where market failure exists and to facilitate healthy domestic and international investment in Australian screen stories.

Independent Screen Sector as Cultural Institution

The independent screen industry nationally should be considered an important cultural institution in its own right given the years of development of a nationwide set of SMEs and micro-businesses spanning the nation to support the pursuit of screen activity. Although diverse, the independent sector has a strong commonality of interest around securing good public policy that supports it to tell Australian stories and provide cultural value to audiences.

Public policy measures must continue to adjust to meet the changing dynamics of the industry to ensure that the screen ecosystem remains robust and able to deliver valuable cultural policy outcomes.

SPA believes that the past ten years can be characterised by regulatory drift and inaction for screen. It is important to urgently address this and to ensure that our screen agencies and institutions funded to support the industry are fit for purpose and achieving the best outcomes for the sector.

Screen practitioners – from new entrants to those at every stage of their careers – rely on strong public institutions as well as a pipeline of private investment to support their careers and their businesses. Well-funded public institutions help support a diversity of stories and creators by investing in innovative storytelling and providing pathways to new entrants to the industry. They also set the standard of business practices that are a model for the industry to adopt.

Review of Agencies and Bodies that Support the Sector

The sector's primary screen-focused institution is Screen Australia (as well as the State-based screen agencies). AusFilm and the Australian Children's Television Foundation (ACTF) are other bodies primarily funded by the Federal Government to support our industry.

SPA notes that it has been some time since the roles of screen agencies was reviewed by government and it is timely that this happens to ensure they remain relevant in supporting the needs of the industry in the rapidly changing media landscape.

SPA believes that particular focus for government agencies should be on better supporting the export and trade opportunities. There are many examples of better co-ordinated and more uniformly branded screen industries from different countries that are appearing and engaging in global markets in more effective ways than Australia is currently doing.

There are also many examples of programs including funding and relationship development that exist in other territories that better target the growth of screen exports. Our screen industry agencies would do well by better targeting the outbound opportunities for our industry as Sounds Australia has done for our music industry.

A lot of energy has been spent focusing on the, at times, limited benefits for parts of our industry from inbound productions, or in creating pathways and funding for some of our workforce to support and work for overseas screen industries, rather than our own. Too little energy has been spent ensuring that Australian-made works employing all aspects of our screen industry and with all the benefit of export dollars and soft diplomacy that they bring, have pathways to global audiences. A National Cultural Policy is an opportunity to provide a mandate to agencies to address this imbalance.

In addition, feedback to SPA from members indicates that the screen sector would benefit from more focus on and investment in development and marketing of screen stories by agencies – particularly film – to help Australian stories succeed and reach audiences.

Transparency of decision-making and board appointments, proper governance and industry leadership are all critical to ensuring our industry has faith in its agencies.

For the reasons outlined above, SPA believes that a review of Screen Australia and other bodies that are primarily funded by the Federal Government to support the screen industry would be of significant benefit to the screen sector, boost confidence and provide an opportunity to re-set and re-calibrate to support the needs of the industry for the future.

Co-productions

Co-productions – both official and non-official – are important pathways to markets and international audiences and are of great value to independent productions. The work associated with the development of new co-production agreements and revision of existing ones that the industry particularly seeks has been stagnating for years.

For example, the Danish-Australian co-production agreement's text was settled and ratified by the Danish Parliament in 2012. Ten years on and Australia has still to uphold its end of the bargain and ratify this agreement.

In terms of relative activity from our partner (and often competitor) countries, Canada has 56 co-production agreements. The UK and France both have over 50. Australia has 13. A focus on co-

production reform and expansion is necessary and urgent if our industry is to be able to maximise global opportunities as well as be competitive in its partnering with other nations.

The European Free Trade Agreement currently being negotiated is a perfect opportunity to quickly expand Australia's co-production arrangements with new partnerships as well as update existing bilateral arrangements with many European member states who, over a number of years, have sent strong signals to Australia about their interest in doing this. There are 23 EU countries that currently don't have co-production arrangements with Australia.

SPA believes our co-production system needs urgent attention with immediate opportunities to enter into and reform a number of bilateral arrangements with European member states under the broad fiscal umbrella of the AUS-EU FTA.

Role of Public Broadcasters

Funding cuts to the national public broadcasters have had a detrimental effect on the number of Australian screen stories and an impact on training of new entrants to the industry. This has no doubt contributed towards the acute skills shortage currently in the industry.

A 3-year indexation freeze on ABC funding, ended in 2022, was estimated as \$84 million in lost funding and reportedly included cuts to spending on external and independent television productions of \$5 million a year. This indexation freeze, first announced in the 2018 Budget, had a significant impact on the screen sector and added to the \$254 million in cuts since 2014.

Given the concurrent deregulation of local requirements for commercial free-to-air broadcasters for critical sub-genres of content from 2020 onwards, with these ABC funding cuts, there is no doubt this reduction of funding had a detrimental impact across the whole screen sector.

Australia's public broadcasters play a key role in telling local stories that might not otherwise find a place on commercial channels. Increased and greater secure funding for public broadcasters to deliver Australian stories is important to the screen industry ecosystem. SPA welcomes the recent announcement of new measures to provide better long-term funding certainty by the Australian Government.

Role of ACMA & Review of Broadcasting Services Act

SPA notes that the industry regulator, the ACMA, has a very limited role in policy development and is largely restricted to implementing a "self-regulation" or "co-regulation" system applied to communications and media services. This hands-off approach should be considered for review to determine if it is meeting cultural policy outcomes.

It is clear that the performance of the ACMA is hampered by the lack of clear objectives for the sector in the Broadcasting Services Act 1992 (BSA) with which it is charged with applying. In particular, one notable problem with the current regulatory regime is that it seeks to maintain a distinction between broadcasting, telecommunications and internet services, at a time when these services are converging.

Due to a determination made by the then Minister in 2019 which exempts "any service" that "makes available television programs or radio programs using the internet", the BSA broadcasting service regulation does not now apply to online platforms. SPA welcomes the recent announcement of a review of the above Determination, which is due to expire on 18 September 2022, by the Minister for Communications.

SPA believes that the ACMA would be a stronger institution that would better serve the screen sector if the BSA was re-written for the contemporary converged media environment. Subsequent clarification of the objectives of the ACMA would benefit the whole communications sector and provide a better capacity to effectively regulate across the communications sector.

In the context of the development of Australia's National Cultural Policy, providing the ACMA with an objective of promoting Australian identity by ensuring Australians are able to experience Australian voices and stories when using or consuming media and communications services is highly relevant. This issue was outlined in the 2016 Draft Report of the Review of the Australian Communications and Media Authority.

Reaching the Audience

Screen stories are the expression of Australian culture and stories that reaches the broadest audience access both across the nation and internationally both on large screens and small. Screen culture offers one of the easiest and most accessible opportunities for all Australians to participate in and contribute to our culture.

Importance of Data Sharing to Reach Audiences

Australia's screen institutions collect a significant level of audience data that has high market value. Commissioning platforms also have critical information that is rarely shared in meaningful ways with the production sector.

Better sharing of audience demographic data available to platforms, on Australian audiences across all content would help producers understand what audiences want in greater depth. This market intelligence is highly valuable to screen producers and could significantly benefit the screen development and marketing process.

SPA believes that improved data collection and sharing would be of immense value to the screen sector and that Australia's screen agencies examine ways of improving access to this.

Improved Marketing of Brand Australia to Reach International Audiences SPA is aware of successful measures to market UK screen productions to international audiences that could be considered for adoption in Australia. Promotion of UK content and talent is undertaken internationally through Screen UK.

This UK campaign was first rolled out to USA audiences with targeted social media pushes using a local digital marketing agency in the States. This is regarded as best practice in the industry as an international brand marketing strategy and execution.

Australia's existing national screen marketing is "Showcases" on the Screen Australia website. However, this is not an active push to new markets or audiences – but focuses on Australians finding Australian content but without any external promotion or marketing focus.

SPA believes that a review of Australia's existing external strategy to market our screen products would help the industry to grow and reach new international audiences.

Importance of "Prominence"

SPA believes that Australian audiences must be able to discover and locate Australian stories on all platforms, including on increasingly prominent streaming services which have grown in popularity.

SPA welcomes the recent announcement that the Future of Broadcasting Working Group has been tasked with the initial design work for a new prominence framework that will ensure Australian TV services can easily be found on connected TV platforms. However, this must also ensure prominence of Australian stories on these services.

As outlined in *Investing in European works: the obligations on VOD providers*, a May 2022 report by the European Audiovisual Observatory, France has implemented measures on how European works are to be made prominent, including: promotion of the works on the homepage by visuals, trailers and specific headings; recommendations, both individualised and general, to consumers; access through a search function; and in promotional campaigns for the service.

The rule is detailed in a report of the European Regulators Group for Audio Visual Services as follows: “Member States shall ensure that media service providers of on-demand audiovisual media services under their jurisdiction secure at least a 30 % share of European works in their catalogues and ensure prominence of those works.”

Further, in Recital 35:

“Providers of on-demand audiovisual media services should promote the production and distribution of European works by ensuring that their catalogues contain a minimum share of European works and that they are given sufficient prominence. The labelling in metadata of audiovisual content that qualifies as a European work should be encouraged so that such metadata are available to media service providers. Prominence involves promoting European works through facilitating access to such works.

Prominence can be ensured through various means such as a dedicated section for European works that is accessible from the service homepage, the possibility to search for European works in the search tool available as part of that service, the use of European works in campaigns of that service or a minimum percentage of European works promoted from that service's catalogue, for example by using banners or similar tools.”

SPA asks that new regulatory frameworks around “prominence” specifically include prominence of Australian stories on all platforms.

Increased Audiences for Streaming Services

According to audience research published by the ACMA in June 2021, more Australian audiences watched online subscription content (58%) than watched traditional broadcast free-to-air television (54%) and more Australian adults (37%) also watched catch-up TV for free-to-air programs compared to a year ago (26%).

Yet, regulation to secure a share of Australian stories on streaming platforms that has been an important feature of free-to-air platforms until very recently, has not followed audiences onto digital platforms. Australian audiences are clearly missing out due to the lack of regulation on SVOD services for local stories – and they know it.

As cited in the Streaming Services Reporting and Discussion Paper of February 2022, the 2020 Deloitte Media Consumer Survey found that 34 per cent of respondents consider it ‘very important’ to be able to access Australian film content on SVOD services. In 2021, the Deloitte Survey found that 70% of Australian audiences have a [TV/movie] streaming subscription.

Importance of Australian Stories for Child Audiences

This situation of audience neglect is most egregious when it comes to Australian child audiences who have experienced a sharp drop in seeing their stories on commercial free-to-air broadcasting platforms as well as a complete lack of regulation on streaming services.

SPA agrees with the National Culture Plan Consultation Framing Submission which says that “creative engagement are powerful contributors to child development, education and young people’s lives, building the necessary skills for the jobs and workforce of the future.” Australian children 16 years and under make up 21% of the Australian population and SPA believe, deserve to see and hear themselves and their stories on our screens.

The result of the previous government’s deregulation of commercial broadcasting standards and cancellation of the children’s sub-quota has resulted in direct market failure with little commissioned first-run Australian children’s content. SPA believes that these de-regulatory measures elevated the importance of certain distribution businesses over any national cultural interests and that this imbalance needs to be reset.

It should be of concern that there is currently no requirement specific requirement to commission first run children’s programs on commercial free-to-air channels. The consequence of this is that child audiences are being excluded from affordable access to Australian culture on our freely available services.

Social equity considerations mean that there is a strong public interest consideration in ensuring that child audiences have access to a diverse range of quality programming both in front of paywalls as well as behind them.

SPA believes it is not a good public policy outcome that only our public broadcasters are expected to now take responsibility for this important socio-economic equity measure. Child audiences should expect the same diversity of content and delivery across all free-to-air channels of their stories – as adults do.

The absence of stories for Australian children on a platform a commercial free-to-air channel has a flow-on effect by limiting the local content not only for the child audiences on the commercial FTA services but also for audiences on other platforms through secondary rights purchases of the original production – both in Australia and overseas. For example, in reducing Australian children’s content levels on commercial free-to-air television means that this content is also not then available on the ABC or on subscription television or streaming services.

This drop in children’s content is clearly evident from new figures from the ACMA reporting on compliance with the Australian Content and Children’s Television Standards (ACCTS) show an alarming drop in children’s titles on free- to-air broadcasters. These are the programs that give our kids an early appreciation for seeing their own stories, culture, and voices on screen

It was highly damaging to the viability of this sub-sector that this cut in investment was justified by the previous government on the basis that that public broadcasters would fill this gap. Unfortunately, this was not accompanied by any additional funding to these platforms – to the contrary, as detailed above, ABC funding had been eroded over previous years.

SPA believes that the ACCTS should be reviewed to examine whether it is meeting the objectives of the new Australian Cultural Policy and public interest principles of Australian cultural identity, particularly for child audiences.

Recent analysis of free-to-air broadcasted programming by SPA shows that far from giving up on child audiences, Australian commercial free-to-air tv channels broadcast on average just over 600 hours of children's programs per month. However, as a direct result of the previous government's deregulation of this sector, less than 15% of these hours are Australian stories – and very few are new. The commercial networks have channels targeted to children, and at least one commercial network's channel that broadcasts children's programmes has an Australian content level that is below 5%.

Child audiences of commercial free-to-air networks are being flooded with mostly American shows and have very little access to their own culture on these channels. **SPA would welcome further investigation and reporting of this matter by the ACMA.**

SPA believes that new regulation is needed to ensure that if a commercial broadcaster programs for child audiences on one of its multi-channels, then a reasonable and commensurate proportion of those hours and titles should be newly commissioned Australian stories.

The underlying rationale for this is that commercial free-to-air broadcasters enjoy generous industry protection through Australia's anti-siphoning laws and access to public spectrum. It is untenable that this industry protection is not accompanied by a reciprocal obligation to screen more local content in important subgenres such as children's.

SPA argues that if there is a public interest in Australian audiences to see their sporting teams in front of a paywall, then it cannot be logically argued that other types of content such as Australian children's programs are not of the same or potentially greater cultural importance.

Please tell us how each of the 5 pillars are important to you and your practice and why. Feel free to respond to any or all that are applicable to you:

First Nations

SPA have seen a strong growth in First Nations majority-owned screen production businesses amongst its membership, now numbering 18 companies.

In addition, there are many other screen producer-members with significant Aboriginal and Torres Strait leadership and contribution that do not have the >50% majority ownership. All are making an important contribution to telling unique Australian stories.

A Place for Every Story

See above

The Centrality of the Artist

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

As the peak industry and trade body, we consult with a membership of more than 800 production businesses in the preparation of our submissions. This consultation is augmented by ongoing discussions with our elected Council and members. Our members employ hundreds of producers, thousands of related industry practitioners and drive 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.

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

Strong Institutions

See above

Reaching the Audience

See above

Are there any other things that you would like to see in a National Cultural Policy?

Screen industry capacity issues

There is no doubt that Australia is experiencing the effects of the additional \$400 million injection into our Location Incentive by the previous government. The flow-on effects of this are being felt in terms of capacity issues such as access to studios and crew recruitment.

SPA believes that this is therefore a largely temporary situation that will stabilise over time and should therefore not be the basis for any permanent policy development. There is no doubt that competition for studio space and some experienced crew is fierce, although there are different impacts across different parts of our sector.

SPA note particularly that the majority of Australian stories are in fact filmed on location, so the issue of studio access is not as pertinent to them – with the exception of our light entertainment programs that are filmed in studios.

The issue of access to a skilled workforce is a challenge in many sectors, not just ours. SPA believe the solutions like in a suite of training and skill-development programs with a key role for industry to take on trainees. However, we also note that contributing factors to this current situation lie in the starvation of funding to the ABC and SBS and the cut to children's programs on free-to-air broadcasting.

Children's screen program production has until very recently, been a recognised entry pathway into our industry. A consequence of the recent large drop in this programming since 2020 is the loss of these new entrants and our members have noted these changed conditions with some alarm.

Instead, SPA hope that the Jobs and Skills Summit, the Workforce Capacity Framework being led by the Office of the Arts, AusFilm and others and our own contribution to the industry dialogue, will in due course, identify how industry can contribute more to training and skills development to help lessen these temporary constraints.

Environmental Sustainability

Environmental sustainability is growing in importance across all industry sectors, including cultural industries and the screen sector. SPA believes that there is an important leadership and coordination

role for the Federal Government including establishing best-practice benchmarks, better record-keeping and tracking the carbon footprint of screen productions.

In this context the role of localism and local productions as part of our screen ecology is important given the relatively low carbon footprint they offer being usually smaller in scale, leaving and requiring less travel and overall impact for the content to be made.