

National Cultural Policy Submission

The Australian Director's Guild and the Australian Screen Director's Authorship Collecting Society

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

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 Aboriginal and Torres Strait Islanders are a central part of our unique culture. We recognise, respect, and celebrate the significant contributions of First Nations directors both in terms of their impact to our cultural identity and their international and domestic impact including such talented screen directors as *Warwick Thornton: 'Samson and Delilah' (2009)*; *Winner Caméra d'Or 2009 Cannes Film Festival, Ivan Sen: 'Mystery Road' (2013)*, *Leah Purcell: 'The Drover's Wife' (2019)*, *Rachel Perkins: 'Redfern Now' (2012)*, *'Total Control' (2019)*, *'Bran Nue Dae' (2009)*, *Wayne Blair: 'Top End Wedding'*, *Dylan River: 'Robbie Hood' (2019)*, *'Mystery Road Origins' (2022)*.
- In supporting the Uluru Statement of the Heart, we must remove hurdles created by colonial practices to allow First Nations people truth and self-determination in their storytelling; to allow our first sovereign Nations to take their rightful place in their own country so they can shine through as a fuller expression of Australia's nationhood.
- Stories of First Nation's culture is a gift to their country and should not be owned by offshore interests and this requires a careful balance of cultural and business interests. We recommend appropriate protections are legislated with Indigenous Cultural and Intellectual Property Rights (ICIP) protected across the screen sector in line with guidelines such as Dr Terri Janke's *'Pathways and Protocols'*¹ to ensure that there are no loopholes that allow for theft, exploitation, and misrepresentation of Indigenous stories.
- To help us see more of their stories on our screens, we ask for increased investment in and content quotas for Aboriginal and Torres Strait Island stories to support their development, production, and distribution on every screen. It is also imperative that Aboriginal and Torres Strait Island children to see their stories on our screens. Without specific regulations for this, child audiences are being neglected.
- We recommend that enhanced Cultural Safety including for First Nations and Torres Strait Island screen practitioners is embedded and enforced across the screen industry and, in particular, where productions receive public funding by way of grant or tax offset.

A Place for Every Story

- The Australian public deserves and expects to be reflected on screen by a diversity of quality stories on all platforms including drama, documentary, and children's programs. It is imperative that we see Australian stories reflecting the rich diversity of Australia; about everyone, every place and in every space, including on our screens. The 2021 census provides data on Australia's increasing diversity finding that almost half of Australians have a parent born overseas (48.2 per cent) and that the Australian population continues to be drawn from around the globe, with 27.6 per cent reporting a birthplace overseas.²

- Government should design and implement a comprehensive industry data strategy for systemic collection, analysis, reporting and sharing of diversity data that is transparently reported to the public. Our industry is increasingly global and there is focused international attention on widespread inequality, and the representation, diversity and inclusion of equity seeking groups in the telling of screen stories. A failure to attend to key issues in the Australian labour market and workforce development risks the future potential of this knowledge-intensive, technologically innovative, and highly globalised sector to continue to add economic, social, and cultural value to Australia.
- We must reflect on this data and remove barriers for diverse communities in the screen sector and across the arts especially in leadership roles. In doing so policy should ensure that intersectionality is not forgotten. This includes access needs in every aspect of the screen industry for people from the disability community. The Social Model of Disability needs to be considered while increasing job opportunities and leadership roles for filmmakers with disability. It also includes initiatives to increase and improve representation of Transgender filmmakers across the screen industry.
- We would advocate that the screen sector moves away from the *deficit model* and towards reducing hurdles faced by historically excluded diverse communities. Further we recommend that the screen industry moves away from short-term diversity initiatives towards providing long-term and dependable funding to productions that are led by producers, writers, and directors of colour and from marginalised communities.
- We recommend separate funding be allocated to filmmakers from marginalised backgrounds to support representation in key creative roles. To nurture a sustainable and diverse business ecosystem we recommend that funding should be prioritised to small and medium sized companies with cultural authenticity and ownership and where ownership of copyright, profits, creative and financial control is retained by and in these marginalised communities.
- We recommend that enhanced Cultural Safety including for practitioners from marginalised communities is embedded and enforced across the screen industry and, in particular, where productions receive public funding by way of grant or tax offset.

The Centrality of the Artist

- Screen stories are an expression of our Australian culture and psyche. They reach across our nation to the world.
- We acknowledge that Australian screen storytellers, our directors and writers, work in the gig economy from contract to contract. As creators of our culture and entertainment. It is imperative that we ensure that our screen storytellers, the creators of our culture, operate within a sustainable economic framework that enables them to create and prosper over their entire careers within the sector.
- The screen director's artistic voice is at the center of screen storytelling. Leading teams of expert artisans and technicians, the screen director brings coherence, beauty, and excitement to the audience experience.
- The screen director relies on strong public institutions and a pipeline of private investment to support their careers. This investment and government funding should also include a commitment from the government that the programs it funds deliver fair wages and conditions for all creatives, including screen directors, as a condition of funding.

- Unfortunately, FTA deregulation by the prior government will substantially impinge on long-term financial outcomes for Australian screen directors from lower retransmission fees. Additionally, there is currently a failure of the market to provide fair and equitable terms in deal making, due to the power retained by a concentration of buyers in the market, and this should be addressed. Screen production deals done with all platforms including streaming platforms should be based on a fair negotiation of contracts to ensure that the screen directors they employ are all able to operate sustainably and are not disadvantaged by cost pressures from global corporate interests.
- Copyright ownership is essential to sustaining the careers of creators and authors, serving to incentivise new content while providing adequate protection from the exploitation of their work in an ever-increasing digital environment.
- The centrality of the director's artistic role is the key to a strong, diverse, and inclusive Australian cultural identity. But, despite their essential contribution, Australian screen directors are NOT rewarded with the same revenue streams as their counterparts in Europe.
- European directives³ recognise the principal director of a film or audio-visual work as an author and have an unassignable right to remuneration in many European territories. This has not only ensured strong secondary income streams for audio-visual directors in Europe but has contributed to extraordinary economic and cultural success in the audio-visual sectors at large⁴. We therefore strongly recommend that the lack of copyright ownership⁵ in Australia be addressed through granting screen directors primary copyright and introducing schemes in line with European Copyright Directives.

Strong Institutions

- The key institutions of the Australian screen sector fall into three categories: (i) training, (ii) funding and governance, and (iii) guilds and agencies. Each institution contributes to creating pathways for or facilitating the work that employs Australian artists, or advocates for the needs of each specific workforce. The Australian screen industry needs strong, stable, and well-funded institutions in order to thrive. Therefore, it is important to ensure that our screen agencies and institutions are fit for purpose to enable them to achieve the best outcomes for the sector.
- Government should provide increased funding for major screen training institutions around the country to cultivate an ongoing skills base in screen crafts. Additionally, to help foster the development of screen practitioners, there needs to be an increase of funding for major screen training institutions around the country (such as AFTRS, NIDA, RMIT, QUT, WAAPA).
- Funding cuts to the ABC and SBS have had a detrimental effect on Australian screen stories and the training of new entrants to the industry and more secure funding of them to deliver Australian stories for all audiences must be a high priority. We support an increase in direct funding to the ABC and SBS tied to new Australian scripted content. The deregulation of Australian content and the influx of streaming services has disadvantaged the ABC and SBS and has left them unable to fairly compete in the sector. To ensure that the funding is used for the purpose it was intended, and that it meets specified cultural and economic objectives, the public broadcasters must be accountable and transparent with the expenditure.
- Leadership (from the boardroom downwards) of our public screen institutions, including our public broadcasters, should be more inclusive with better representation from people from

diverse communities. Their leadership teams need to better reflect the increasingly diverse communities they serve and be more reflective of today's multicultural Australia. Additionally, our public screen institutions and public broadcasters must look at enhancing their cultural safety protocols to better support people from marginalised backgrounds.

- Our institutions also need to be led by diverse and robust boards drawn from the industry. Our boards should represent creatives and practitioners from across their respective areas of practice, and there must be a balance to ensure that the boards are representative of the creative industry they are part of.
- Our specialist tertiary training institutions and programs should be funded and nurtured to ensure a skills pipeline towards sustainable creative jobs with fair wages. Australian directors and writers, our storytellers, should be better recognised and supported as the source of original work and ideas.
- We need to remove barriers for emerging storytellers and especially those from underrepresented backgrounds to allow them to succeed and flourish in the screen industry over sustained, long-term careers. We recognise the important ongoing industry support and mentorship required to develop their skills. We support government investment in the discovery and creation of capable artists. The pathways which will foster these talents need to be funded. Excellence in craft is developed over time, and direct investment is needed both to support emerging practitioners and to fairly remunerate the mentors who share their time and expertise.
- We recommend increased focus and support for mid-career directors with increased public funding and appropriately structured program support for in-production placements – apprenticeship programs – for screen industry creatives including director attachment and shadow directing programs that help directors get their first major screen credits and help them gain future paid opportunities.
- We recommend government funded education and development programs, including those from Screen Australia, need more focus on surfacing and supporting innovative and diverse storytellers and the 'cultural dividend' with less prioritisation on 'market' and "commercial" success.
- The Australian public expects and wants to see stories about them, by them and for them on Australian screens. As well as the self-evident cultural dividend, Australian stories are dispersed and are a strong driver for regional economies and regional tourism. Australian stories also grow international tourism, international education, contribute to our well-being and reinforce our sense of identity. Whilst acknowledging the strong short-term economic and employment benefits of footloose foreign production, these productions do not generally engage Australian storytellers, they provide strong short-term economic uplift but deliver no long-term cultural benefit. The stories are not about us; the IP is owned offshore with no long-term financial outcomes for the local independent production community and the creators they employ. We would advocate for greater policy support for Australian stories on Australian screens and reduced emphasis on supporting off-shore IP with increased Australian production offsetting any reduction in foreign production activity and alleviating any capacity constraints.

Reaching the Audience

- Our screen stories are an important part of our national cultural heritage. Governments provide valuable financial support to the screen sector through important incentives and tax offsets, and this should largely benefit the production of more Australian stories.
- All screen platforms: our free-to-air broadcasters and our streaming platforms should be required to ensure they are reflecting our own culture by investing in new Australian stories for us all to see.
- It is a concern that we are seeing less and less Australian stories on our screens and it is important for a National Cultural Policy to address this. Child audiences are particularly being overlooked with no current specific requirement for children's programs on free-to-air or streaming platforms. They are missing out on Australian history and culture as a result.
- We have long argued that the reason for the decline in scripted Australian content is a market failure in our current content regulation system. A defining feature of the Australian content market that determines local production rates, is that we share the same language with two of the world's largest content markets - the USA and UK. This easy-to-access content exchange is one of the main reasons why local content requirements exist and are still needed. The current era represents a unique opportunity to deliver an optimal future framework that ensures a diverse, high-quality range of homegrown content on Australian screens.
- The reduction of the obligation under the Morrison government's relaxation of the local quotas under a new 'points system' predictably resulted in the commercial networks (Seven, Nine and Ten) halving their investment in local drama from \$107m in 2018/19 to \$54m in 2020/21, following these changes. By reducing the number of hours of drama on television, the previous government reduced employment for thousands of Australians in the screen sector and weakened the career trajectories of content creators and limited opportunities for emerging practitioners from all backgrounds to develop their craft.
- We recommend that Australian content quotas for the commercial free-to-air networks are immediately restored and that the NEDE scheme, which requires investment in Australian drama production by Subscription TV operators, be increased from 10% to 20% in-line with our recommendation for regulation for streaming platforms.
- Regulation to require major streaming platforms like Netflix and Disney+ to make a reasonable and fair contribution to telling Australian stories is long overdue and requires urgent action to address. We recommend an immediate requirement for an investment of 20% of major streamers Australian revenue, earned from Australian subscriptions, be spent on newly commissioned Australian stories in our National Cultural Policy. A 20 per cent re-investment obligation would deliver approximately \$336 million in Australian content investment annually, this would drive an additional 10,000 industry jobs creating over 300 hours of Australian content to streaming audiences here and around the world. Within this regulation we also recommend inclusion of sub quotas for First Nations, People of Colour, People with Disability, LGBTQIA+ and Children's content and frameworks to ensure that new commissions appropriately reflect the diversity of Australia's increasingly multicultural communities.
- Regulation should be coupled with transparent transmission and promotion obligations. Both the European and Canadian models include requirements to ensure that region-specific products are promoted and given prominence across the platforms for local audiences. In the absence of regulation to promote content to Australian audiences, a service could potentially invest in Australian productions that intentionally or inadvertently might not be seen by Australians. Australian audiences must be able to discover and locate Australian

stories on all platforms, including streaming. As with European regulation, we should ensure algorithmic prominence on streaming platforms to ensure Australian audiences see Australian content.

¹ <https://www.screenaustralia.gov.au/about-us/doing-business-with-us/indigenous-content/indigenous-protocols>

² <https://www.abs.gov.au/media-centre/media-releases/2021-census-nearly-half-australians-have-parent-born-overseas>

³ According to Article 2.2 of the Directive 92/100/EEC of 19 November 1992 on rental right and lending right and on article Article 2 of Council Directive 93/98/EEC

of 29 October 1993 harmonizing the term of protection of copyright and certain related rights, all European Union member states must recognise the principal director of a film or audio-visual work as an author—and therefore first owner of copyright—of that work.

⁴ CISAC, *Spain's audio-visual sector: fair remuneration and economic growth*, 2021 available at: <https://www.cisac.org/Newsroom/articles/spains-audiovisual-sector-fair-remuneration-and-economic-growth>

CISAC, *Fair remuneration for directors and screen writers: an Italian case study* available at:

<https://www.cisac.org/Newsroom/articles/fair-remuneration-directors-and-screenwriters-italian-case-study>

⁵ Copyright for Screen Directors in Australia is limited to an assignable retransmission right see Amendment (Film Directors' Rights) Act 2005 No. 130, 2005

<https://www.legislation.gov.au/Details/C2005A00130>.