



Submission to House of Representatives Standing Committee
on Communications and the Arts inquiry into Australia's
creative and cultural industries and institutions

October 21, 2020

- 1 The Australia New Zealand Screen Association (ANZSA) appreciates the opportunity to contribute to the Inquiry the Standing Committee has initiated. For more information on ANZSA, its members and their role in Australia's Screen Eco-System, please see Appendix 1.
- 2 We realise the scope of the Inquiry is very broad; from regional and indigenous art centres and cultural institutions which often rely on subsidies and support, to major creative industries which attract significant audiences and make a sizeable contribution to Australia's economy and workforce. By necessity, the screen sector largely occupies the more 'industrial' side of that spectrum. The film and television industry contributed \$9.2 billion to the Australian economy and supported an estimated 54,818 FTE workers in 2017-18¹. Feature Films and TV shows are a highly collaborative art-form and comprise a bundle of rights (script, music, costume and set design, etc) which is valuable only due to the legal protection it enjoys.

Pre-COVID-19 trends in the Australian screen eco-system.

- 3 ANZSA recently contributed a submission² to the 'Supporting Australian Stories on our Screens' consultation process. We encourage the Committee to take note of this Submission which contains a comprehensive analysis of the screen industry trends, which clearly show the shifts in consumer behaviour which were enabled by new and innovative business models facilitated by the internet. These business models have provided benefits to both audiences (more content available in a more convenient and affordable manner) and producers (an increase in investment in the production of screen content) in Australia and around the world.
 - a. The combined income of businesses supporting the creation of Australian content remained flat between 2014/15 and 2018/19 at an estimated \$10.2 billion.
 - b. Over the same period, investment in Australian stories increased by 80% from \$426 million to \$768 million. This was an all-time high for Australian content. This increase was driven by the increased efficiency of the new distribution models (more of every consumer dollar can be invested in the production of content - compare for instance the distribution of screen content via DVD's to delivery via the internet) and a sharp increase in foreign investment in Australian content.
 - c. Foreign investment into Australian stories now represents approximately 30% of total investment. The streaming services have made it easier for Australian stories to find global audiences and for stories from countries as diverse as India, Spain and Germany to find Australian audiences.

¹ Olsberg SPI, *Study on the Economic Contribution of the Motion Picture and Television Industry in Australia*, <https://anzsa.film/wp-content/uploads/2020/02/Study-on-the-Economic-Contribution-of-the-Motion-Picture-and-Television-Industry-in-Australia_Final-Report.pdf>

² ANZSA submission in response to 'Supporting Australian Stories on our Screens' consultation process, June 30, 2020, <https://anzsa.film/wp-content/uploads/2020/07/ANZSA-submission-in-response-to-Supporting-Australian-Stories-on-our-Screens-options-paper_updated-30-June.pdf>

The impact of the pandemic on the Screen Sector

- 4 We understand 2019/20 was on track to comfortably beat the prior year record, until the pandemic forced the closure of all production activity, with the immediate impact on employment for workers in the screen production sector. On the distribution side the impact has been more varied. Cinemas had to close and even today a lack of new product triggered by the capacity limitations that remain in place has subdued box office takings (which are currently at 15 - 20% of prior year levels. Not surprisingly, screen consumption in the home has increased, led by Subscription. Video on Demand, and the bigger challenge for many of these players is to produce enough new content to meet consumer demand.
- 5 Global screen experts Olsberg SPI have predicted demand for screen content will quickly recover from the losses caused by the COVID-19 related shutdowns once production can safely continue at scale,³ and has the potential to be a strong contributor to economic recovery.
 - a. The study estimates global expenditure on Screen Production (excluding news and sports) to be \$250 billion in 2019 and generate a total economic contribution of \$580 billion.
 - b. The study estimates the forced closure of production activity to cost the screen sector 10 million FTE jobs and cause \$202 billion in economic impact over the first six months of 2020.⁴
 - c. The study demonstrates how screen production activity can deliver a substantial investment in a short time. It shows for example how a major film can inject \$10 million into the local economy per week, with an average 67% of production costs spent in business sectors beyond screen production including sectors such as construction (11.2%), travel and transport (8.1%), hospitality and catering (6.6%) which have been severely impacted by the pandemic.

The Government's decisive response to the Pandemic.

- 6 We applaud the Government's response to the pandemic overall, which has put Australia into a comparatively better situation compared to other Western countries, and for the screen industry in particular. Specifically:
 - a. AFTRS, together with industry, Screen Australia and state agencies, has developed the *Australian Screen Production Industry COVID-Safe Guidelines* to facilitate a safe return to production.⁵

³ Olsberg SPI, *Global Screen Production – The Impact of Film and Television Production on Economic Recovery from COVID-19*, 25 June 2020, <<https://www.o-spi.co.uk/wp-content/uploads/2020/06/Global-Screen-Production-and-COVID-19-Economic-Recovery-Final-2020-06-25.pdf>>. Figures used are converted from US\$ as reported in the study into A\$.

⁴ With second waves occurring throughout the world, the final impact is likely to increase.

⁵ *Australian Screen Production Industry – COVID-safe guidelines*, 28 May 2020, <<https://www.screenaustralia.gov.au/getmedia/d8ec53c2-5a19-4651-a0da-65abf0577837/COVID-Safe-Guidelines.pdf>>

- b. We applaud the establishment of the \$50 million Temporary Interruption Fund (TIF)⁶ which underwrites the risk of communicable diseases such as COVID-19 to production continuity (which are not currently commercially insurable), the COVID-19 budget support fund⁷ which will cover additional costs for green-lit productions to implement their COVID-Safety and Risk Assessment Plans.
 - c. We applaud the \$53 million in new funding for the development and production of Australian film and television content that will continue to tell Australia's great stories.⁸
 - d. We applaud the proposed increase in the Producer Offset TV from 20% to 30%, which will make it more attractive to invest TV content. Australia's incentive was comparatively low by global standards which disincentivised investment in high-end TV shows; the segment with the greatest growth potential.⁹
 - e. We applaud the July 18 announcement to allocate a further \$400 million to the Location Incentive program over the next seven years, which will support \$3 billion of screen production expenditure and secure foreign investment of \$2.1 billion in Australia's economy. The first commitment flowing from this investment has already been announced with NBC Universal committing to produce three high-end scripted television series in Brisbane which will generate employment for an 18-month period and inject \$140 million into the local economy.¹⁰ The biggest threat to further investment growth now is the lack of available studio facilities.
- 7 ANZSA recommends to Committee to consider the following steps which we believe can further support economic activity:
- a. Address the screen production infrastructure squeeze. Australia's response to the pandemic has created a real opportunity to represent a greater share of global screen activity, and the Government's decisions (see paragraph 6) have increased the attractiveness of Australia. The biggest obstacle to achieving this opportunity is the current production infrastructure capacity. We are – whilst very grateful for the Government's Location Incentive commitment - concerned that the capped nature of this grant (both in dollars and time) may not be sufficient to justify investment in new production facilities on a commercial basis. We see two possible solutions to this; (1) additional Government

⁶ Screen Australia, *Temporary Interruption Fund*, <<https://www.screenaustralia.gov.au/funding-and-support/covid-19-support/temporary-interruption-fund>>

⁷ Screen Australia, *COVID-19 Budget support for green-lit projects*, 22 July 2020, <<https://www.screenaustralia.gov.au/sa/screen-news/2020/07-22-covid-19-budget-support>>

⁸ Minister Paul Fletcher, *Safeguarding Australian content in a world of changing viewership*, 30 September 2020, <<https://minister.infrastructure.gov.au/fletcher/opinion-piece/safeguarding-australian-content-world-changing-viewership>>

⁹ Ibid 8.

¹⁰ Media Release, 26 September 2020, *Morrison Government's Location Incentive brings Young Rock, Joe Exotic and Irreverent down under*, <<https://www.paulfletcher.com.au/media-releases/media-release-morrison-governments-location-incentive-brings-young-rock-joe-exotic>>

support¹¹ (see for instance the current Perth Studios expression of interest process), and (2) rolling up the 16.5% Location Incentive funds into a 30% Location Offset that will provide certainty and predictability. We note that the United Kingdom's predictable and competitive screen incentive has supported significant investment in facilities.¹²

- b. Quarantine border control exemptions for high-profile film and television actors, directors and producers when it is safe to do so. The United Kingdom has introduced such an exemption provided the exempted individuals live and work in a controlled 'bubbled' environment in order to mitigate risk to public health.¹³ The financial risk associated with screen investment is significant and there is a small cohort of individuals who can reliably deliver audiences and income. Countries which make it more attractive for these individuals to work there are more likely to attract significant investment. This applies equally to the attraction of investment in Australian stories as well as 'footloose' productions which decide where they will produce. Naturally, this should only be considered if public health risks can be mitigated.

The importance of Copyright Legislation to the Screen Sector.

- 8 We note that all of this investment and opportunity is underpinned by copyright legislation; without it no investment in premium screen content could be justified, and without provisions which enable Technical Protection Measures no differentiated access and pricing models could have developed. Thanks to this we now have a rich variety in business models, from Advertising-supported Video-on-Demand (AVOD) to Subscription Video-on-Demand (SVOD) to Transactional Video-on-Demand (TVOD) and Electronic Sell-Through (EST) enabling consumers to access screen content at a price at which it represents value to them.
- 9 We applaud the Government's balanced reform over the past years – commonly enjoying bi-partisan support – which has enabled innovation in the screen eco-system to thrive whilst enabling beneficial uses.

¹¹ See for instance the recent WA McGowan Government announcement. *McGowan Government issues casting call for film studio in Perth*, 19 August 2020, <<https://www.mediastatements.wa.gov.au/Pages/McGowan/2020/08/McGowan-Government-issues-casting-call-for-film-studio-in-Perth.aspx>>


¹² Thanks to the certainty afforded by open-ended tax credits, investor confidence to build and develop UK infrastructure and innovation has been high, leading to over £850 million of publicly identified spend on studios and facilities. In fact, demand for studio space is now so high that companies like Disney and Netflix have made multi-year commitments to book out studio space, providing a certain and predictable return for the owners of these facilities. See: Louise Tutt, 9 September 2019, *The Walt Disney Co signs long-term lease for entire Pinewood Studios site in the UK*, Screen Daily, <<https://www.screendaily.com/news/the-walt-disney-co-signs-long-term-lease-for-entire-pinewood-studios-site-in-the-uk/5142713.article>> and Mark Sweney, 3 July 2019, *Netflix strikes production deal with Shepperton Studios*, The Guardian, <<https://www.theguardian.com/media/2019/jul/03/netflix-strikes-production-deal-with-shepperton-studios>>

¹³ Media Release, 5 July 2020, *Selected sporting events, TV and film exempt from quarantine*, <<https://www.gov.uk/government/news/selected-sporting-events-tv-and-film-exempt-from-quarantine>>

- a. We specifically note the Marrakesh treaty implementation which facilitated access to published works by visually impaired persons, the reform of Safe Harbour provisions which benefitted the disability, library, archive, cultural, and education sectors. We also note the recent Copyright Access Reform announcement which we broadly support, particularly the proposed limited liability scheme for the use of Orphan Works, which we believe will improve access to culturally significant letters, photographs, plays and films. We look forward to seeing the details of the Government's proposed changes and stand by to provide input to mitigate the risk of unintended consequences (we note our serious concerns around the proposed Quotation exception¹⁴).
- b. We also applaud the Government's practical approach to protecting the rights of creators online. The Government - with broad support from Opposition parties - has opted to focus on no-fault remedies where those best placed to disable access to infringing content are asked to do so after judicial review. ANZSA's members have been the most frequent users of this no-fault remedy enabled under S115A of the Copyright Act and believe it has reduced overall piracy of screen content in Australia by up to 42%. We look forward to participating in the review of Australia's Online Copyright Enforcement provisions which the Government committed to commence in Q4 of 2020.

We thank you for the opportunity to contribute to this Inquiry and stand ready to provide additional information or answer any questions the Committee may have.

Sincerely,



Paul Muller
Chief Executive Officer
Australia New Zealand Screen Association

¹⁴ Our concerns centre around the inclusion of audio-visual content in the exception. Audio-visual content is very expensive to produce, as such the sector has developed an effective licensing model for the use of clips (both under collective licensing and equally for the use of clips for commercial use). A broadly drafted quotations exception has the potential to seriously disrupt these licensing markets.

Appendix 1:

Australia New Zealand Screen Association (ANZSA) represents the film and television content and distribution industry in Australia and New Zealand. Its core mission is to advance the business and art of film making, increasing its enjoyment around the world and to support, protect and promote the safe and legal consumption of movie and TV content across all platforms. This is achieved through education, public awareness and research programs, to highlight to movie fans the importance and benefits of content protection. ANZSA has operated in New Zealand since 2005 (and was previously known as the New Zealand Federation Against Copyright Theft and the New Zealand Screen Association). ANZSA works on promoting and protecting the creative works of its members. Members include: Village Roadshow Limited; Motion Picture Association; Walt Disney Studios Motion Pictures; Netflix Inc.; Paramount Pictures; Sony Pictures Releasing International Corporation; Universal International Films, Inc.; and Warner Bros. Pictures International, a division of Warner Bros. Pictures Inc., and Fetch TV.

Our members have been active participants in Australia's screen ecosystem since 1926. Our members' support for Australian stories extends right across the screen industry supply chains, from investments in and ownership of Australian production companies like Matchbox and Playmaker, to investment into the production and distribution of Australian stories, as well as investments in physical screen industry infrastructure (e.g. sound stages) and post-production services.

Our members also take an active role in the distribution eco-system, from distribution into Australian cinemas and home entertainment stores, to licensing content to free-to-air TV (with Network Ten now also owned by one of our members), Pay-TV (where they also operate their own branded channels) and all online distribution models (ranging from download-to-own to transactional and subscription video on demand). Now, for the first time, they also operate a number of direct-to-consumer streaming subscription video-on-demand (SVOD) businesses.