Australia's creative and cultural industries and institutions

House Standing Committee on Communications and the Arts inquiry

Australian Writers' Guild Submission

22 October 2020

AUSTRALIAN WRITERS' GUILD

This submission will discuss:

1. The severe negative impact that COVID-19 has had on the screen and theatre sectors, which has been aggravated by recent government policy and funding decisions.
2. The significant and well-established economic and non-economic benefits of a strong screen and theatre sector and the critical need for government to address the market failure in the Australian screen industry.
3. Appropriate and targeted government intervention that will ensure that the screen and theatre sectors recover from the pandemic and grow, including through:

    i. Regulation of the streaming-video-on-demand (SVOD) platforms; and
    ii. An increase in direct funding to the public broadcasters tied to commercial and cultural obligations; and
    iii. Transparency and accountability around the recently announced direct funding to Screen Australia and the Australian Children's Television Foundation (ACTF); and
    iv. Maintaining the producer offset for feature film at 40% and preserving the Gallipoli clause; and
    v. An increase in direct funding to the Australia Council tied to playwright and play development and to support independent small and mid-sized theatre companies.

The Australian Writers' Guild (AWG) is the professional association for Australian screen and stage writers in film, television, theatre, audio and digital media. The AWG has fought for over 58 years to protect and promote the rights of writers. Our vision is to see playwrights and screenwriters thrive as a dynamic and integral part of Australian storytelling: shaping, reflecting and enhancing the Australian cultural voice in all its diversity.

THE IMPACT OF COVID-19 ON THE FILM, TELEVISION AND THEATRE SECTORS

The COVID-19 pandemic continues to have a profound effect on the film, television and theatre sectors**.** This negative impact has only been aggravated by the government's failure to regulate the SVOD platforms, the recently announced changes to regulation in relation to the local content quotas for commercial television, and funding decisions related to both sectors.

In April 2020, the government suspended content obligations for commercial television broadcasters which require minimum amounts of Australian drama, documentary and children's content. This was justified as a response to the interruptions to the supply of this content caused by COVID-related shut-downs in the production industry and to alleviate pressure on commercial broadcasters, who suffered a decline in advertising revenue. This suspension stayed in place for months, causing great uncertainty in the sector. In September 2020, the government announced that the quotas would return in a relaxed form.[1] The government also announced its intention to reduce the vital producer tax offset for feature film from 40% down to 30% as well as to remove the Gallipoli clause which allows producers to claim for expenditure on Australian story elements shot offshore. Most alarmingly, and in spite of widespread industry support for the proposition, the government failed to impose regulation on the streaming-video-on-demand (SVOD) platforms like Netflix, Amazon Prime, Apple TV+ and Disney+ which have boomed during the pandemic, surging by 32% to 16.3 million by June 2020.

Changes to local content quotas will devastate the screen industry – loss of Australian jobs and screen content

The recently announced flexible quotas on the commercial broadcasters will trade short-term gain for the long-term devastation of the Australian film and television industry. The market that Australian drama, documentary and children's television occupies will inevitably be filled by cheaply purchased international content – multi-million dollar products with global name recognition, products that are developed, marketed and distributed by some of the largest

[1] Department of Infrastructure, Transport, Regional Development and Communications, Modernising Australian Screen Content Settings (Accessed on 20 October 2020).

corporations in the world – purchased for a fraction of what that show would cost to make in Australia.[2] Future generations of creators will not have an industry in which to hone their craft. Those seeking to work in a thriving film and television industry will be drawn away from Australian shores.

From 1 January 2021, Seven and Ten will be able to satisfy their obligations by producing *Home and Away* and *Neighbours* alone. Nine, without a serial, can reduce its current annual drama production by 50% from 84 hours to 40 hours (with a standard budget of $1 million an hour). Documentary content under the new points system is not weighted by production value. A cap of 50 hours of commissioned documentaries can be acquitted, with each documentary earning a point per hour. This means that broadcasters can invest comparatively little in documentary content and achieve a fifth of their quota requirement. Foxtel will now only be required to invest 5% of drama expenditure in local content (from 10%) annually from 1 July 2021.

It has been shown time and time again that the Australian public is keen to see local content and public support for the local content quotas as a policy option is well documented.[3] This has been a trend for many years now despite the fact that modern audiences have access to huge catalogues of international content.

To compensate for the unwelcome changes in the local content obligations and particularly the anticipated loss of children's content, the government allocated $53m of funding to Screen Australia and the Australian Children's Television Foundation. This only a partial answer and will not guarantee a strong local screen industry unless the government also stimulates demand and incentivises SVOD platforms and broadcasters to buy Australian product. Furthermore, when public funding is needed in so many sectors, the government should not rely on transitory grants and taxpayer money without acting quickly to impose obligations on the SVOD platforms who have the greatest capacity to support the industry through producing, programming and promoting Australian content.

[2] Peter Grant, 'Stories Under Stress: The Challenge for Indigenous Television Drama in English-Language Broadcast Markets', December 2008, 11-12.
[3] See Screen Australia, 'Currency Report' (2016) and Screen Australia, 'Convergence Review' (2011).

Funding cuts to independent theatres will lead to an increase in foreign plays over Australian plays on our stages

No funding was communicated for the Australian theatre industry. The COVID-19 pandemic resulted in many commercial theatre venues closing in March (and remaining closed) and many seasons being postponed and cancelled.[4] This, coupled with year after year of funding cuts and diversions, has debilitated the sector. The government announced a $250 million rescue package for the arts earlier in 2020[5] but, as of publication, only $49.5 million of that fund had been distributed, and all of that money was directed to the screen sector.[6] The government has an opportunity now to use this fund to support Australian theatre, particularly in relation to playwright and play development.

While the economics of Australian plays at the box office stack up strongly against foreign work, it is still commercially safer to work with a script that has already been through that process (whether it is a play that has proven itself overseas or one that has long ago established itself a crowd pleaser). If Australian playwrights are not supported to develop their plays, they too will leave for more supportive international markets and our stages will be awash with foreign content. There is evidence that loss of playwright development funding in Canada[7] and Italy[8] has resulted in the annihilation of their cultural voices.

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[4] Preliminary research from Theatre Network Australia indicates that an average of 70% of creative projects scheduled for 2020 were cancelled or postponed.

[5] Jade McMillan 'Arts industry to receive $250 million coronavirus rescue package from Federal Government', *ABC*, 24 June 2020.

[6] Kelly Burke 'Arts rescue package worth $250m still waiting to be allocated, Senate estimates told', *The Guardian*, 20 October 2020.

[7] Martin Morrow, 'Provincial funding cuts threaten future of Theatre Ontario', *The Globe and Mail*, 4 October 2019.

[8] Serena Danna, 'European arts cuts: Italian theatre's grassroots bear the brunt', *The Guardian*, 3 August 2012.

THE NEED FOR GOVERNMENT INTERVENTION IN THE SCREEN AND THEATRE SECTORS

The economic and non-economic benefits of a strong screen and theatre industry

The government is well aware from its previous reviews that Australian content has recognised cultural value and is a source of significant revenue.[9] If the government is truly committed to a sustainable local screen industry then it must address the market failure that impacts that industry and it must address the crisis in funding impacting playwright and play development and support to small and mid-sized theatre companies.

According to Screen Australia's 2016 Screen Currency Report (Currency Report), the Australian screen production industry contributed over $3 billion in value to the economy and over 25,000 full-time jobs in 2015.[10] Screen content was also found to attract around 230,000 international tourists to Australia each year, driving an estimated $725 million in tourism expenditure and in 2014/15, total export earnings from scripted narrative content alone were at least $252 million.[11] The economics of Australian television production cannot be uncoupled from the cultural imperative that should be at the forefront of government policy-making in this area. As custodians of Australian culture, the government must prioritise support for Australian creatives, to ensure that they are able to tell Australian stories, and to give Australian audiences the opportunity to see themselves represented on screens and stages. Whether it is in the form of scripted drama, children's television, film, documentary or theatre, it is through these stories we are able to understand ourselves, to laugh at ourselves, to criticise and take pride in our unique national characteristics and traits. The arts allow us to recognise our own past and present condition, and to look to our future as Australians. David Williamson, delivering his State of the Industry address at the 50th anniversary of the AWG, said that our Australian stories "are universal, they don't need to look like our street, or our landscape to be Australian stories – but they do need to have emanated from an Australian perspective on the world. It is Australian perspectives,

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[9] See e.g. Australian Media and Communications Authority and Screen Australia, 'Supporting Australian stories on our screens - Options Paper' (Options Paper) (2020), 8.
[10] Screen Australia, Currency Report (2016), 5.
[11] Ibid, 6.

Australian voices, Australian ways of seeing the world that form the heart of what Australians want to see."[12]

The fact that the Australian public is keen to see local content and public support for the local content quotas as a policy option is well documented.[13] This has been a trend for many years now despite the fact that modern audiences have access to huge catalogues of international content. Theatre companies are also programming in response to Australian audiences wanting to see Australian stories. In 2018, 62% of plays produced by these companies were written by an Australian playwright and 8 of the 10 state theatre companies had at least 50% Australian-written content in their season.[14] In the face of the recent funding crisis, there is a collective fear that Australian stages will once again be swamped by international stories and the success of the hard-fought programming battles of recent years will be obliterated.

The non-economic benefits of a strong arts sector are clear and observable. Studies have shown that stories told from different perspectives increase the viewer's capacity for empathy and understanding needed for a successful multicultural society.[15] People who participate in arts and cultural activities have been observed to have a greater capacity for civic engagement and volunteerism and to have a stronger sense of public justice over those who do not (regardless of demographic traits such as educational attainment and gender).[16] It has also been observed that well told and properly handled stories about mental health issues have a positive effect on people who suffer those issues. Appropriate portrayals of suicide on screen (for example, those that emphasise the negative consequences of suicide on those left behind or indicate alternative courses of action) have been observed to have positive, educative effects.[17] Finally, as so many Australians have seen during the COVID-19 pandemic, the arts has the power to connect all of us and lift our spirits in spite of our separation from each other and the social and economic uncertainty we all face.

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[12] David Williamson, 'State of the Industry Address at the AWG 50th Anniversary' (April 2012).
[13] See Screen Australia, 'Currency Report' (2016), 7; Screen Australia, 'Convergence Review' (2011), 8.
[14] Australian Writers' Guild, *The National Voice* (2018), 3.
[15] A New Approach, 'Insight research series: Report two' (2019), 21.
[16] Ibid.
[17] Mindframe, 'Suicide and the entertainment media' (2019), 13.

Economic intervention in the screen sector – addressing market failure

The government cannot discharge its obligations to Australian culture simply by attracting offshore production or protecting jobs through increases in the location offset or PDV offset, which incentivise our competitors to come here and make their stories at the expense of Australian taxpayers. Regulation must prioritise and support Australian creatives to tell Australian stories. Currently, however, the government provides hundreds of millions of dollars of Australian taxpayer money to Hollywood and international multinationals to make foreign blockbusters in Australia instead of implementing long-awaited obligations on the SVOD platforms.

The US domestic market alone is large enough to return the costs of a highly-marketed Hollywood production – which can have a budget of many millions of dollar per hour – enabling US studios to sell their product in other countries around the world for comparably little. Even a successful local industry will fail under these market conditions and if the government is committed to a sustainable and competitive Australian industry, it must address them.

The economics of international trade in screen content would equate to economic dumping were intellectual property considered a good instead of a service and it would be prohibited. The government must recognise that it is scripted content which is uniquely disadvantaged by this market failure and the incentives and regulation it implements must be responsive to the differing economics of the various streams of screen content.

GOVERNMENT INTERVENTION THAT WILL SECURE A VIABLE AND COMPETITIVE LOCAL SCREEN AND THEATRE INDUSTRY

Regulatory parity across all platforms will ensure a globally competitive screen industry

The government wants screen products with "higher production values and programs with a better prospect of being sold into the global content market."[18] In order to achieve this, it cannot rely on direct investment to funding bodies or increased tax offsets. It must stimulate demand by creating platform neutral content quotas to regulate the streamers and in so-doing provide more pathways to quality production. As stated earlier in this submission, the SVOD platforms are making billions of dollars from Australian audiences and minimise their tax contributions. The amount of Australian content in Netflix's catalogue fell to 1.6% in 2018 from 2.5% in 2017 and, in 2018, its effective tax rate was 0.5%[19]. We continue to argue that the biggest weakness in the current system is that it is not fit for purpose in this age of digital content. The quota system was introduced in an analogue era and has not kept pace with new modes of delivery and accessibility. We note Price Waterhouse Cooper's view that SVOD has 'increasingly become the dominant platform for professionally produced drama'.[20] It is well past time that our content rules were modernised to reflect contemporary viewing habits and consumption and to capture a portion of the budgets overseas entities like Netflix and Amazon expend on programs each year. As revenues and employment levels continue to fall across Australian broadcasters, it is unsustainable that the part of the screen industry with the greatest capacity to pay bears no responsibility to producing, programming and promoting Australian content.

In this dire economic climate, it is therefore not sufficient to merely request that the SVOD platforms voluntarily report their content acquisitions to ACMA. The government must not depend on the goodwill of the media giants it must level the playing field through strong action. It must act quickly implement regulation that is guided by the local industry as well as

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[18] Hon Paul Fletcher, Minister for Communications, CyberSafety and the Arts, 'Media Release: New Funding Budget to Deliver Australian Screen Content' (30 September 2020).
[19] Max Mason, 'Revealed: How much tax Netflix pays', *Australian Financial Review*, 28 October 2019.
[20] Options Paper, 22.

international precedent. In the European Union, the Audiovisual Media Services Directive has extended existing quotas to SVOD platforms to ensure that 30% of catalogue content is European. France is set to transpose this directive into law on 1 January 2021.

The AWG strongly supports regulation similar to the French model. We recognise that more modelling work would be required to determine the obligations on SVODs that would be supported by the Australian industry but a requirement of around 12.5% will likely yield the minimum output to make Australia globally competitive. We also propose that SVOD platforms who do not wish to create their own Australian drama, or who otherwise fail to meet the quotas set by ACMA must be required to contribute a percentage of their revenue into an Australian scripted content development fund with ACMA determining what percentage of revenue each platform owed and in what genres.

Increase of direct funding to the ABC and SBS tied to transparent cultural and economic imperatives; extension of local content obligations to ABC and SBS

Australian children have a right to see themselves reflected on Australian screens and government has a responsibility to ensure that we have stories and a culture of our own to pass on to future generations. Urgent action is needed now that the commercial networks are no longer obliged or incentivised to commission it due to the relaxation of their content obligations. In 2003, the UK removed its children's content quotas on commercial networks. Within two years, spending on children's TV had reduced by more than 90%, forcing their government in 2017 to reintroduce the power to set quotas. Although the government announced that it would boost ACTF's support package by $20m to compensate, there was no announced increase in funding to the ABC and SBS, who will be left with the critical responsibility of programming local content for future generations of Australian children.

The AWG recommends an increase in direct funding to the ABC and SBS, specifically tied to new Australian scripted content. In order 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. The AWG also supports the extension of the local content quota obligations extended to the public broadcasters.

Distribution of Screen Australia and ACTF funding must be transparent and accountable

We acknowledge and welcome the government's announcement of $3 million to Screen Australia for script development and screenwriting. It is a step in the right direction but needs to be coupled with the incentives for the commercial broadcasters and streamers to purchase Australian product. There is no shortage of people capable of writing high-quality scripts and concepts, but current models of funding make it difficult for writers to develop those materials without engaging in a great deal of unpaid work.

Script development funding is essential but it is important to recognise that it alone is not a sustainable way of supporting the screen sector, unless experienced writers are able to access that funding. It is experienced, professional writers who will be creating the high-quality work with international appeal that the government wants to see: shows like *Mystery Road*, *The Heights, Bluey* and *Stateless* that demonstrate that Australian stories matter and are capable of competing with foreign projects for audiences and investment. The distribution of the script development funding must reflect that reality. This necessarily means continuing investment in projects and more creative control for creators, ensuring that experienced writers are paid what they deserve and that they have greater access to funding to stop them from being forced to work in the US and UK.

The direct funding to Screen Australia and ACTF must therefore be coupled with transparency and accountability requirements. The key decision-makers managing these funds must be rotated regularly and representatives from the AWG should form part of these decision-making panels, so creators have a voice in its allocation.

Maintain a 40% feature film producer offset and preserve the Gallipoli clause

The producer offset has been extremely effective in driving high-quality, scripted drama production and it is the primary incentive to produce Australian films with significant Australian content. Australian feature filmmakers are responsible for defining our cultural identity on a global scale and driving tourism to our continent through iconic successes such as *Crocodile Dundee*, *The Adventures of Priscilla, Queen of the Desert* and *Strictly Ballroom*.

The government announced in October 2020 that it intended to reduce the feature film producer offset from 40% down to 30% and that it intended to remove the Gallipoli clause. The AWG is not aware of any industry stakeholders that were calling for this change. It will create a chasm in feature film financing that cannot be filled in an unregulated environment. The loss of Gallipoli clause will also create further barriers, including for Australian documentary, since it will be more costly to conduct overseas interviews or film in international locations. The market failure that affects the television sector also affects feature film and an Australian feature will have difficult competing with a heavily marketed US product without government intervention. We urge the government to reconsider this decision and request that in future it more closely liaise with the industry to implement forward-thinking and sustainable policy with respect to feature film.

Adequate funding to the Australia Council specifically to support independent small to mid-sized theatre companies

As stated earlier in this submission, Australian audiences have an appetite for Australian content on our stages and large theatre companies develop their programs with that in mind. In 2018, Ensemble Theatre and Melbourne Theatre Company programmed 40% and 18% Australian-written content respectively and Melbourne Theatre Company's $4.6 million five-year Next Stage Program, setting a new benchmark for playwright commissioning and development. Other Australian independent small to mid-sized theatre companies are not in a financial position to roll out such an extensive offering to their writers. National support is still essential to the survival of Australian playwrights.

The Australia Council's four-year funding announcements in April 2020 dealt a hefty blow to the playwriting community in Australia. Notable companies with fine reputations for commissioning, developing and producing new Australian plays were unsuccessful in their applications, further diminishing opportunities for writers in the small to mid-sized sector. Revered companies such as the Australian Theatre for Young People (ATYP), La Mama, The Blue Room and Hothouse were amongst those to miss out.

When PWA commissioned the Richard Evans Review in June 2019 to consider the most effective and sustainable model of supporting play development, the AWG conducted its own extensive research and facilitated public and online forums. 52% of written feedback to the REĂ Review was provided by AWG respondents. Throughout this process, playwrights celebrated the independent and mid-sized companies for affording them opportunities for growth. ATYP's National Studio was referred to as 'one of the best script development programs in the country' and La Mama was described as 'a powerhouse, an open house and the most democratic, welcoming organisation for playwrights in Melbourne and beyond.'

In order to achieve more pathways for playwrights and the production of Australian stories on our stages, the Australia Council must be adequately funded and a greater share of that funding must be directed to theatre. In particular we recommend that the funding of small- and mid-sized theatre is prioritised, since those companies do not have the same level of support as the state theatre companies. The funds that are distributed by the Australia Council should come with a clear mandate for minimum requirements in the development and staging of new Australian work.