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Ref: BMIN17001274R

Mr Luke Howarth MP
Chair
House of Representatives Standing Committee on Communications and the Arts
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Dear Mr Howarth

On behalf of the Premier of Victoria, the Hon Daniel Andrews MP, thank you for the invitation to make a submission to the Inquiry into the Australian Film and Television Industry.

Victoria's screen industry is a significant contributor to the economy, generating valuable employment and business activity, and producing a diverse range of content that informs, inspires and entertains audiences across the globe.

The Victorian Government has three agencies dedicated to strengthening, facilitating and promoting Victoria's screen industry and we are committed to growing this sector through our creative industries strategy, *Creative State* and associated investment.

While state government support is essential, it is government intervention at the Commonwealth level that most significantly and directly influences the growth and sustainability of the Australian film and television industry.

Fundamental changes in the way we view content have created structural disruption that requires us to reassess the financing, regulation, support mechanisms, rights and all the frameworks that underpin Australia's screen industry.

Commonwealth Government interventions have not kept pace with technological change, and are now out of date, leaving the industry vulnerable and exposed. Unless this is addressed, our industry will continue to lose competitive ground, less Australian film and television content will be made, production activity and employment will decline, and ultimately, fewer Australian stories will be told.

The attached submission outlines some of the key challenges facing Australia's screen industry and proposes changes to current support mechanisms offered at the Commonwealth level. Key areas addressed include regulation (such as Australian content quotas, broadcast licence fees and licence fees for television programs), funding cuts to Screen Australia, the ABC and SBS and the inadequacies of the Producer and Location Offsets.

I look forward to hearing of the outcomes of this Inquiry.

Yours sincerely

Martin Foley MP
Minister for Creative Industries

Date 12 / 4 / 2017

Att: Inquiry into the Australian film industry – Victorian Government Submission

Inquiry into the Australian film and television industry

Victorian Government submission

Introduction

- / The Victorian Government has three agencies dedicated to growing Victoria's screen industry. Film Victoria provides strategic leadership and assistance to Victorian creators of film, television and digital media by investing in projects, businesses and people, and promoting Victoria as a world-class production destination nationally and internationally. Docklands Studios Melbourne (DSM) is Victoria's premier film and television production studio facility and the Australian Centre for the Moving Image (ACMI) is our national museum of film, television, digital games, digital culture and art.
- / Victorian Government support for the Victorian film and television industry is focused on the creation and production of feature films and television drama, comedy and documentaries. These are generally high cost productions and experience a significant degree of market failure unlike other types of screen content such as reality television, news or sports.
- / While Australian screen content is expensive compared to the equivalent imported content, it typically offers more cultural and social benefit. Very few domestic feature films, television drama series, and documentaries would be produced and screened without government intervention in the marketplace.
- / The factors contributing to the growth and sustainability of the Australian film and television industry are of great interest to the Victorian Government and we welcome the opportunity to make a submission to the Inquiry.
- / We also welcome and encourage any Commonwealth Government review of content quotas and the level of the incentives provided for screen production. To secure the long term future of the Australian film and television industry we require a more holistic approach to the various support measures and mechanisms offered at the Commonwealth level, and greater scrutiny.
- / The issues raised in this submission are not new and many have been repeatedly identified by the industry as it endeavours to remain viable and competitive in a global industry that continues to undergo significant change. Some of these issues require legislative change, which is often time consuming to enact. We therefore urge the Commonwealth Government to take swift action to address the factors that are hindering the growth and sustainability of our local film and television industry, and its future success.

Need for government intervention

- / Australia's film and television industry largely owes its existence to Commonwealth and State government support that emerged in the late 1960s and early 1970s in response to market failure. Successive governments have recognised that the creation of diverse and engaging locally produced screen content plays a critical role in the cultural identity of Australian citizens. Film and television content has a unique ability to reflect our society, history, values, diversity and humour through Australian stories that can be shared with each other and the world.
- / The market failure, whereby local broadcasters and exhibitors can acquire foreign content for a fraction of the cost of content created and financed wholly by independent Australian production businesses, has been key to the need for government intervention.

- / The Australian film and television industry, like most other film and television industries across the globe including the United Kingdom (UK), Canada and New Zealand, requires government support for its ongoing sustainability.
- / The United States of America (USA) is the only English language market that does not require direct government support as the size of its population allows its domestic market to almost entirely fund local production. The domination of US-produced content in the global export market further increases its profitability.
- / A range of factors make it difficult for Australian film and television producers to compete in both the domestic and global marketplace. Without direct and indirect Commonwealth and state government support for the production of Australian content, our screens would be dominated by US and UK content, which can be acquired at a much lower cost. Our local voice would be lost and our cultural identity stymied.
- / All Australian states and territories seek to increase the level of film and television production activity in their jurisdiction. This indicates a national consensus on the value of the industry, the benefits it delivers to all Australians and the need to ensure its future health.
- / Australia's film and television industry delivers significant economic, cultural, and social value, the extent of which was measured in the recent Screen Currency report. The report determined that the production of feature films, drama television, and documentaries under Australian creative control generated \$847 million and 7,650 full time equivalent jobs in 2014-15¹. The economic contribution made by the broader screen industry is substantially larger.
- / Continued government support has helped to establish a world class industry. Australia's record 13 nominations across three locally produced feature films at the 2017 Academy Awards is just one measure of the quality, success and maturity of the industry.
- / While state government support is essential, it is government intervention at the Commonwealth level that most significantly and directly influences the growth and sustainability of the Australian film and television industry. While the impact will vary from state to state, all states can benefit from Commonwealth Government support, unlike other industries such as mining that are typically concentrated in two or three states.
- / Commonwealth Government intervention in the Australian film and television industry is wide ranging and broadly fits into four areas:
 - Direct financial support to subsidise the cost of production via funding for Screen Australia, the ABC and SBS
 - Indirect financial support via tax rebates through the Australian Screen Production Incentive i.e. Producer Offset for domestic production and Location Offset and Post Digital and Visual Effects (PDV) Offset for international production
 - Regulation including content quotas, spectrum allocation, broadcast licence fees paid by commercial broadcasters, copyright and industrial relations
 - Support for organisations that form part of the broader industry ecosystem such as the Australian Film, Television and Radio School (AFTRS) and the National Film and Sound Archive.

Most of these areas have a direct impact on production activity levels and are key to ensuring the sustainability and growth of the industry.

- / Direct financial support towards the cost of content production has the most significant impact on the level of production activity and stimulates growth and opportunity across the film and television ecosystem. Ongoing investment in projects of different formats, budgets and genres has allowed Australian cast, crew and supporting businesses (e.g. drone and camera companies) to hone their

¹ Screen Currency: Valuing our screen industry, Screen Australia, 2016.

skills and be innovative with their products and processes, which can then be exported to the world.

- / Skilled talent (cast and technicians) is necessary to the sustainability and growth of the Australian film and television industry, and we are home to some of the best in the world. However without a significant level of production activity, we'll see the erosion of our talent pool and fail to attract, retain and develop the skills and expertise the industry needs to thrive.
- / While government support to date has been successful overall, some key interventions have not kept pace with technological change that is challenging industry sustainability.
- / If this is not addressed as a matter of urgency, the Australian film and television industry will fall further behind its competitors. Less Australian screen content will be produced, which translates to fewer Australian stories (cultural and social outcomes) and lower levels of production activity and employment (economic outcomes).
- / Achieving sustainability and growth requires government intervention to:
 - guarantee a baseline of Australian film and television content production through appropriate funding and regulation to:
 - ensure Australians are able to see Australian society reflected on screen (cultural and social outcomes)
 - provide a minimum and continuous pipeline of film and television production activity to sustain the local industry (economic outcomes).
 - encourage international and private investment to facilitate additional industry growth.
- / Significant industry growth is achievable with the right level and mix of government interventions. Existing interventions are interlinked and any changes to one area should be viewed holistically, mindful of the impacts – and to ensure the best possible benefit – to the broader industry ecosystem.
- / Importantly, future government intervention must support screen production across all theatrical, free to air, subscription and online platforms. As audiences shift toward new platforms, government support must be flexible in order to ensure that Australians continue to access Australian content no matter what platforms they use.
- / The traditional distinction between film and television is becoming irrelevant as audience viewing of screen content is now spread across multiple platforms and devices. Funding and regulation that remains tied to old definitions hinders the growth and future of the Australian screen industry by favouring some sectors over others.
- / Where possible, government interventions should be platform or industry sector agnostic. This approach would be particularly useful for the Australian Production Incentive Scheme to reduce complexity and provide certainty for both domestic and international productions. While the focus of this submission is on existing government interventions, consideration must also be given to additional forms of government intervention that can drive innovation and growth.

Areas for action

Domestic television production

- / Commonwealth Government support for the production of original Australian drama, comedy, documentary and children's content is essential to ensuring that all Australians can access Australian content, primarily via free to air (FTA) television but also through cable subscription services, and online services such as Stan, Netflix and Amazon Prime.

Content quotas

- / The Australian Content Standard is the core government intervention that ensures Australian content is produced and screened on domestic broadcast services. The content quotas mandate the minimum number of total hours of original FTA Australian television content and sub-quotas apply for first release Australian drama, documentary and children's television. The content quotas only apply to commercial FTA broadcasters (i.e. Seven, Nine and Ten networks). For the purposes of this submission, we are concerned with the sub-quotas.
- / Several definitions and rules in the legislation associated with content quotas should be reviewed to ensure the legislation does not create circumstances that negatively impact the current and future industry. For example:
 - *Sub-quotas do not apply to secondary channels*: The proliferation of secondary channels on FTA television, resulting from the reallocation of spectrum, has not translated to more Australian first release drama, documentary or children's content being produced and screened. These channels are primarily filled with inexpensive imported product and re-runs of older content and have subsequently increased the overall amount of foreign content on FTA television.
 - *Content quotas do not apply to Subscription Video on Demand (SVOD) services*: SVOD services fall outside the definition of a "broadcasting service" because they deliver content via the internet not spectrum. Subsequently, new players in the screen content landscape such as Netflix are not subject to content quotas (or a range of other regulation) imposed on traditional television broadcasters. This appears contrary to the original intent of the *Broadcasting Services Act 1992*, which was to apply a simple regulatory regime to television "irrespective of the technical means of delivery"².
 - *New Zealand productions can be counted as Australian*: The object of the content standard is to promote the role of commercial television services in developing and reflecting a sense of Australian identity, character and cultural diversity³. The sub-quotas in particular help achieve this objective. Arguably, content that has been produced in New Zealand does not reflect Australian identity to the same extent as content produced in Australia. The definition of "first release" should be reviewed so that a New Zealand program that has already been screened in New Zealand does not count as first release content in Australia.
- / The ultimate impact of inadequate regulation is that fewer hours of Australian screen content will be made for Australian audiences. This translates to lower cultural and social outcomes in addition to lower economic outcomes through reduced levels of production activity and employment.

Broadcast licence fees

- / Technological innovation has changed the way audiences consume screen content. They can now watch what they want, when they want on a variety of platforms and devices. This has fragmented audiences across existing and new platforms, resulting in lower advertising revenue for commercial broadcasters as it has become increasingly difficult for them to deliver audience levels once achieved on traditional television.
- / The Commonwealth Government introduced a 50% rebate to broadcast licence fees in 2011. The rebate continued until the fees were permanently reduced by 50% by changing the way fees were calculated under the *Television Licence Fees Amendment Act 2013*.
- / The Commonwealth Government permanently reduced licence fees for commercial broadcasters again by 25% in the 2016-17 Federal Budget⁴. It is estimated that the latest 25% reduction in

² Screen Producers Australia, Subscription Video on Demand Services, Position Paper 2017.

³ Screen Australia website, Television Industry Content Regulation webpage accessed 28 March 2017.

⁴ Media release, 3 May 2016, Senator the Hon Mitch Fifield, 'Supporting Public Broadcasting and Creating a More Competitive Environment for Commercial Broadcasters'.

broadcast licence fees will “lift the collective earnings of the three main broadcasters by an estimated \$150 million”⁵.

- / Cuts to broadcast licence fees have recognised the financial pressures commercial broadcasters are facing due to the changing media landscape, such as declining advertising revenue and competition from Netflix and other new players that do not pay licence fees. Ongoing cost pressures and competition may result in the demise of one or more FTA commercial broadcasters in the next three to five years.
- / In addition to speculation about further broadcast licence fee reductions, commercial broadcasters are reputed to be seeking a reduction in content quotas due to the same financial and competition pressures. As stated earlier, content quotas are at the core of ensuring Australian content is aired on FTA television.
- / The reduction in licence fees should make more funds available to commercial broadcasters to commission local content and meet the existing quotas, therefore, a reduction in content quotas on top of the broadcast licence fee reductions lacks a strong justification. Any further cuts to licence fees should be contingent on a commensurate increase in a diverse slate of local content.
- / While we acknowledge the challenges faced by commercial broadcasters, changes to broadcast licence fees, content quotas and other regulation must be considered for their impact on the whole Australian screen industry, the production of local content and Australian audiences.

Licence fees for television programs

- / When broadcasters commission Australian content they pay a licence fee to the producers. This fee is negotiated between the broadcaster and producer and varies by type and length of content. Screen Australia requires a minimum licence fee for drama and children’s television projects seeking direct funding (i.e. in addition to the 20% Producer Offset).
- / Licence fees paid by broadcasters have remained static or have declined. This is despite the increasing cost of production, driven by broadcaster and audience expectations of higher production values, as well as wage and expense CPI increases. In addition, broadcasters are seeking more rights across multiple channels of platforms for the same level of investment as well as taking an equity investor position.
- / These trends are reducing the financial sustainability of individual production companies as they are increasingly squeezed on both raising the finance required for production and the financial return on the project. Broadcasters have greater market power than independent Australian production companies, which are typically small businesses. Producers therefore usually have to accept the offer made by broadcasters and this reduces the financial sustainability of individual production companies and in turn, the broader screen production industry.
- / Increasing difficulty faced by producers in financing content will impact the number of hours and/or quality of Australian content produced.

Funding cuts to Screen Australia, ABC and SBS

- / Screen Australia supports drama, documentary and children’s television production commissioned by both commercial and public broadcasters. Very few television programs are produced without direct financial support from Screen Australia (i.e. in addition to the 20% Producer Offset).
- / Screen Australia has had three rounds of funding cuts since the 2014-15 Federal Budget, which total \$51.5 million. Screen Australia has reduced staff and implemented other operational efficiencies in order to minimise the impact on funding for the industry. However, these savings appear to have been maximised and actual cuts to program funding of 6% across the board are expected to occur in 2016-17.

⁵ <http://www.theaustralian.com.au/business/media/licence-fees-cut-by-25-per-cent-to-counter-netflix-effect/news-story/c862667ba2ad2262501500415dda35b8>

- / While content sub-quotas mandate the minimum number of hours that commercial FTA broadcasters must air, the number of hours of first release Australia drama, documentary and children's television commissioned by public broadcasters (i.e. ABC and SBS) is impacted by their available funding from the Commonwealth Government.
- / The ABC and SBS suffered significant funding cuts in 2014-15 of \$254 million and \$25.2 million respectively over five years as part of efficiency saving measures imposed by the Commonwealth Government. Staffing cuts and operational efficiencies have been implemented by both organisations to minimise the impact on programming. Nonetheless, programming and content production for some television programs has reduced or ceased as a result of the funding reduction.
- / While drama series such as *Miss Fisher Murder Mysteries* and documentaries such as *Go Back To Where You Came From* have demonstrated the ability for locally made content to be exported, Australian television is made first and foremost for the domestic market.
- / The financing pool in Australian television production is primarily limited to the broadcasters, SVOD and other services, Commonwealth and State government, and Australian production companies. Reduced funding for any of these investors impacts the level of Australian television production, meaning fewer Australian stories (cultural and social outcomes) and less production activity and employment (economic outcomes).
- / The Commonwealth Government should consider the minimum number of Australian first release content hours that the ABC and SBS should be responsible for screening and in conjunction, consider the appropriate range and level of funding and regulatory measures to support this.

Producer Offset

- / The Australian Screen Production Incentive was announced in the 2007-08 Federal Budget and subsequently enacted in legislation. The legislation introduced the Producer and PDV Offsets and enhanced the Location Offset. The explanatory memorandum introducing the legislation states several aims including:
 - Encourage growth of the Australian screen production industry
 - Provide a support mechanism for film and television producers
 - Assist the industry to be more competitive and responsive to audiences.
- / These aims remain just as relevant today, however, the operation of the legislation is no longer as effective due to significant technological change and the increased globalisation of screen content production over the last ten years.
- / The increase in quantity of and access to high end television dramas such as *House of Cards* and *Game of Thrones* has increased audience demand and expectations for, quality screen content, which is more expensive to produce. Australian dramas are competing with these international programs and therefore must increase their production value to attract audiences and compete successfully for export sales.
- / Increased production costs and reduced funding have seen a shift to fewer episodes being produced per series. The 2015-16 Screen Australia Drama Report highlights the continuing trend away from longer series (>13 episodes) to mini-series (<13 episodes). This means that less Australian content is being produced relative to the available funding pool.
- / The cost of producing quality Australian drama, documentary and children's television, relative to imported content, means that there is little incentive for commercial broadcasters to produce more content than is required by the content quotas.
- / The 20% Producer Offset for television and other non-theatrical film formats has remained unchanged since its introduction in 2007. An increase to the Producer Offset for television would recognise the rising costs of production and the other challenges faced by Australian broadcasters

and production companies to producing original Australian content. An increase to the Producer Offset would also help local production compete for international finance.

- / An increase to the Producer Offset may also encourage additional production by platforms that are not subject to the content quotas and are not required to produce Australian content (e.g. Stan) as the cost of production may become more within their reach.

Children's television

- / The amount and proportion of live action children's television drama has been in decline for over a decade⁶. Live action children's television drama is just as expensive to produce as most adult television drama and is usually more difficult to finance due to the localisation of stories. Consequently, commercial broadcasters are meeting their content quota requirements by airing more low cost animated content, which is often partially produced offshore where cheaper labour is available and additional financing can be accessed.
- / Animated programs are often financed as co-productions which can require the episodes to reflect a more "international feel" in order to meet the expectations of the co-production partners. As a result, these animated programs may not reflect the same Australian character or storylines as live action programs. For example, animated series *Kuu Kuu Harajuku* follows the adventures of G (whose character is based on American singer Gwen Stefani) and the Harajuku Girls in Harajuku World and their talented band, HJ5. By comparison, live action series *Little Lunch* tells fun and touching stories from a typical Australian primary school playground.
- / The decline in live action children's television drama means that fewer distinctly Australian stories are available to Australian children. The ability for children to see themselves reflected on screen is particularly important. There is a strong rationale to ensure Australian children continue to have access to high quality content that reflects Australian society, identity, humour and the world in which they live, as opposed to having access to predominantly US or UK content.
- / Australia is a world leader in the creation of high quality children's television drama. Series such as *My Place*, *Dance Academy*, *Lockie Leonard*, *Mortified* and the iconic *Round the Twist* have provided an enduring legacy for generations⁷. The ongoing support of children's drama would ensure new series reflecting Australian life continue to be created and endure throughout time.
- / Content regulation has underpinned the production of local children's content, however, the current regulatory framework has issues that impact the sustainability of children's television. For example, a children's television program is determined to be Australian based on its producers/creators rather than its content, which is how an animated series skewed to have an international feel is counted as Australian content. Alternative approaches should be considered to ensure that Australian stories are produced primarily for Australian children.
- / The ABC is the most significant commissioner of Australian children's television. However, the ABC has no obligation to produce children's content and in the face of funding cuts, the amount of funding allocated to children's television production could continue to decline. We would welcome a quarantined allocation of funding for the ABC specifically directed towards commissioning independent live action children's drama.
- / The current regulatory framework does not adequately support the production of unique Australian stories for Australian children. As such, we strongly encourage the Commonwealth Government to undertake a review to examine the existing regulation, especially content quotas for children's television.

⁶ Screen Australia, Child's play: Issues in Australian children's television 2013.

⁷ Australian Children's Television Foundation, Submission to the 2011 Convergence Review.

Domestic feature film production

- / The operating environment for domestic feature film production is more challenging than ever before. Australian films face strong competition from USA blockbusters and internationally backed independent films, which usually have much larger production budgets, A-list cast, and greater marketing spend. This gives these films a stronger ability to create audience awareness, which drives the high level of success they achieve at the Australian box office.

Funding cuts to Screen Australia

- / As outlined earlier in relation to domestic television production, funding cuts to the direct support provided by Screen Australia will also have a direct impact on the level of domestic film production. This is particularly problematic when raising the finance to meet the production cost of feature films is becoming increasingly difficult.
- / Adequately supporting domestic film production is especially important if we are to continue to create high quality feature films such as *Lion*, *The Dressmaker*, *The Water Diviner*, *Paper Planes*, *Oddball* and *Red Dog*, which primarily resonate with Australian audiences. International success achieved by Australian feature films is a supplementary outcome, providing further value from projects.

Outdated legislation

- / Australian feature films can access the 40% Producer Offset if the film is intended to have a cinema release, otherwise they are eligible for 20%.
- / Changes to the way audiences consume content means that a direct to SVOD or similar release plan can be more appropriate to distribute the film and a more successful way to reach an audience, particularly for lower budget films that are often the entry point for new writing and directing talent.
- / The cost of marketing and promotion to ensure a successful theatrical release is prohibitive for the majority of Australian films, especially in the face of intense competition from US blockbuster movies.
- / A direct to SVOD approach is often combined with a limited theatrical release on the festival circuit to help build word of mouth, but this approach may not technically meet the definition of a theatrical release. Being unable to access the 40% Producer Offset places lower budget films at a disadvantage.
- / As stated earlier, one of the aims of the Australian Screen Production Incentive is to “assist the industry to be more competitive and responsive to audiences”. Limiting eligibility for the 40% Producer Offset to films that have a theatrical release is at odds with this objective and no longer reflects the reality of the marketplace.
- / The legislation should be reviewed to ensure definitions reflect and respond to the current marketplace and the way in which audiences of different demographics prefer to view content. This will help stimulate the industry and better meet the needs of audiences, particularly those in regional areas.

Footloose production

- / There is a natural constraint on the amount of Australian film and television content that can be produced due to the small size of the Australian population, which in turn places limitations on the number of broadcasters, online platforms, exhibitors, distributors and financiers the domestic marketplace can sustain.
- / Foreign investment via international footloose production is therefore important to supplement the Australian screen industry. Importantly, footloose production is complementary to domestic

production and both types of production are necessary to ensure a strong and sustainable industry.

- / Film and television projects are considered “footloose” when they have the capacity to locate production in one of a number of territories. The territory that offers the best “package” of financial incentives, locations, facilities and personnel relative to the production’s needs will usually be successful in attracting the project.
- / The global footloose production market has experienced strong growth and Australia is well placed to capitalise on this with the right supporting framework.
- / Footloose productions deliver significant benefits as they are typically larger in scale than domestic productions, bringing higher levels of expenditure and employment. Benefits of footloose productions include:
 - *Direct benefits* to the Australian film and television industry including longer employment, higher salaries, skills development opportunities, and knowledge transfer from international practitioners
 - *Enduring benefits* to the Australian film and television industry as footloose productions are typically more ambitious in their production values, take longer to complete, and offer higher margins to local businesses. This gives businesses the confidence to invest in new technology, specialist equipment and staff training, which in turn leads to enhanced capabilities that sustains them through leaner periods. These improvements then become available for use by the local industry
 - *Flow through benefits to other sectors* of the economy such as hospitality, accommodation, retail, transport and construction.

The Location Offset is uncompetitive

- / Since 2000 there has been a proliferation of tax incentives worldwide that are designed to attract footloose film and television production. Australia was one of the first territories to introduce a tax incentive of this kind. The Commonwealth Government increased the Location Offset from 12.5% to 15% in 2007, then to 16.5% in 2011 but it has remained unchanged since.
- / The explanatory memorandum introducing the Australian Screen Production Incentive states the Location Offset aims to:
 - Encourage large scale productions to locate in Australia
 - Provide greater economic, employment and skill development opportunities.
- / Like the Producer Offset, these aims remain just as relevant today, however, the current limitations of the legislation have significantly reduced its effectiveness in the face of changes to the global screen industry over the last decade.
- / Australia’s 16.5% Location Offset is now one of the lowest in the world and we are losing opportunities to more competitive jurisdictions, such as New Zealand, offering 20-25%; United Kingdom offering 25%, and Hungary offering 30% to attract footloose production.
- / The Commonwealth Government has recognised the Location Offset is uncompetitive by “topping up” the incentive on a case by case basis to a more competitive 30% for some productions including *Pirates of the Caribbean: Dead Man Tell No Tales*, *Thor: Ragnarok*, *Alien: Covenant* and *Aquaman*.
- / There are two key disadvantages associated with this “top up” approach:
 - *Lack of transparency, certainty and consistency for international producers:* Footloose productions are not guaranteed the top up. The top up approach lengthens the decision making process and has, on occasion, put Australia out of contention. For example, *Tomb Raider* and *The Martian* are examples of projects that were not offered a top up and located production

elsewhere. US studios plan their production slates two to three years in advance and need certainty of the government incentives available to determine the best location for their project. The top up approach risks international studios not considering Australia as a first choice option.

- *Unfairly advantages some regions:* The productions that have received top up funding have typically been very large budget, studio based productions (>\$100 million Australian spend). Fox Studios in Sydney and Village Roadshow Studios on the Gold Coast are the only facilities of sufficient size to meet the needs of such productions. As a result, other state capitals and regional areas are missing out on opportunities to host small to medium sized footloose productions that are equally valuable in terms of economic impact.
- / Australia's attractiveness as a destination for footloose production is also impacted by the exchange rate. There is a close correlation between the exchange rate and the level of footloose production in Australia. Australia is a much more competitive destination for footloose production when the Australian dollar is less than 75 US cents.
- / When it comes to wages and cost of living compared to competitor jurisdictions, bringing a production to Australia is a relatively high cost proposition.
Lifting the Location Offset to a more competitive level would recognise this and the need to offer a higher incentive to attract and maintain a regular supply of footloose production
- / Footloose television pilots from US networks and cable programs do not qualify for the Location Offset. Attracting a television pilot will usually mean that the series will be produced in the same country, if the pilot is greenlit. Footloose television is a growing market that Australia is well placed to capitalise on with the right supporting framework. We would welcome changes to the offset legislation to introduce television pilots as an eligible format and adjust the Australian expenditure threshold accordingly.

Location Offset and PDV Offset are mutually exclusive

- / The Commonwealth Government introduced a Post, Digital and Visual (PDV) Offset in 2007 as part of the Australian Screen Production Incentive. In 2011, it was recognised that the existing incentive was uncompetitive and it was increased from 15% to 30%. This has been successful and has helped establish a world class PDV industry in Australia. For example, Victoria's two key visual effects companies, Iloura and Luma, have built international reputations. Iloura's work on the *Game of Thrones* was recognised with an Emmy Award, while Luma has worked on Marvel films including *Deadpool* and *Avengers*.
- / However, footloose productions are only able to access either the Location Offset or the PDV Offset, meaning the Australian film and television industry misses out on opportunities for both filming and post production to be completed here. For example, Iloura, Luma and other local companies would not be in contention to complete the PDV work for *Aquaman*, which is shooting in Queensland. Conversely, projects looking to undertake PDV work in Australia will not consider shooting here also because the incentive regime does not allow them to do so. There is a strong rationale to decouple the Location Offset and PDV Offset.

Streaming services ineligible for the Location Offset and PDV Offset

- / Television content produced solely for online platforms, whether SVOD or streaming platforms, are not eligible for the Location Offset or PDV Offset. This means that Australian companies are less competitive when pitching for production opportunities with Netflix, Amazon and others who are spending billions of dollars globally to commission original drama and documentary series. This is limiting the ability of Australian companies to finance and export their IP to the international market.

- / For instance, Netflix will spend nearly \$6 billion on content in 2017 and is aiming to launch 1,000 hours of high-quality original content, up from 600 hours in 2016⁸. Amazon's streaming service spent an estimated \$3.2 billion on content in 2016 and is likely to double its spending on video content and triple its spending on originals in the second half of 2017⁹.
- / If a television program is also screened on a traditional broadcast platform, it is eligible for the Location and PDV Offsets. However, as Netflix and other online platforms seek to grow and protect their global market share by preventing their content from being screened on alternative competitive platforms, new footloose television productions will not be eligible to access the offsets in the future.
- / As stated earlier, footloose television is a growing market that Australia is well placed to capitalise on with the right supporting framework. The relevant legislation should be reviewed to ensure all definitions are up to date and to maximise opportunities for the Australian film and television industry.

Other factors

- / A range of other factors impact the growth and sustainability of the Australian film and television industry. Some of these issues are briefly highlighted below.
 - *Copyright*: The Australian film and television industry has raised a range of concerns in relation to copyright as part of the Productivity Commission inquiry into Australia's Intellectual Property Arrangements. The ability of content producers to generate revenue from their work must be protected.
 - *Trade agreements*: Sufficient cultural protections in trade agreements must be in place so that Australian content is not swamped by cheap foreign content.
 - *NBN rollout*: Digital technology has changed the way that audiences consume content, with the growing popularity of "catch up" (e.g. ABC iView, Tenplay) and SVOD services (e.g. Stan, Netflix). A quality broadband connection is essential for this.
 - *Piracy*: Copyright theft is a significant and increasing problem in Australia that adversely impacts the film and television industry. Measures to address piracy should be considered as part of a broader government review into support for the industry.

Note to committee

- / Ian Robertson, President of the Film Victoria Board, has considerable industry expertise and has served on numerous industry boards. Mr Robertson would be pleased to provide the committee with further information and insight into the Australian film and television industry at a hearing.
- / Any questions or other follow up on this submission can be directed to:

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03 9660 3230

⁸ <http://www.fool.com/investing/2017/01/26/netflix-inc-will-launch-1000-hours-of-original-con.aspx>

⁹ <http://www.forbes.com/sites/greatspeculations/2016/12/29/can-original-programming-be-netflixs-key-competitive-edge-in-2017/#3291a4ac1fe4>