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Inquiry into Australian content on broadcast, radio and streaming services

Committee Secretary
Senate Standing Committees on Environment and Communications
PO Box 6100
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Canberra ACT 2600

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The Australian Screen Association (ASA)[a] appreciates the opportunity to participate in this inquiry. Our members are active in both the production and distribution of Australian film and TV content, and are passionate about its success. Our member companies own production companies such as Matchbox and Playmaker (owned by NBC Universal and Sony Pictures Television respectively), to film distribution companies which have distributed successful Australian films such as The Dressmaker, The Water Diviner and Railway Man. The six US-based members of ASA have partnered in the production of ten local films and acquired 48 for local theatrical distribution since 2001, and also partnered in the production of at least 13 local TV series since 1998.[b]

As part of a coalition of organisations entitled the Australian Film & TV Bodies, ASA has participated in the Australian and Children's Content Review and in the House of Representatives Standing Committee on Communications and the Arts' inquiry into factors contributing to the growth and sustainability of the Australian film and TV industry. We encourage the Committee to review these submissions, which we attach as Appendices C and D for your convenience.

This submission will focus on the economic value of Australian content for film and TV specifically, but it is important to note that its value goes far beyond that; Australian stories reflect who we are, make us think about the world we live in, and who we aspire to be.

COPYRIGHT INDUSTRIES ARE A CRUCIAL PART OF THE AUSTRALIAN ECONOMY

The Australian Copyright Council has recently released a study[c] which shows the central role copyright industries play in the Australian economy. Australia's copyright industries generated $122.8bn in economic value (7.4% of GDP) and employed over 1 million people (8.6% of the workforce) in 2016. This means the copyright sector generated more economic output than, for instance, the manufacturing, healthcare and mining sectors. However, Australia's copyright industries are under pressure. Their share of Australia's total economic output has declined from 9.7% in 2002 to 7.4% today. As a share of total employment, the copyright industries' contribution has contracted from 10.9% in 2002 to 8.6% today, with actual employment declining by 0.2% on average over the past five years.

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[a] Further information on ASA is available in Appendix A.
[b] Motion Picture Association, *Production Partnerships and Acquisition of Local Films and TV Series in Australia by US Studios*,https://mpaa.sharepoint.com/sites/researchhub/Lists/MPAAReports/MPA_Production_Partnership_Report_for_Australia_2017.pdf [publicly available citation to be made available shortly].
[c] Australian Copyright Council, *The Economic Contribution of Australia's Copyright Industries 2002 – 2016*, http://www.copyright.org.au/acc_prod/ACC/Research_Papers/PwC_Report-_Value_of_Copyright_Industries.aspx

This trend is relatively new. As Dr George Barker observes in a 2017 study, prior to the spread of broadband internet in 2001, Australia's core copyright industries were growing in terms of both economic contribution and employment at twice the rate of the overall economy.[d] Barker also looked specifically at the Australian Film and Video Production and Post Production industries (FVPP), which also grew at a rate greater than the overall Australian economy before 2000, and have experienced slower than average GDP growth over the past sixteen years. The cumulative effect is a net loss of $1.48 billion dollars since 2000 to the Australian economy in Value Add. In GST tax contributions alone this amounts to a loss for Australia of $148 million. Moreover, the gap is widening. If employment had continued to grow at the same pre-2000 levels, employment in FVPP would have been a staggering 79% higher than it is presently, equating to nearly 13,000 more FTE jobs.

IT IS HARD TO FILL A LEAKING BOAT; THE IMPORTANCE OF STRONG COPYRIGHT LEGISLATION AND EFFECTIVE ENFORCEMENT

Whilst the internet era has contributed to an increase in the consumption of copyrighted works, there has been a large displacement of legitimate consumption to infringing consumption, resulting in a smaller marketplace overall. Some of the more successful Australian films of the past few years illustrate this trend.[e]

Title	Australian Box Office (AU$)	Global Box Office (US$)	Total illegal Australian downloads	Total illegal worldwide downloads
Hacksaw Ridge	8,810,865	163,332,647	260,951	11,184,636
The Dressmaker	20,278,133	21,167,833	213,273	4,451,795
Lion	29,542,747	123,723,779	105,497	2,496,708
Mad Max: Fury Road	21,733,987	377,636,354	1,147,260	54,207,101

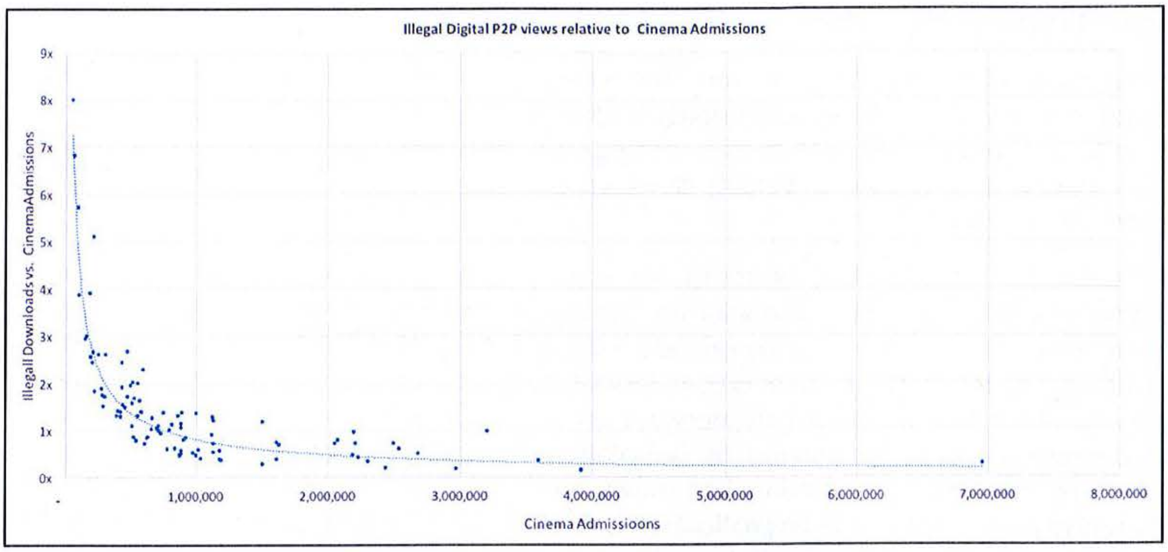
The destructive impact of online piracy to the industry is not restricted to major films only. From the WAVR Media graph below, smaller films are affected more than blockbusters in relative terms.[f] It shows the number of in-cinema views on the horizontal axis, and on the vertical, it shows the multiple of that number in illegal views.

[d] George Barker, *Diminished Creative Industry Growth in Australia in the Digital Age*, (10 February 2017), <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2915246>.

[e] Sources for this table include:

- MPDAA for Australian Box Office
- IMDb for Worldwide Box Office
- GfK Retail Tracking for DVD/Blu-ray units
- Tecxipio for illegal download statistics

[f] WAVR Media analysis (MPDAA data for Box Office, Texcipio for illegal download stats).



Some would characterize efforts to tackle online infringement as a tactic to protect outdated business models in the film and TV industry. In one such article from Forbes.com, Erik Kain writes "It's not really about piracy. It's about the death of one model and the rise of another."[g] 2017 is the year in which that notion was dispelled once and for all, with flagbearers of the new content business models joining the fight against piracy. Platforms such as Netflix and Amazon joined as founding members of the Alliance for Creativity and Entertainment[h] and, closer to home, Fetch TV joined the Australian Screen Association.[i] Simply put, it is expensive to make quality content and one cannot compete with free, irrespective of how one seeks to monetise that content.

The passing of site blocking legislation (Section 115a of the Copyright Act) in December 2015 was an important step forward. Following six successful applications, overall usage of the top 250 unauthorised sites has decreased by approximately 25.4% overall, in line with overseas experience.[j]

However, there is more that can be, and needs to be, done. It is essential for Australia to develop a coordinated IP strategy at the federal level. The UK provides an excellent model to look to for guidance, with its Intellectual Property Office[k] developing coordinated approaches to help boost the knowledge economy by effectively stimulating and protecting all forms of intellectual property.[l]

A STRONG LOCAL SECTOR CAN ONLY BE BUILT ON A STRONG ECONOMIC FOUNDATION

In this section, we focus on two components--the distribution of content (which generates consumer revenue) and the production of content.

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[g] Forbes.com, *Kim Dotcom says the US Government is protecting 'an outdated monopolistic business model'*, https://www.forbes.com/sites/erikkain/2012/03/01/kim-dotcom-says-the-us-government-is-protecting-an-outdated-monopolistic-business-model/#2c6131813270

[h] http://alliance4creativity.com

[i] Lifehacker, *Fetch TV is coming after Aussie pirates*, https://www.lifehacker.com.au/2017/11/fetch-tv-is-coming-after-aussie-pirates/

[j] [Publicly accessible Citation to incopro research to be made available on ASA website].

[k] Gov.UK, *Intellectual Property Office* <https://www.gov.uk/government/organisations/intellectual-property-office>.

[l] Among other initiatives, this notably includes the funding and formation of a specialised IP enforcement unit and the Police Intellectual Property Crime Unit (PIPCU), https://www.cityoflondon.police.uk/advice-and-support/fraud-and-economic-crime/pipcu/Pages/default.aspx.

Content Distribution foundations

As discussed in the previous section, the leakage of revenues caused by online infringement has put tremendous pressure on the film and TV production sectors. Other factors are at play as well, with sharply increased competition from a number of strong global monopolistic platforms putting downward pressure on the perceived value of content by consumers.

User Uploaded Content (UUC) platforms, such as YouTube and Facebook, do provide a societal benefit by lowering the barrier for content creators to "distribute or share" their content and, to the extent that they provide a discovery function, helping new talents get noticed. But as the terms and conditions for distributing content on these platforms are largely non-negotiable, content creators are price-takers, not price-setters. In general, a UUC career can only be sustained by generating an income separate from the video content (i.e. through endorsements, live shows, merchandising, etc.) or by using it as the launch-pad for a career in media platforms that value content more highly. A blog entitled 'Get Rich or Die Vlogging' makes the point:

> *"The internet may always be equated with The Future, but for most social media stars, it ends up being a stepping stone to the same old metrics of success (if you're lucky). As YouTuber Manning told me, "YouTube is not the end game, it's the foot in the door."* [m]

A 2013 Variety article makes it clear that the discovery function offered by UUC platforms doesn't come for free:

> *"Traditional VOD distribution deals such as those with Apple's iTunes give 70% to the content owner* [as opposed to YouTube's 55% - ed.]. *But YouTube has argued that it operates a very different business, spending millions on servers, bandwidth, localization and other infrastructure to keep the site running.*
>
> ***Another factor is that the majority of YouTube's user-generated content does not have advertising, so YouTube must recoup its costs from content that it can monetize*** [emphasis added]."[n]

Put differently, the content on UUC platforms which is good enough to attract advertising effectively subsidises the content which is not. This reduces the value of a view. Whilst there are always outliers, an analysis of the average lifetime views per upload from the 250 most successful Australian YouTube channels by total views[o] shows that the average number of views per video uploaded is just over 280,000, with an average estimated income for these popular creators of just over $550 per video uploaded.[p] While this may change over time, as technology costs come down, or as more advertising inventory is filled, today's UUC platforms do not directly improve the commercial sustainability of the screen industry; they primarily serve to provide new talent a pathway towards it.

YouTube itself now appears to be undermining that discovery function. YouTube can unilaterally change its policies and has recently increased the popularity threshold required

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[m] Gaby Dunn, *Get Rich or Die Vlogging: The Sad Economics of Internet Fame* (14 Dec 2015) <https://splinternews.com/get-rich-or-die-vlogging-the-sad-economics-of-internet-1793853578>.

[n] Todd Spangler, *YouTube Standardizes Ad-Revenue Split for All Partners, But Offers Upside Potential* (1 Nov 2013) <http://variety.com/2013/digital/news/youtube-standardizes-ad-revenue-split-for-all-partners-but-offers-upside-potential-1200786223/>.

[o] Social Blade, *Top 250 YouTubers in Australia sorted by Video Views* <https://socialblade.com/youtube/top/country/au/mostviewed>.

[p] See Appendix B "The Value of a View".

to be eligible to receive advertising income. According to UCLA Assistant Professor Sarah T. Roberts

> "It's just not realistic, the continued dangling of the carrot to the public that you too can become a YouTube sensation and monetize your way to riches. The bar keeps getting moved higher and higher. It's become more and more difficult for anyone to do that."[q]

However, a newcommer to the creative industry has no viable alternative. Given the size and scale of these platforms mean that there is no alternative UUC platform out there that can realistically compete with the existing monopolies as indicated by the fact that 90% of all digital advertising growth goes to Google and Facebook[r].

It is clear that UUC platforms are not the solution for the production of quality content. Unfortunately, through the infringing content uploaded by users they have undermined the investment and commercial potential of content produced elsewhere. These platforms should not be allowed to financially benefit from the infringing content uploaded by its users.

Content Production foundations

Perhaps counter-intuitively at first glance, the foundation for a successful local screen industry in Australia lies in its ability to attract significant overseas investment. This investment has the effect of significantly raising the total amount of money invested in screen production in Australia, which provides the basis for the construction of facilities and the development of knowledge and top-level skills that are essential to sustaining Australia's local industry. It also creates the scale required to create the continuity of employment that will help build a sustainable career for people at both sides of the camera; from set-builders to gaffers, and from screen writers to actors. The UK example below demonstrates how effective – and how cost-effective – this has been in building a vibrant local screen industry.

The United Kingdom's 25% production incentive system has helped transform the creative industries into the UK's fastest growing sector. According to British Film Institute data, US studio film production contributed €1.35bn (84% of total film production) to the UK national economy in 2016, an 18% increase from 2015.[s]

Moreover, since the UK included 'High End Television' (defined as productions with budgets in excess of £1m per broadcast hour) as eligible content under the country's incentive scheme, television production almost doubled between 2013 and 2016, growing to a record €500 million, with 65% coming from US companies, including Amazon and Netflix.[t]

Because of significant economic multiplier effects, Consultancy Firm Olsberg SPI, in a report endorsed by the UK's then-Chancellor George Osborne, estimated that for every pound sterling of production incentive given, more than £12.49 is added to the country's total economic output, which in turn, generates £3.74 in additional tax revenues. In other words, the incentive pays for itself. This scheme has triggered private sector capital investments in

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[q] Louise Matsakis, YouTube's Latest Shake-Up is Bigger Than Just Ads (18 Jan 2018), <https://www.wired.com/story/youtube-monetization-creators-ads/>.
[r] Matthew Ingram, How Google and Facebook have taken over the Digital Ad Industry (4 Jan 2017), < http://fortune.com/2017/01/04/google-facebook-ad-industry/>
[s] The Guardian, *Creative sector fills UK coffers as money pours into film and TV production*, https://www.theguardian.com/business/2017/mar/04/creative-industry-fills-uk-coffers-tv-film-music
[t] Ibid.

the UK of more than £425 million since 2007; not just in greater London but also in Belfast, Bristol and Cardiff Bay.[u]

The Pinewood Group, UK's largest production facility, is currently expanding its facilities with an investment of £200 million, adding 100,000m² and doubling the size of its facilities.[v] It is these kinds of investments that allow an entire industry to thrive and benefit. This also led to an increase in value spend on UK independent films as well, from £265 million in 2007 to £522 million in 2016.[w]

We would like to emphasize, in recommendation 1.2 of our submission to the Australian and Children's Content Review last year, we called for an increase of the Location Offset from 16.5 to 30%. as well as three other recommendations which we believe will be of interest to the Standing Committee:

> **Recommendation 1.1:** Set production budget thresholds on qualified local scripted productions, for example with an hourly production budget of $700,000 per hour or more, to be eligible for the 40% tax incentive.
>
> **Recommendation 1.2:** Increase the Location Offset to 30% in order to be competitive with overseas incentives.
>
> **Recommendation 1.3:** The Location Offset and the PDV Offset should be decoupled so that projects can be filmed and post-produced in Australia.
>
> **Recommendation 1.4:** The status of streaming services under tax legislation should be clarified to allow such services to be eligible to access the incentives.

We attach our submission to that inquiry for easy reference as Appendix C. ASA has also commissioned Olsberg SPI to conduct a study into the economic returns generated by Australia's incentive program, the results of which are expected in the first quarter of 2018.

We thank the Senate committee for initiating this inquiry and for providing us with the opportunity to participate through this submission.

Sincerely,

Paul Muller

Chief Executive Officer, Australian Screen Association.

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[u] Olsberg SPI, *Economic Contribution of the UK's Film, High-End TV, Video Game, and Animation Programming Sectors*, http://www.o-spi.co.uk/wp-content/uploads/2015/02/SPI-Economic-Contribution-Study-2015-02-24.pdf
[v] BBC News, Pinewood Studios wins appeal over £200m expansion plan, http://www.bbc.com/news/uk-england-beds-bucks-herts-27921618
[w] British Film Institute, *Screen Sector Production in 2016*, published June 2017, http://www.bfi.org.uk/sites/bfi.org.uk/files/downloads/bfi-screen-sector-production-in-2016-2017-06.pdf

APPENDIX A – THE AUSTRALIAN SCREEN ASSOCIATION (ASA)

ASA represents the film and television content and distribution industry in Australia. Its core missions are: to advance the business and art of filmmaking, 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. These missions are achieved through education, public awareness and research programs to highlight to movie fans the importance and benefits of content protection. The ASA has operated in Australia since 2004 (and was previously known as the Australian Federation Against Copyright Theft). The ASA works on promoting and protecting the creative works of its members. Members include: Village Roadshow Limited; the Motion Picture Association; Walt Disney Studios Motion Pictures Australia; Paramount Pictures Australia; Sony Pictures Releasing International Corporation; Twentieth Century Fox International; Universal International Films, Inc.; Warner Bros. Pictures International, a division of Warner Bros. Pictures Inc.; and Fetch TV.

Appendix B: The value of a view across platforms

There is often a lack of transparency about the values associated with various platform businesses, especially given that contracts often contain confidentiality clauses. As such, it is best to view the below figures directionally, relative to other channels.

	Ad-SUPPORTED			SUBSCRIPTION		TRANSACTIONAL		
Channel	Face-book	You Tube	FTA	SVOD	PAY TV	TVOD	Cinema	EST
CPM consumer revenue	$2.00[x]	$7.70[x]	$30.00[x]			$5,990.00[y]	$19,000.00[y]	$19,950.00[y]
Share of Views monetised[z]	43%[aa]	43%[aa]	100%			100%	100%	100%
Monetised CPM[bb]	$0.86	$3.27	$30.00			$5,990.00	$19,000.00	$19,950.00
Distributor Share	55%[cc]	55%[cc]	44%[dd]			70%[cc]	50%[ee]	70%[cc]
CPM Distributor[e]	$0.86	$3.27	$13.17			$4,193.00	$9,500.00	$13,965.00
Copyright Owner Share	100%[ff]	100%[i]	100%			30%[gg]	30%[gg]	30%[gg]
CPM copyright owner[bb]	$0.47	$1.80[hh]	$13.17	$25.00[ii]	$50.00[i]	$1,257.90	$2,850.00	$4,189.50
RELATIVE INDEX	100	381	2,784	5,285	10,571	265,941	602,537	885,729

[x] Estimates provided by GroupM.

[y] Estimates based on public sources such as iTunes or Google Play pricing or Cinema ticket from websites of major cinema chains.

[z] For any 'user-pays' model this value is by definition 100%. We have set FTA TV at 100% as well as advertising capacity usually sells at close to maximum capacity.

[aa] (1) Liquidsolidus9000,'Average Percentage of Monetized Views' Yttalk (3 Feb 2013) < http://yttalk.com/threads/average-percentage-of-monetized-views.34684/>; (2) how2win7, 'Estimated monetized playbacks?' Yttalk (9 Jan 2014) <http://yttalk.com/threads/estimated-monetized-playbacks.103286/>.

[bb] This is a calculated field.

[cc] Ibid n.

[dd] This percentage is dictated by the share of total revenue a TV channel spends on content. We have used the content send by Australia's leading FTA channel, Seven as a guide: 562m/1279m [Media Content Cost / TV Station Income], Seven West Annual Report, 2016, http://www.sevenwestmedia.com.au/docs/default-source/annual-reports/2016-annual-report.pdf?sfvrsn=2

[ee] Stephen Follows, How is a cinema's box office income distributed? <https://stephenfollows.com/how-a-cinemas-box-office-income-is-distributed/>.

[ff] Most UUC content is uploaded directly by the user, as such there is no middleman, other than the platform itself. Hence this share is set at 100%. There are hoever middle men, for instance Machinima (http://www.machinima.com) who aggregate so actual values can be lower.

[gg] This is a conservative estimate, based on taking out marketing and distribution costs, and then applying a profit for the distributor. Figure in reality could be higher.

[hh] The $1.80 number is further validated by a number of weblinks, where creators talk about their income from YouTube views: (1) http://www.dailytelegraph.com.au/news/nsw/aussie-vloggers-cash-in-with-successful-businesses-run-through-youtube-channels/news-story/bf91059baff4d785d40223cc1df24258; (2) https://youtu.be/iuqfQ4Quwp4; (3) http://www.wengie.com/blog-posts/how-much-money-does-youtuber-make-how/; (4) https://splinternews.com/get-rich-or-die-vlogging-the-sad-economics-of-internet-1793853578; and (5) https://www.youtube.com/watch?v=Rgd30_JiK24

[ii] There is no public available data and calculating back from public sources is difficult. Based on studio licensing practices (transactional first, first pay window to usually Pat TV, second pay window to usually SVOD, then FTA TV, one can safely deduct that the relative size of revenue is correct, i.e. that Pay TV has a lower pay per view than Transactional Models, but we don't know how big the relative gap is. Same for SVOD earning more than FTA, but again it is unknown how big the relative gap is.

APPENDIX C: Submission to the Australian and Children's Content Review

[Attached separately]

APPENDIX D: Submission to the House of Representatives Standing Committee on Communications and the Arts' inquiry into factors contributing to the growth and sustainability of the Australian film and TV industry

[Added separately]