

24 August 2021

Secretary  
Senate Environment and Communications Committee

By email: [ec.sen@aph.gov.au](mailto:ec.sen@aph.gov.au)

Dear Secretary

### **Treasury Laws Amendment (2021 Measures No. 5) Bill 2021**

We refer to the Committee's inquiry into the above Bill and the hearing conducted on Friday 20 August 2021. This letter provides a response to matters taken on notice by Screen Producers Australia (SPA) and addresses additional matters raised by Senators during the hearing.

#### Overall impact of the Bill

We note that throughout the hearing, there was discussion of the overall impact of the measures in the Bill which, as SPA has noted in its submission and evidence, contains a mix of extremely positive measures, together with some very challenging elements.

The diverse range of business structures and specialisations within the industry means the Bill will have an inherently uneven impact across the sector. So while some elements of the industry will benefit substantially from the increase in the rate of Producer Offset for television productions, other elements of the industry, mostly documentary producers and smaller post-production businesses, will not see any of that benefit and will instead face substantial challenge.

This situation may be likened to an overall package of Government funding for the Australian Olympic team, but where funding is increased to the swimming team and reduced for the track and field competitors to such a degree that some competitors can no longer compete.

We therefore reiterate our support for the passage of certain aspects of the Bill (the increase in the rate of Producer Offset for television and the removal of the 65 episode cap for drama), and our view that the remaining elements should not progress without further consultation and engagement with industry.

#### Impact of increased threshold

On page 8 of the proof transcript Senator Davey asks SPA what impact the increase in the expenditure threshold for the Producer Offset will have on genres other than documentary.

The feedback received from SPA members is that the overwhelming impact of this change will be felt by otherwise viable documentaries, given that budget ranges for these projects typically fall within the \$500,000 to \$1 million range. Whilst there will be an impact for smaller scripted features, the primary impact will be on unscripted documentaries, given their particular budget structures.

## Gallipoli clause

We note questions and answers during SPA's evidence relating to the Bill's removal of the 'Gallipoli clause' and would like to provide further information for the Committee's consideration.

In particular, we note Dr Arnott's evidence that "Advances in technology mean that the need to film in overseas locations is diminishing". Whilst this may be the case for scripted projects, the nature of documentary means that replacing actual overseas locations with simulated ones is not feasible or credible.

As noted during the hearing and in SPA's earlier submission, overseas shooting is often a critical part of telling Australian stories, as Australian stories so often intersect with the rest of the world. It is simply not possible to substitute key locations or participants in stories with an international element whilst maintaining accuracy and authenticity.

The inability to claim expenditure on overseas shoots is likely to have a substantial impact on the viability of many Australian documentary projects. Financing and budgeting a project can be likened to the assembly of a jigsaw puzzle, with each element of investment and Government support forming key aspects of the overall picture. The removal of the Gallipoli clause and the disincentive this creates towards international finance will take away large sections of an overall budget "puzzle", and, as is the case with a jigsaw puzzle, the absence of even small sections can prevent completion of a project.

An example is the recent Media Stockade production, the critically acclaimed *Surgery Ship*. The removal of the Gallipoli clause, if applied to this production, would see the production lose 34% of the expenditure eligible to be claimed under the Producer Offset. This translates to 6% of the overall budget, which may seem small, but on documentary productions such as this, is often the difference to making a project viable or not, given the incredible pressure on documentary budgets.

Where a production can continue, one of the other key impacts of the clause's removal will be to disincentivise productions from engaging Australian crew on overseas shoots. At present, productions can claim towards the Producer Offset the costs of taking Australian-based crew to an overseas location. The inability to claim these costs towards qualifying expenditure under the Offset will incentivise productions to engage cheaper overseas-based crew, thereby transferring jobs and opportunities from Australia to overseas territories.

Examples of this can be found in projects currently in development and financing (projects can't yet be named as financing is in progress):

- Example project 1:
  - The project has many international elements and would ordinarily claim expenditure via the Gallipoli clause. With this incentive off the table, the producers will look to engage international crew who are cheaper. The story features ground breaking work by a number of Australian and international scientists and there is no way to make it only in Australia. Substantial international finance is also a key part of this project.
- Example project 2:
  - An ambitious natural history/science series with international elements. If local incentives are not available, the producer will need to work more internationally with other countries who can access finance, which will necessitate using international crews (as per overseas countries funding requirements).
- Example project 3:
  - A music documentary that will involve international elements that is likely to be a co-production with a French production company. The absence of significant

Australian financing (through the loss of Gallipoli clause, and the copyright cap) will likely mean the project will be required to be crewed and post-produced in France.

We cannot see how the loss of Australian employment on projects such as these can be a valid policy objective.

### Consultation and impact analysis

We note that during the evidence provided by representatives from the Office of the Arts, questions were asked regarding the extent to which the industry was consulted on the changes in the Bill.

We confirm that whilst there was some consultation in the “Supporting Australian Stories on our Screens” options paper process regarding the appropriate rate of Producer Offset, at no point in time prior to the Government’s policy announcement on 30 September 2020 was there any mention of, or consultation on the measures in the Bill which reduce eligibility for the Offset (increased thresholds, removal of Gallipoli clause, cap on copyright expenditure, removal of ability to claim overheads, changes to ‘above the line’ cap for non-feature documentary).

This has been a source of ongoing concern for SPA and its members, as proper consultation would have enabled the industry to advise Government of the very significant impact of these reforms, some of which we feel must be unintended consequences. Whilst we have endeavoured to make these impacts plain in the time since the announcement, the Government has persisted with these changes to the point where legislation is now in the Parliament.

Also noted during the Committee’s hearing was the lack of publicly available information regarding the particular impact of each individual reform measures. SPA shares the concern of the Committee regarding this and would welcome the release of the Government’s modelling to show the full impact of each measure. This would enable a more considered cost/benefit analysis.

We thank the Committee for their consideration and scrutiny of the measures and hope this information assists in the preparation of the final report. If you would like further information please do not hesitate to contact me

Yours sincerely

Matthew Deaner

CEO

Screen Producers Australia