Submission in response to the House Standing Committee on Communications and the Arts' Inquiry into the Australian Film and Television Industry

Joint Submission from the Australian Film & TV Bodies
March 31, 2017

Executive Summary

The Australian Film & TV Bodies welcome the opportunity to respond to the House Standing Committee on Communications and the Arts' Inquiry into factors contributing to the growth and sustainability of the Australian film and television industry. We are excited about the potential of the Australian industry and are eager to work with the Government to ensure the industry's success going forward.

The Australian Film & TV Bodies are made up of the Australian Screen Association (ASA), the Australian Home Entertainment Distributors Association (AHEDA), the Motion Picture Distributors Association of Australia (MPDAA), the National Association of Cinema Operators-Australasia (NACO), the Australian Independent Distributors Association (AIDA) and the Independent Cinemas Association of Australia (ICAA). These associations represent a large cross-section of the film and television industry that contributed $5.8 billion to the Australian economy and supported an estimated 46,600 FTE workers in 2012-13.[2]

Part 1 – State of the Industry: Australian Film and TV industry currently under pressure

The Australian Film and TV Industry has demonstrated that it can operate and compete on the world stage. Films such as Lion, Hacksaw Ridge and Tanna collected a record 14 nominations for Australian film producers at the most recent Academy Awards. Entities such as Animal Logic and Soundfirm provide world-class production and post-production services, content delivery services Stan and Fetch TV are taking off in the Australian market, and Foxtel has continued to innovate with platforms such as Foxtel Go and Foxtel Play. These successes, however, mask the fact that the conditions under which the Australian Film and TV industry is operating have become increasingly challenging.

From growing faster than GDP pre-2000, the Australian Film and Video Production and Post Production industries (FVPP) 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.[3] The Australian Government is positioned to play an important role in facilitating local industry growth to produce in more jobs in the future for Australians.

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1 Further deta s on members of the Austra an F m & TV Bod es can be found n Append x A
2 Access Econom cs, *Economic Contribution of the Film and Television Industry,* Access Econom cs Pty L m ted, (February 2015), <http://screenassoc at on com au/wp content/up oads/2016/01/ASA Econom c Contr but on Report pdf>, p v
3 George Barker, *Diminished Creative Industry Growth in Australia in the Digital Age*, (10 February 2017), <https://papers ssrn com/so 3/papers cfm?abstract d=2915246>

Part 2 – Making a Film or TV series: How does project financing actually work, and what role can the Government play in enabling the Australian industry to succeed?

After a script/idea for a film or TV series has been developed, a producer will begin searching for the means to finance the project. There are two main veins from which producers can source financing: marketplace-led sources and government-led sources. Both are essential to getting a film or TV series made in many parts of the world.

Concerning marketplace-led sources, the Government should be careful to ensure that the industry's main sources of funding continue to be available by taking the following actions.

> Recommendat on 1.1: Oppose the Product v ty Comm ss on's recommendat ons to a ow c rcumvent on of geo-b ock ng. Such a change wou d underm ne the terr tor a ty of copyr ght, wh ch wou d detr menta y mpact upon content f nanc ng.
>
> Recommendat on 1.2: Oppose the Product v ty Comm ss on's recommendat ons to convert fa r dea ng nto open-ended fa r use. Such a change wou d ntroduce unnecessary uncerta nty nto Austra a's copyr ght reg me, p ac ng the burden of proof on creators to br ng court cases to protect the r own works n an era when Austra a's creat ve ndustr es are a ready under substant a pressure.
>
> Recommendat on 1.3: Oppose the Product v ty Comm ss on's recommendat ons to m t contract overr de. Th s wou d upset ex st ng commerc a pract ces and make t much harder to do bus ness n Austra a go ng forward.

Concerning government-led sources, the best way the Australian Government can enable the growth of the Australian film and TV industries is to:

> Recommendat on 2.1: Increase the Locat on Offset to 30%. The current ocat on offset of 16.5% s not g oba y compet t ve and as a resu t Austra a m sses out on many projects.
>
> Recommendat on 2.2: Remove the restr ct on that proh b ts the use of both the Locat on Offset and the PDV Offset by the same f m. Th s wou d enab e projects to be f med and then do the r post-product on work n Austra a, wh ch s current y not econom ca y feas b e.
>
> Recommendat on 2.3: C ar fy the status of stream ng serv ces under tax eg s at on to make t c ear that stream ng serv ces are e g b e for the Locat on Offset and PDV Offset ncent ves for projects they produce n Austra a.

Part 3 – Distributing a Film or TV series: How does content distribution actually work, and what role can the Government play in enabling the Australian industry to succeed?

In general, the release strategy for a film starts with a theatrical release a step which sets the value chain in motion and is then exploited via downstream media in a variety of ways. While the ways in which access to film & TV content are priced and ordered are changing constantly, there is a wide array of services that represent legitimate means of distribution. It is by being able to secure revenues from all of these legitimate means that the industry ecosystem can thrive and contribute to the economy. The Government can play an extremely important role in assisting in the distribution (and thus the success) of Australian films and TV series by enacting measures that will help limit content piracy and enable legitimate distribution channels to succeed.

> Recommendat on 3.1: We urge the Government to ncrease ts comm tment to protect ng the r ghts of creators and f ght p racy to further enab e eg t mate d str but on channe s to deve op and f our sh, g v ng consumers better access.
>
> Recommendat on 3.2: The Government wou d be we   served by not a ow ng the Product v ty Comm ss on’s recommendat ons concern ng TPMs to be mp emented. Do ng so wou d drast ca y d srupt and nh b t the commerc a mode s for the d str but on of f m and TV content.

The Australian Film & TV Bodies appreciate this opportunity to provide our views in response to the Committee’s Inquiry. We would also welcome the chance to participate in any future consultations, roundtables or formal hearings that are convened.

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Part 1 – State of the Industry: Australian Film and TV industry currently under pressure

The Australian Film and TV industry plays a vital role in defining what it means to be Australian. The industry tells Australian stories for posterity and plays an important role in bringing the Australian flavour of innovation and imagination to people around the world.

The Australian Film and TV industry has demonstrated that it can operate and compete on the world stage. Examples of successes that can be celebrated include:

- Production

  At the Academy Awards this past year, the films Lion, Hacksaw Ridge and Tanna collected a record 14 nominations for Australian film producers.[4] Other high profile successes in recent years include The Dressmaker and Mad Max: Fury Road.[5]

  Australia's most successful sales agent, connecting producers with distributors around the world, is Arclight. Arclight's pioneering work in attracting interest from China and the rest of Asia was recognized by the NSW Government when it awarded them its 2016 NSW Asian Exporter of the Year Award.[6]

- Visual Effects and Post Production

  Australia is punching above its weight in the field of digital effects, with companies such as Animal Logic, Rising Sun Pictures and Iloura all working on global projects and regularly winning awards.[7]

  With facilities in Melbourne, Sydney and Beijing, Australia's Soundfirm contributed to three Oscar nominated films this past year.[8]

  Melbourne-based multi-platform aerial media company XM2 Aerial has designed a drone specifically for feature film cameras. They are now the global preferred supplier for a number of international content creators, including the Walt Disney Company and Home Box Office.[9]

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[4] Sky News, *Australian Dominate in Oscar Nominations,* (26 February 2017), <http://www skynews com au/cu ture/showb z/oscars/2017/02/26/austra ans dom nate n oscar nom nat ons htm >
[5] Nancy Groves, *The Dressmaker and Mad Max: Fury Road dominate Aactas, the Aussie Oscars*, The guard an, (29 October 2015), <https://www theguard an com/f m/2015/oct/29/the dressmaker and mad max fury road dom nate aactas the auss e oscars>
[6] Austra an Trade Comm ss on, *NSW Exporter of the Year 2016 Recipients*, <https://www expo tawards gov au/Art c eDocuments/6729/NSW%20Expo ter%20of%20the%20Year%202016%20Rec p ents pdf aspx?Embed=Y>
[7] P enty of examp es can be found on the webs tes of these organ sat ons Examp es nc ude oura's work on the Oscar nom nated Deepwater Hor zon and Game of Thrones: Batt e of the Bastards, An ma Log c's work on the Lego and Lego Batman Mov es, and R s ng Sun's work on Game of Thrones, as we as f ms such as Logan and The Hunger Games
[8] Soundf rm, *Soundfirm at the Oscar's 2017*, (25 January 2017), <http://www soundf rm com/uncategor zed/soundf rm at the oscars 2017/>
[9] Ausf m, *XM2 Aerial*, <http://www ausf m com au/why f m n austra a/work w th the best/equ pment supp ers renta /xm2/>

- Business model innovation

  Competing with Netflix and other businesses such as Fetch TV in Australia is Stan, which was recently valued at $600 million. [0]

  Pay TV platform Foxtel is transforming itself into a digital streaming service, with additional online services for existing cable subscribers (Foxtel Go) as well as no-contract digital options such as Foxtel Play.

  Other companies in this space are developing niche products, such as Madman Entertainment's streaming platforms DocPlay and AnimeLab, which they hope to launch internationally, and the recently-launched Ozflix.

These successes, however, mask the fact that the conditions under which the Australian Film and TV industry is operating have become increasingly challenging.

Diminishing rate of growth for Australian Film and Video Production and Post-Production (FVPP) Industries

Dr George Barker recently released a paper using ABS National Accounts data which showed a significant shift in the fortunes of the Core Copyright Industries which went from growing significantly ahead of general GDP growth in the pre-broadband era to now growing significantly slower than GDP.

Beyond surveying the Core Copyright Industries, Dr Barker examined in detail the progress of the Australian Film and Video Production and Post Production industries (FVPP). Dr Barker concluded that the trends for this segment of the industry were consistent with his findings for Core Copyright Industries overall: growth in GDP and employment for this sector has been slowing in Australia over the past 16 years.

Value Add Contribution to Australia's GDP[12]

From growing faster than GDP pre-2000, the FVPP industries now experience slower than average GDP growth. The cumulative effect is a loss of $1.48 billion dollars in Value Add since 2000 to the Australian economy. In GST tax contributions alone this amounts to a loss for Australia of $148 million. The graph below demonstrates that this gap has continued to widen.

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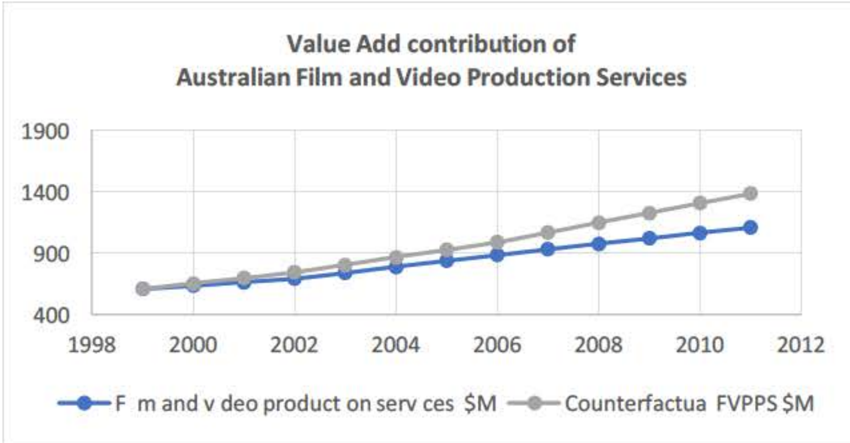
[10] F nanc a Rev ew, *Streaming service Stan could be worth $600m: Credit Suisse*, (2016), <http://www afr com/bus ness/med a and market ng/tv/stream ng serv ce stan cou d be worth 600m cred t su sse 20161102 gsgte0>

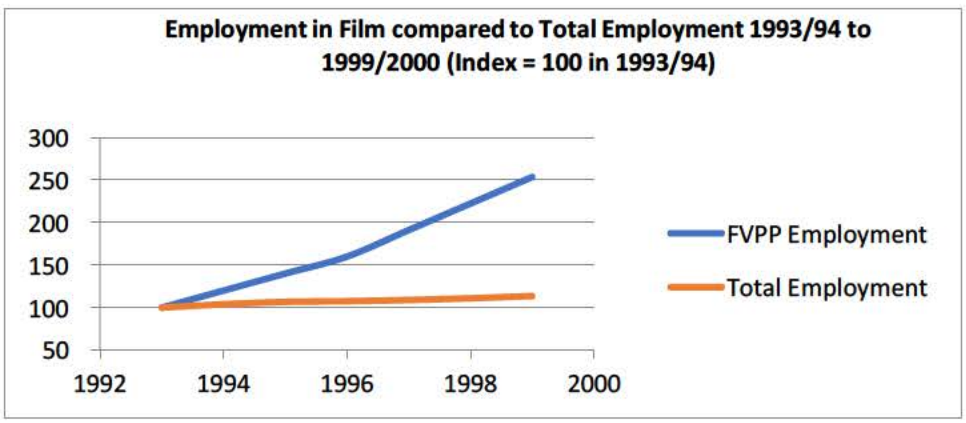
[11] George Barker, *Diminished Creative Industry Growth in Australia in the Digital Age*, (10 February 2017), <https://papers ssrn com/so 3/papers cfm?abstract d=2915246>

[12] Va ue add s the va ue of gross outputs of a part cu ar ndust y ess the va ue of nputs from other ndustr es The sum of a ndustr es' va ue add s the nat on's gross domest c product (GDP)

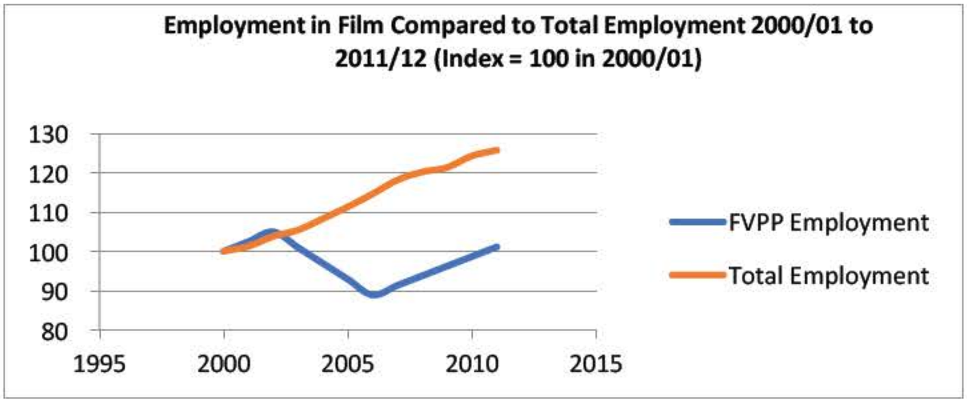


Employment

In the years from 1993 to 1999 the FVPP industries experienced growth in employment that was far ahead of employment growth in the Australian economy overall.



This trend sharply reversed in 2001 when employment in the FVPP industries stagnated. If employment had continued to grow at the same pre-2000 levels, employment in FVPP would have been a staggering 79% higher, which equates to nearly 13,000 more FTE jobs.



A market place distorted by the effects of online infringements

The primary reason for this shift in fortunes is clear. There have indeed been substantial benefits from the emergence of digital technologies in reducing distribution, and sometimes production, costs of films, and in facilitating new ways of reaching audiences through social media and the like. However, Dr Barker in his paper concludes that, to date, the negative effects caused by massive online infringement have been a more significant factor.

	Australian Theatrical		Australian Home Ent	Illegal Downloads in Australia	
Title	Release Date	Lifetime Box Office (AU$)	DVD/BD Units	Number of Downloads	Number of Torrents Available
Mad Max FURY ROAD	14/05/2015	21,733,987	270,976	1,147,260	1,506
Dressmaker	29/10/2015	20,278,133	241,558	213,273	281
Hacksaw Ridge	3/11/2016	8,810,865	NA	260,951	732
Lion (*)	19/01/2017	25,579,964	NA	105,497	153

(*) Lion Box Office not final, still screening [3]

Massive infringement of the products they create is of course a concern for those who make their livelihoods from film, but piracy has a real impact on Australian consumers as well. More piracy means less new content and less quality content.

State of the Australian Industry

Of all the art-forms, theatrical feature films are amongst the most expensive to produce. Very few non-documentary films, for instance, are produced for less than $1 million, and for big international blockbusters budgets can exceed $100 million. With over 600 new films released in Australian cinemas annually, the finite capacity of the theatrical exhibition circuit means

[13] Sources for th s tab e nc ude:
- MPDAA for Theatr ca Re ease Date and L fet me Box Off ce
- GfK Reta Track ng for DVD/B u ray un ts
- Texc p o for ega down oad stats

competition for screens and time slots is highly contested. Distributors rely on securing costly advertising and marketing to attract audiences to their films.

Australian films, on the other hand, are usually produced for less than $20 million as they have a less certain international market from which to recoup their investments. [4] Nevertheless the market is competitive, making the average cost to produce a film rise from $1.74m (in 2015 Australian dollars) in the 1970s to $8.13m (in 2015 dollars) in the 2010s. This does not include marketing costs.

	Annual Average Number of Films	Total Annual Production Budget (in 2015 A$m)	Average Production Budget (in 2015 A$m)
1970s	14	25	1.74
1980s	30	175	5.73
1990s	27	182	6.66
2000s	31	261	8.62
2010-2015	32	258	8.13

Australian Feature Film Production Activity by decade[15]

Simply put, it is getting more expensive to produce Australian films. We believe that the market should be called upon to provide as much of the investment in film production budgets as possible. To supplement this, the Government can play an extremely important role in ensuring that private investment can be attracted by doing more to reduce online infringement and protecting Australia's strong copyright framework.

It is worth noting that Screen Australia plays a key role in facilitating the creation and distribution of great Australian cultural content. None of the 94 films Screen Australia has invested in over the past six years would have been financially viable without their support. [6] Their investment record shows the fragile nature of Australian independent film, and clarifies why small changes and disruptions can have a significant effect on the industry, making private investment hard to come by. Some of the recommendations made by the Productivity Commission in its Inquiry Report into Intellectual Property are opposed by the Film & TV Bodies for this very reason. It is worth observing that Screen Australia has operated only in the era in which large scale online infringement has occurred, likely making it even more challenging to get films funded.

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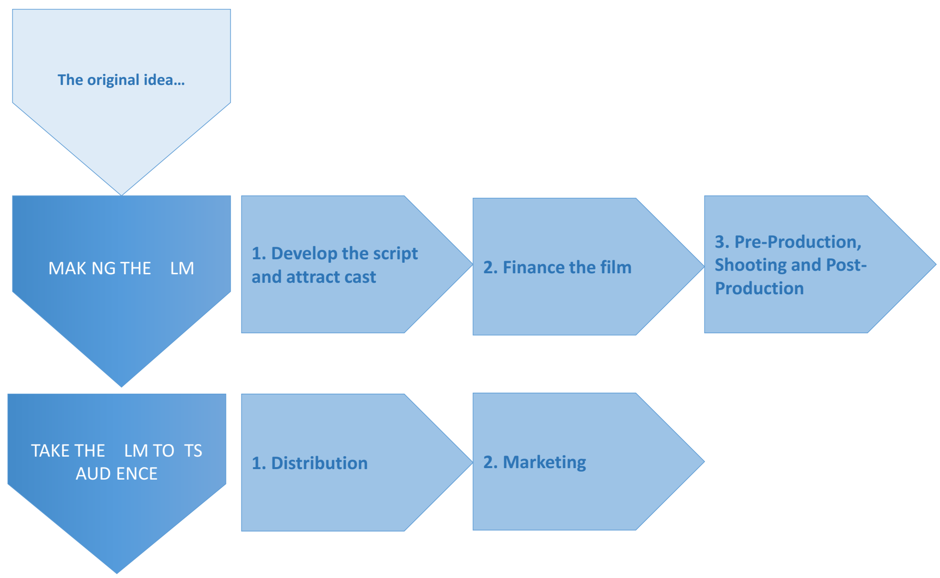
[14] There are except ons, such as Baz Luhrman's Austra a or Dr George M er's Mad Max Fury Road

[15] Screen Austra a, *Australian Feature Film Production Activity*, <http://www screenaustra a gov au/fact f nders/product on trends/feature product on/austra an feature f ms>

[16] Sandy George and Screen Austra a, *Performance in Australian cinemas*, <http://thescreenb og com/screen nte /pe formance n austra an c nemas/>

The process of making a film and taking it to its intended audience

Given the expense of this particular art form, producing feature films is a complex and highly collaborative process. Roughly there are two main categories of activities, (1) making the film, and (2) taking the film to the audience:



In Parts 2 and 3 we will explain film making and distribution and offer a number of recommendations as to the role the Government can play in assisting the Australian Film and TV industry to become more sustainable.

Part 2 – Making a Film: How does film financing actually work, and what role can the Government play in enabling the Australian industry to succeed?

What are the main funding sources for feature films?

The key funding sources for Australian film productions funded by Screen Australia in the six years from 2008/09 to 2014/15 are:

- Marketplace-led:

  Private Investment and Bank Loans (29%)

  Advances and Presale of Territorial Copyright Rights (18%)

- Government-led:

  Production and Location Tax Incentives (29%)

  State and Federal Funding Bodies (25%)

Producers can recoup their investments in a film through the royalties paid to the film's producers by the entities that have licensed (territorial) rights if a film is successful and 'goes into overages'. Projections of these revenue streams are often needed to convince private investors to jump on board.

Marketplace-led funding sources

These two sources bring market-place funding to the film, but their roles and objectives are quite different.

Source 1: Private Investment and Bank Loans

A private investment entitles the investor to *equity* in a film, and as such to a share of the proceeds of that film. As we have seen before, Australian films as a rule do not typically earn their investment back, so these investors often negotiate preferential deals.

Source 2: Advances and Presale of Territorial Copyright Rights

Companies that license exclusive rights in a copyrighted work typically do not get equity in a film and instead recoup their investments through the revenues a film generates. These companies are the ones that take a film to its audience.

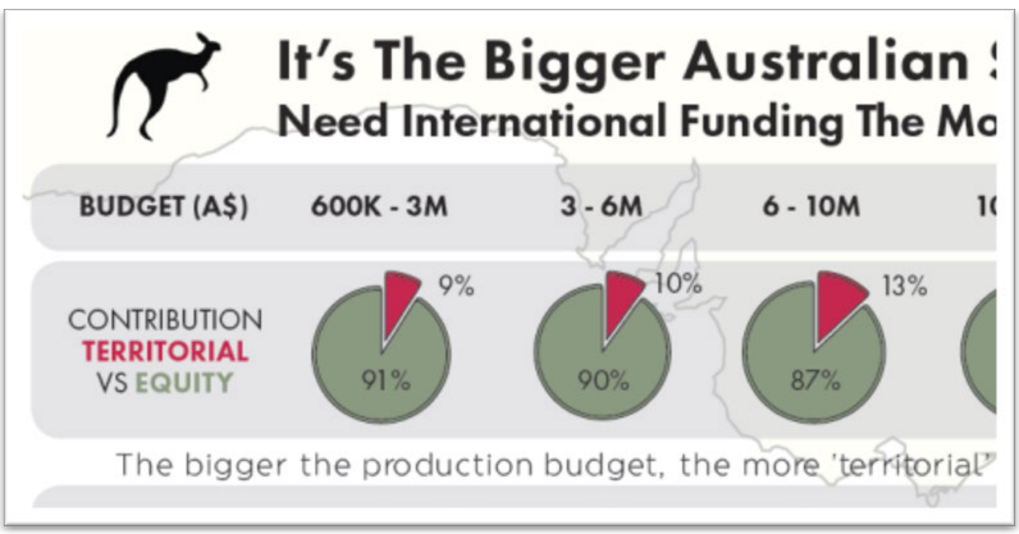
These companies license specific rights in the film. These can either be territorial (a specific country or groups of countries) or even for a certain exploitation method (e.g. TV broadcasting rights licensed to one company while the home media rights are licensed to another).

The advances these companies pay are usually just one part of the total investment they make in the film or TV show. These companies invest heavily in marketing and distribution to generate awareness and maximize availability for a film to audiences.

These companies are also the source for revenue for the film's equity stakeholders. After recouping monies advanced and other allowable expenses, these companies remit royalties (also known as 'overages') to the film's producers.

The role of these companies increases as the film production budget increases. For movies with a budget of A$3-6m, territorial rights represent just 10% of the total budget, and almost half of that share comes from the licensing of the Australian distribution rights.

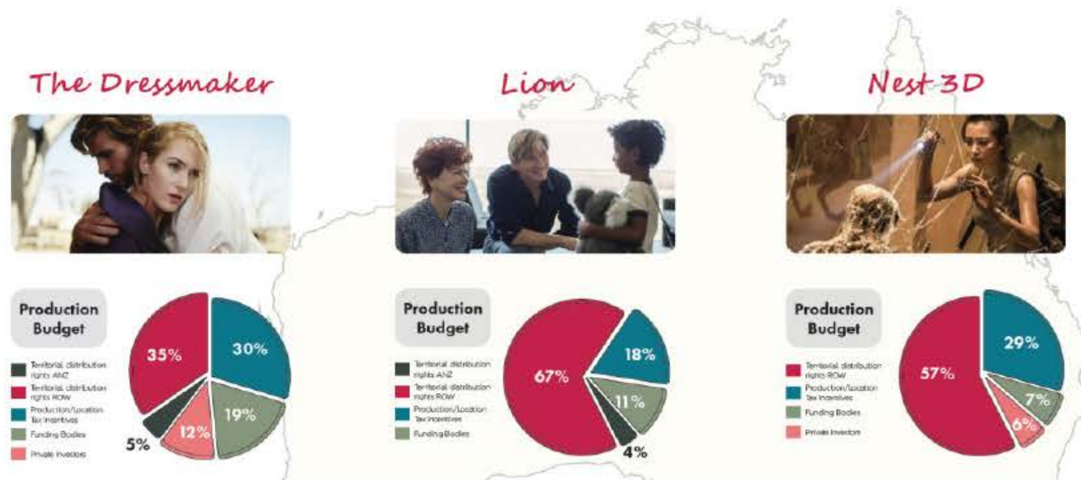
For movies over $15m, the share represented by territorial rights increases to 22%, with 87% of that portion coming from international distribution rights across the rest of the world (ROW).



This effect is illustrated even more clearly by looking at some specific projects. Movies like The Dressmaker (40%), Lion (71%) and Nest 3D (57%) all attracted a well above average share of their total film budgets through the presale of territorial rights.

The motivation for parties to bid for these distribution rights is directly influenced and indeed only made possible by as a result of the legal protections put in place to ensure rights are upheld in each country. [7]

[17] Further nformat on on terr tor a copyr ght can be found n Append x D



Recommendation 1.1

Reject the Product v ty Comm ss on's recommendat on to ega ze the c rcumvent on of TPMs, nc ud ng geo-b ock ng.

Territoriality supports the creation of culturally and linguistically varied works. Forcing global licensing by allowing circumvention could actually produce anticompetitive effects since only the largest Internet operators with global capital resources would be in a position to acquire such global rights. These Internet giants could then dominate the markets in Australia, grow even larger, and potentially severely damage local businesses around Australia that had previously been able to offer content tailored for a geographically specific audience on a territorial basis. These Internet giants, with few local employees and limited tax obligations, would likely contribute very little to the economy in contrast to existing production houses. A 2016 report by Oxera and Oliver & Ohlbaum, "*The impact of cross-border access to audio-visual content on EU consumers*" [8] found that removing territorial restrictions could result in up to 48% less local TV content in certain genres, and 37% less local film production.

As the renowned copyright attorney and blogger Hugh Stephens observed:

> In countries such as Australia and Canada, to name two examples, where domestic broadcasters are expected or required to contribute to local production, geographic segmentation allows them to sustain their business model by obtaining the distribution rights to popular US programs, and building a subscription base. This in turn allows them to contribute funding to the creation of local programming. Removal of geo-filters to allow consumers' unfettered access to content hosted abroad could drive a stake through the heart of the domestic broadcasting

[15] Oxera and O&O, *The impact of cross border access to audiovisual content on EU consumers*, (May 2016), <http://www oxera com/getmed a/5c575114 e2de 4387 a2de 1ca64d793b19/Cross border report (f na) pdf aspx>

platforms in Australia, undercutting essential distribution channels for the dissemination of Australian culture. [9]

Recommendation 1.2

Reject the Product v ty Comm ss on's recommendat on to ntroduce Fa r Use.

If the Government were to adopt fair use, it would disadvantage local creators and users by injecting unreasonable uncertainty and unpredictability into the law. The Productivity Commission acknowledges that fair use would introduce a level of ambiguity into the Australian copyright system that would necessarily need to be resolved in the courts.[20] Assuming the sovereignty of Australia's legal system, it would take years for the Australian fair use rules to be fully flushed out. In the meantime, existing commercial arrangements might be called into question and future commercial dealings would be undercut by ambiguity over the scope of the exception. Adopting fair use would also add immense uncertainty to existing and future commercial arrangements. It is plain that many online intermediaries see themselves as major beneficiaries of any fair use exception that was added to Australia's existing list of copyright exceptions. It cannot be expected that local creators can match the resources of big tech companies in their quest to expand fair use.

Recommendation 1.3

Reject the Product v ty Comm ss on's recommendat on to m t "contract overr de".

The Productivity Commission recommended that the terms of any exceptions to exclusive rights prescribed in the copyright law should not be able to be altered by the parties through contractual arrangements. If enacted, this would result in the nullification of existing contract terms that touch upon exceptions and would be enormously disruptive to long-established business and commercial arrangements. Many contractual limitations on uses of a work that are subject to an agreement are required because the limitations or restrictions flow down from an upstream agreement, including in part from conditions imposed by creators. Such exceptions can be, and should be, subject to modification by contract in most cases.

The Commission recommended that the legal prohibition against "contracting out" should apply even to the fair use provision assuming that fair use was adopted in Australia. Such an application would create more commercial uncertainty. Contracts, among other things, assign and manage risk, and they are a reflection of what the market will accept and embrace. If parties cannot specify the parameters of the allowable use of a work with respect to content on a site as part of its terms and conditions due to statutory prohibition against such contract terms, there would likely be added costs that will take into account such added risks. If data mining were deemed to constitute fair use but the rightsholder has a practice of licensing the use of her data,

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[19] Hugh Stephens, *The Australian Productivity Commission's Copyright Recommendations: Using a Sledgehammer to Kill a Fly (or Killing the Golden Goose)*, (15 May 2016), <https://hughstephensb og net/2016/05/15/the austra an product v ty comm ss ons copyr ght recommendat ons us ng a s edgehammer to k a f y or k ng the go den goose/>

[20] Austra an Government Product v ty Comm ss on, *Productivity Commission Inquiry Report*, No 78 (23 September 2016), <http://www pc gov au/ nqu r es/comp eted/ nte ectua property/repo t>

under the Commission's recommendation the enforceability of such a license could immediately be in doubt, including any renewals of such licenses. A robust marketplace which is replete with various options for consumers to access and enjoy content on a rich variety of platforms all enabled by some form of Technological Protections Measure (TPM) protection, and girded by contractual arrangements is evidence that the current system does not need to be dismantled.

Government-led funding sources

Source 3: Production and Location Tax Incentives

Tax incentives are used by many governments around the world to attract international productions to their countries,[2] including by 13 European countries, five in the Asia-Pacific, six in the Americas (excluding USA where individual states offer incentives but no federal incentive exists) and two in the Middle East and Africa. These incentives can be as high as 50% of the project's production expenditures.

These incentives deliver significant positive effects for the economy of jurisdictions like Australia where these project may film, including:

1. A large and strong film industry that creates high-quality jobs for Australians, both in Australia and overseas.

2. Multiplier (indirect and induced spending) activity that provides broader economic benefits.

3. Enhanced tourism and marketing that benefits Australia as a whole.[22]

Olsberg SPI conducted an economic impact study in 2015[23] which found that for every pound of tax relief granted between 2006/07 and 2013/14 more than GB£12.49 was generated in value add to GDP for the UK. This in turn ensured that for each pound invested in incentives GB£3.74 was generated in additional tax benefits. These incentives led to a 400% increase of inward investment in feature films since 2005, and in 2015 reached GB£1.17bn.

The Australian Federal Government currently offers the following incentives:

1. **Post, Digital and Visual effects (PDV offset)** is a 30% refundable tax offset (rebate) for Qualifying PDV Expenditure incurred in relation to post-production, digital and visual effects work completed in Australia;

[21] Em y Buder, *The Best Countries in the World to Film Your Movie, Based on Production Incentives*, No F m Schoo , (22 August 2016), <http://nof mschoo com/2016/07/f m product on ncent ves tax ncent ves mov e rebates>
[22] Examp es of these benef ts to Austra a can be found n Append x B
[23] O sberg SP , *Economic Contribution of the UK's Film, High End TV, Video Game, and Animation Programming Sectors,* (February 2015), <http://www o sp co uk/wp content/up oads/2015/02/SP Econom c Contr but on Study 2015 02 24 pdf>

2. **Location Offset** is a 16.5% refundable tax offset (rebate) for filming in Australia as calculated on Qualifying Australian Production Expenditure (QAPE);[24] and

3. **Producer Offset** provides a refundable tax offset (rebate) for producers of Australian feature films, television and other projects on Qualifying Australian Production Expenditure (QAPE).

While Australia is world-class when it comes to its facilities and the quality of its crews, Australia is outcompeted by countries such as the UK, Canada and New Zealand on incentives.

The PDV Offset is currently competitive with international rates, but the Location Offset is now no longer competitive. This Location Offset, which cannot be used in combination with the PDV offset, is aimed at attracting international films to shoot in Australia and yet is no longer sufficient to achieve this aim.

Although the chart below[25] reflects a representative sample of jurisdictions with competitive production incentives as compared to Australia, it should also be noted that in each of these jurisdictions a producer can film and post-produce the entire film within the jurisdiction and receive the full measure of the incentive. It is only Australia among this group that precludes a producer from accessing both the PDV and Location Offset for the same project.

Country/Jurisdiction	Tax Credit/Offset Rate 2006	Tax credit/Offset Rate 2016
Australia	12.50%	16.50%
New Zealand	12.50%	20-25%
United Kingdom	16%	25%
Ireland	20%	32%
Ontario	18%	21.5%+ 37% production labour
British Columbia	18%	43.72% production labour
Quebec	20%	20% 37% production labour
Louisiana	10-20%	30%
Georgia	9-12%	30%

Over the past five years, the Australian Government has relied on the temporary measure of top-up grants (which effectively increase the location offset for films to 30% for some individual projects) to keep Australia competitive. But the uncertainty and inconsistency generated by this ad-hoc policy will not serve the interests of Australia's screen industry in the long term.

[24] QAPE s def ned by sect on 376 145 of the TAA as the company's product on expend ture that s ncurred for, or s reasonab y attr butab e to goods and serv ces prov ded n Austra a, the use of and ocated n Austra a, the use of goods that are ocated n Austra a at the t me they are used n the mak ng of the pro ect

25 AusF m pre budget subm ss on, January 2017

Some examples of films that have been attracted to Australia through the top-up grants include:

- The Wolverine (2012)
- Pirates of the Caribbean 3 (2013)
- Thor: Ragnarok (2015)
- Alien/Covenant (2015)
- Aquaman (2016)

Cumulatively, these projects delivered in excess of $770 million in direct foreign investment into Australia, while also generating multiplier benefits for Australia in industries such as tourism, marketing and hospitality.

Conversely, Australia has also missed out on a number of projects for which it was under active consideration. These include:

- The Light Between Oceans. This UK production was based on an Australian best-selling novel and the producers would have preferred to shoot here. Instead, the production went to New Zealand, where the location incentive is 25%, with just one week of filming in Tasmania.
- The Martian. Ausfilm supported Sir Ridley Scott to scout Australia as a location for this $100m film. Ultimately the film was shot in Hungary, where the rebate is 30%.
- Tomb Raider. Ausfilm supported MGM to scout Australia for locations and facilities. MGM approached the Government for a top-up but were unable to secure this in time for their required production timeline. The producers instead took the project to South Africa, were a rebate of 25% is in place.

The size of the potential opportunity is clearly illustrated by examining an example of the outlays provided by just one major international content producer in 21s Century Fox (Fox). In the past four years, Fox has invested US$1.65 billion dollars in international film & TV productions outside of Australia.[26] Australia would have a real opportunity to secure a substantially bigger share of that investment if it were to raise the location offset to 30%, especially given that Fox owns a world-class production facility in Australia.

> **Recommendation 2.1:**
>
> Increase the Locat on Offset to 30%.

The examples above reemphasize the importance of offering an internationally competitive and consistent incentive level at 30%. This would bring the figure for the Location Offset up to parity with the PDV Offset. The system of ad-hoc top-up grants is not sustainable as it does not give

[26] A fu st of 21st Century Fox t t es produced nternat ona y (outs de Austra a) can be found n Append x C

business owners the certainty required to invest in new facilities, technology and equipment in Australia.

By increasing the Location Offset to 30% the Government provides certainty to the Australian Film and TV industry which will generate employment in the high-tech, high value-add screen production sector. Australia will be seen as progressive and innovative toward business and ‘open for business’. It will avoid a ‘brain drain’ and keep skills and talent in Australia. For the screen production sector to be viable a balance between Australian and international production is needed to justify the continued investment of facilities and capabilities. This investment is required to ensure Australian films can compete with global output. Australia lags behind in foreign direct investment in production as well as production infrastructure compared to competitive international production centers including New York, the United Kingdom, Georgia (USA) and British Columbia as a direct result of the shortcomings of the current location offset.

> Recommendation 2.2:
>
> The Locat on Offset and the PDV Offset shou d be decoup ed so that projects can be f med and post-produced n Austra a.

As a result of this policy, Australia currently loses out on either the filming or post-production of filmed content to Canada, New Zealand, the UK and the US, among others.[27]

> Recommendation 2.3:
>
> The status of stream ng serv ces under tax eg s at on shou d be c ar f ed to make t c ear that stream ng serv ces are a so e g b e to access the ncent ves.

One of the fastest growing segments of the global film & TV industry is streaming services such as Netflix and Amazon Prime. These companies spend billions of dollars annually on content.[28] An ambiguity in the tax legislation creates uncertainty as to whether these companies can qualify for the Location and PDV Offsets. Clarifying this would make it easier for such streaming services to film and post-produce their projects in Australia.

Source 4: Government-led: State and Federal Funding Bodies

According to the Screen Australia Act (2008), Screen Australia’s primary role is “to support and promote the development of a highly creative, innovative and ***commercially sustainable*** Australian screen production industry”[29]. Australian films at this stage are not sustainable without Government funding. The average recoupment across the 94 films Screen Australia has invested in sits at just 35% undoubtedly influenced by high rates of online infringement.

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[27] Em y Buder, *The Best Countries in the World to Film Your Movie, Based on Production Incentives*, No F m Schoo , (22 August 2016), <http://nof mschoo com/2016/07/f m product on ncent ves tax ncent ves mov e rebates>

[28] M che e Cast o, *Netflix plans to spend $6 billion on new shows, blowing away all but one of its rivals,* CNBC, (17 October 2016), <http://www cnbc com/2016/10/17/netf xs 6 b on content budget n 2017 makes t one of the top spenders htm >

[29] Screen Austra a Act 2008, Part 2, C ause 6

Any negative impact on copyright (either through lack of enforcement or the continued erosion of the value of rights resulting from online infringement) would further increase the need for funding for the film and TV industries. In that light, the more than $50m reduction in funding for Screen Australia in recent years is putting even more pressure on an already challenged Australian screen production industry. We understand the fiscal responsibility the Government has to Australia's tax payers, but urge the Government to step up its commitment to address online infringement to help minimize the impact of these funding cuts and continue to attract international productions in Australia to ensure the long-term health of its screen production industry.

Part 3 – Distributing a Film: How does film distribution actually work, and what role can the Government play in enabling the Australian industry to succeed?

The greatest impediment to the success of the Australian industry is piracy

In assessing the state of the industry, Dr Barker notes that online infringement has had a substantial negative effect on the overall contribution of the Core Creative Industries to Australia's GDP and employment figures generally, and to the FVPP industries in particular. Today, this trend has resulted in Australia having some of the worst rates of infringement in the world.

Creative Content Australia conducts statistically reliable research on a yearly basis.[30] The results of this research measure changes in the rates of online piracy in Australia since 2011 and are summarised in the table below:

Year	Adults who actively pirate[31]	Teens who actively pirate (ages 12-17)
2011	30%[32]	N.A.
2012	27%	N.A.
2013	25%	24%
2014	29%	26%
2015	25%	N.A.
2016	21%	26%

One can see that while there have been some reductions in piracy rates amongst adults on the back of improved availability and affordability of content, 21% of adults continue to actively pirate. Of greater concern is that this trend is not reflected in the behaviour of our younger

[30] Creat ve Content Austra a, *Australian Piracy Behaviours 2015: Wave 7 Adults*, (2015), <http://www creat vecontentaustra a org au/research/2015>
[31] Adu ts and teens who p rate act ve y are def ned as those who adm t to p rat ng n the past month
[32] NB: The 2011 study d d not make a d st nct on between p rat ng phys ca and d g ta f es, therefore t cannot be d rect y compared to subsequent years where the focus n the research was so e y on d g ta p racy

generations. Without effective measures to mitigate this behaviour, the habits being formed now will further undermine the Australian screen production industry into the future.

How do films get legitimately distributed?

As demonstrated in Part 2, a film is often pre-sold to distributors across many countries which enables the film to get made in the first place. That commitment also helps a film to perform better overseas and to be seen by wider audiences.

	Tota No. of F ms	ROW theatr c a Re ease	% ROW Theatr c a Re ease	Average Box Off ce (A$m)	Tota Box Off ce (A$m)
F ms wh ch obta ned ROW pre-sa es	28	27	96%	5.8	162.4
F ms wh ch d d not obta n ROW pre-sa es	66	35	53%	0.7	23.6

A film producer engages a distributor as the expert for her market and to set the appropriate strategy for that market. In general, the release strategy starts with a theatrical release for films a step which sets the value chain in motion and is then exploited via downstream media in a variety of ways. This first step is usually accompanied by a significant marketing investment to raise awareness and excitement for the film. This marketing investment can be a multiple of the cost to securing the rights for the film in the first place.

It is the distributor's expertise to balance these distribution opportunities in such a way to ensure that the revenue potential for a film is maximised. These opportunities offer consumers choice; windows provide them with a wide range of formats and price points at which they can access a film.

There has been significant change and experimentation in how various platforms on which consumers can access content are ordered and priced. These changes demonstrate that the market is responding. Examples of these changes can be found in the field of Transactional Home Entertainment:

- **Electronic Sell-Through** (EST). This is a download of a copy of the work to own. Distributors have experimented with making this format available some 2 to 3 weeks before other Home Entertainment formats. In Australia the average price for a Standard Definition EST is US$12.50 and for a High Definition EST is US$15.12 in line with the UK and US.[33]

[33] The Austra an Home Enterta nment D str butors Assoc at on comm ss ons HS Screen D gest each year to measure VOD and EST pr c ng across both the Standard Def n t on and H gh Def n t on formats For those serv ces where an automated pr ce check s supported (approx mate y one th rd of serv ces), th s ana ys s nc udes the pr c ng of the ent re cata ogue of such a serv ce – usua y exceed ng thousands of t t es For the serv ces where automat c pr ce check ng s not fac tated (approx mate y two th rds of

- Transactional Video on Demand (TVOD). This is the digital version of a video rental. Consumers typically are given access to a film for a continuous period of 48 hours, after which permission to view that film lapses. This was typically released 30 days after the physical day and date release, but is now usually released on the same date as the physical release. In Australia the average price for a Standard Definition TVOD is US$3.96 and for a High Definition TVOD is US$4.57 a lower price than in the UK and US.
- Subscription Video on Demand (SVOD). Australian consumers can now enjoy access to vast libraries for a set fee per month, usually just $10 per month.

It is safe to say that consumers had never had more ways to access great audio-visual content. The visual on the next page highlights the ways in which consumers can access content in Australia, many of which did not exist 15 years ago. It demonstrates that the market place is working and is creating new innovative and entrepreneurial business ventures that fulfil consumer needs.

Even within this vast range of competitively priced consumer choices, there are still those who choose to pirate and justify their actions on the grounds that they have to wait longer than other countries for a film or that they pay a premium for the same content in Australia.

In our submission to the Productivity Commission's Final Report into Intellectual Property arrangements we provide substantial evidence showing that this is no longer a valid claim.[34] Moreover, this claim is further undermined by the fact that those on higher incomes pirate substantially more than those on lower incomes.[35]

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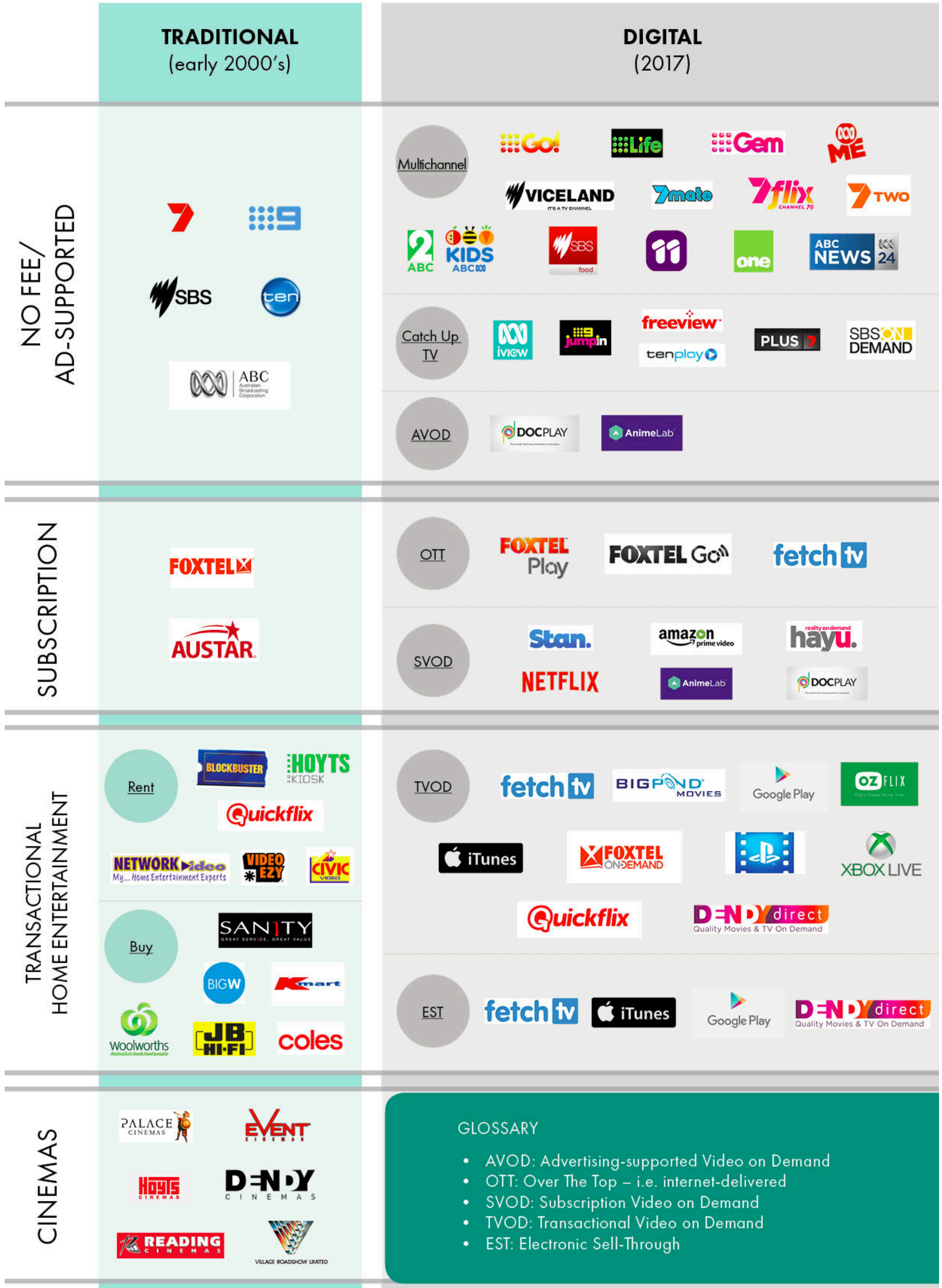
serv ces covered) a manua rev ew s performed on the bas s of a samp e of the Top 50 new re ease t t es n each format at the t me (these typ ca y represent approx mate y 60% of sa es n any g ven per od)
A pr c ng data s c eared from GST/VAT/Sa es Tax
VOD nc udes both nternet VOD and VOD de vered w th n a Pay TV env ronment
Exchange rate forecasts are f xed to those of the ast comp ete ca endar year

[34] Austra an F m & TV Bod es Subm ss on to Product v ty Comm ss on nqu ry Report on Austra a's P Arrangements, Pages 13 16

[35] Austra an F m & TV Bod es Subm ss on to Product v ty Comm ss on nqu ry Report on Austra a's P Arrangements, Page 16

THE EXPLOSION OF CONSUMER CHOICE IN THE DIGITAL AGE



Other ways to effectively address online infringement

> **Recommendation 3.1**
>
> We urge the Government to ncrease ts comm tment to protect ng the r ghts of creators and f ght p racy to further enab e eg t mate d str but on channe s to deve op and f our sh, g v ng consumers better access.

There are a variety of ways to effectively address online infringement. Most involve working with intermediaries that directly or indirectly facilitate the business models of piracy sites.

Working with advertising intermediaries to cut-off the revenue sources of infringing websites

In the United Kingdom, the Police Intellectual Property Crime Unit (PIPCU), in partnership with the creative and advertising industries, launched Operation Creative in April 2014.[36] On its website PIPCU conveniently summarises the steps involved in this initiative:

> This initiative was designed to disrupt and prevent websites from providing unauthorised access to copyrighted content. Rights holders in the creative industries identify and report copyright infringing websites to PIPCU, providing a detailed package of evidence indicating how the site is involved in illegal copyright infringement. Officers from PIPCU then evaluate the websites and verify whether they are infringing copyright. At the first instance of a website being confirmed as providing copyright infringing content, the site owner is contacted by officers at PIPCU and offered the opportunity to engage with the police, to correct their behaviour and to begin to operate legitimately. If a website fails to comply and engage with the police, then a variety of other tactical options may be used including; contacting the domain registrar to seek suspension of the site, advert replacement and disrupting advertising revenue through the use of an Infringing Website List (IWL).

According to the City of London Police:

> [T]he IWL, the first of its kind to be developed, is an online portal containing an up-to-date list of copyright infringing sites, identified and evidenced by the creative industries and verified by the City of London Police unit. It is available to the partners of Operation Creative and those involved in the sale and trading of digital advertising. The aim of the IWL is that advertisers, agencies and other intermediaries can voluntarily decide to cease advert placement on these illegal websites which in turn disrupts the sites' advertising revenue.

[36] C ty of London Po ce, *Operation Creative and IWL*, (25 May 2016), <https://www c tyof ondon po ce uk/adv ce and support/fraud and econom c cr me/p pcu/Pages/Operat on creat ve aspx>

Working with payment processor intermediaries to cut off the revenue of infringing websites

Many infringing websites accept subscription fees or payments to speed up downloads, prevent interruptions to streaming, or otherwise improve the user experience. In the US, payment processors have created trusted notifier programs to terminate payment services to infringing websites.

Working with other infrastructure intermediaries to cut off services to infringing websites

Websites rely on a variety of service providers to operate registries for domain names, hosting providers, and in some cases content delivery networks (CDNs). Each of these intermediaries typically has terms of service preventing their use for illegal purposes and therefore has the capacity, when facing evidence of obvious and widespread infringement, to cut off services to infringing websites.

Study into the role that Search Engines can play in influencing media piracy

In 2014, Carnegie Mellon released a paper entitled "Do Search Engines Influence Media Piracy? Evidence from a Randomized Field Study."37 The authors of this paper concluded that "reducing the prominence of piracy links in search results can have a significant impact on consumer behaviour." When classifying users' intentions based on their initial search terms, the study found that users who initially express an intent to consume legally are less likely to purchase legally if the infringing search results are elevated, and that users who initially express an intention to consume through pirate channels are more likely to consume legally when legal search results are elevated. To date, search engines have taken some steps to demote infringing websites, but search results and auto-complete recommendations for almost any content demonstrate that more needs to be done. PIPCU-style lists, other lists compiled by the advertising industry (including ad networks related to search engines) and lists of sites blocked under s115A can readily be used to identify sites devoted to piracy.

> Recommendation 3.2
>
> Reject the Product v ty Comm ss on's recommendat on to make c rcumvent on of Techno og ca Protect on Measures (TPMs) perm ss b e for persona use and to make contract c auses that prevent t unenforceab e.

Access-control Technological Protection Measures (TPMs) are things like passwords that allow websites like the Australian and streaming services like Netflix and Stan to charge fees for their services so they can generate revenue from their businesses. Copy-control TPMs prohibit unauthorized copying of digital goods, like a digital download of a film in iTunes, from one format to another.

[37] L ron S van et a , *Do Search Engines Influence Media Piracy? Evidence from a Randomized Field Study*, (September 2014), <http://repos tory cmu edu/cg /v ewcontent cg ?art c e=1394&context=he nzworks>

In its Final Report on IP Arrangements, the Productivity Commission fails to distinguish between these two types of TPMs and recommends a blanket rule that any TPM should be allowed to be legally circumvented if the purpose of the circumvention is to enable a “legitimate” use of a protected work.

The Productivity Commission fails to understand that its proposal would effectively undercut any protections for different legitimate distribution platforms and business models, which are implemented through TPMs. For instance a consumer might have the option to access a specific movie via a free ad-supported platform, pay $5.99 to rent it for a defined period, $19.50 for a permanent EST version, or $10.00 per month for a subscription to an SVOD platform that includes the movie in its catalogue. If circumvention tools are freely available as they would be under the Commission’s recommendation, and consumers have an expectation that circumvention is permissible as they inevitably would under the Commission’s recommendations, all of these different business models and consumer options collapse into a singular uniform one, leading to loss of income for the film’s distributors and producers, as well as reduced consumer choice.

In addition to the severe market-place implications, the Productivity Commission’s proposal would eliminate the effective legal protection of TPMs in Australia, putting Australia in violation of its international obligations.

Conclusion

The recommendations made in this submission, and in the Australian Film & TV Bodies Submission to the Productivity Commission[38], are about supporting and protecting the jobs of nearly one million Australians while growing the Australian creative and tourism industries. The futures of actors, directors, scriptwriters, gaffers, set designers, builders, drivers, and caterers are all reliant in some capacity on the timely and controlled use of copyright to maintain their livelihoods.

We commend the Government for seeking more information on how they can better ensure the success and growth of these industries. We would welcome the opportunity to participate in further discussions related to these issues.

[38] A copy of th s subm ss on s ava ab e on request.

Appendices

Appendix A: Full Descriptions of members of the Australian Film & TV Bodies

The Australian Film & TV Bodies are made up of the Australian Screen Association (ASA), the Australian Home Entertainment Distributors Association (AHEDA), the Motion Picture Distributors Association of Australia (MPDAA), the National Association of Cinema Operators-Australasia (NACO), the Australian Independent Distributors Association (AIDA) and the Independent Cinemas Association of Australia (ICAA). These associations represent a large cross-section of the film and television industry that contributed $5.8 billion to the Australian economy and supported an estimated 46,600 FTE workers in 2012-13.[39]

a) The ASA represents the film and television content and distribution industry in Australia. Its core mission is to advance the business and art of film making, increasing its enjoyment around the world and to support, protect and promote the safe and legal consumption of movie and TV content across all platforms. This is achieved through education, public awareness and research programs, to highlight to movie fans the importance and benefits of content protection. 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; 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.; and Warner Bros. Pictures International, a division of Warner Bros. Pictures Inc.

b) AHEDA represents the $1.1 billion Australian film and TV home entertainment industry covering both packaged goods (DVD and Blu-ray Discs) and digital content. AHEDA speaks and acts on behalf of its members on issues that affect the industry as a whole such as intellectual property theft and enforcement, classification; media access, technology challenges, copyright, and media convergence. AHEDA currently has 13 members and associate members including all the major Hollywood film distribution companies through to wholly-owned Australian companies such as Roadshow Entertainment, Madman Entertainment and Defiant Entertainment. Associate Members include Foxtel and Telstra.

c) The MPDAA is a non-profit organisation representing the interests of theatrical film distributors before Government, media, industry and other stakeholders on issues such as classification, accessible cinema and copyright. The MPDAA also collects and distributes cinema box office information including admission prices, release schedule details and classifications. The MPDAA represents Fox Film Distributors, Paramount Pictures Australia, Sony Pictures Releasing, Universal Pictures International, Walt Disney Studios Motion Pictures Australia and Warner Bros. Entertainment Australia.

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[39] Access Econom cs, *Economic Contribution of the Film and Television Industry,* Access Econom cs Pty L m ted, (Februa y 2015), <http://screenassoc at on com au/wp content/up oads/2016/01/ASA Econom c Contr but on Repo t pdf>, p v

d) NACO is a national organisation established to act in the interests of all cinema operators. It hosts the Australian International Movie Convention on the Gold Coast, 2017 being its 71st year. NACO members include the major cinema exhibitors Amalgamated Holdings Ltd, Hoyts Cinemas Pty Ltd, Village Roadshow Ltd, as well as the prominent independent exhibitors Palace Cinemas, Dendy Cinemas, Grand Cinemas, Ace Cinemas, Nova Cinemas, Cineplex, Wallis Cinemas and other independent cinema owners which together represent over 1400 cinema screens.

e) AIDA is a not-for-profit association representing independent film distributors in Australia, being film distributors who are not owned or controlled by a major Australian film exhibitor or a major U.S. film studio or a non-Australian person. Collectively, AIDA's members are responsible for releasing to the Australian public approximately 75% of Australian feature films which are produced with direct and/or indirect assistance from the Australian Government (excluding those films that receive the Refundable Film Tax Offset).

f) ICAA develops, supports and represents the interests of independent cinemas and their affiliates across Australia. ICAA's members range from single screens in rural areas through to metropolitan multiplex circuits including Reading, Palace and iconic cinemas such as the Hayden Orpheum and Cinema Nova. ICAA's members are located in every state and territory in Australia, representing over 650 screens across 159 cinema locations.

Appendix B: Examples of benefits from tax incentives

Examples of high-quality jobs for Australians and the economic and multiplier benefits of tax incentives include:

- ***The Great Gatsby, New South Wales:*** The filming of Baz Luhrmann's *The Great Gatsby* in 2011 in Australia is credited with injecting A$340 million into the NSW economy. According to the Australian Financial Review,[40] the film was a boon to everyone from Sydney's Fox Studios to NSW milliners and seamstresses. The NSW Government estimated the overall impact of the film, with principle photography at Fox studios, at almost three times its A$120 million budget, while providing approximately 1000 jobs. *Gatsby* has also kept millions of dollars' worth of equipment in the country. Post-production company Spectrum Films, where the 3D extravaganza was edited, said Gatsby allowed them to upgrade and re-equip their 1400 square metre, 35-suite facility, employ more people and be globally competitive.

- ***Pirates of the Caribbean 5, Queensland:*** The fifth instalment of this franchise completed principal production in 2015 in Australia. The film, expected to be theatrically released in 2017, was shot on location at the Village Roadshow Studios on the Gold Coast. The Australian Government approved contributing A$21.6 million to the production of the film, the sum the Federal Government had previously promised for the production of *20,000 Leagues Under the Sea*, also a Disney project (but that was shelved when the director dropped out). According to the former Queensland premier Campbell Newman, the film is anticipated to bring in about A$87.1 million to Queensland and create over a thousand local jobs.[4]

- ***The Wolverine, New South Wales:*** The Australian Federal Government made a one-off A$12.8 million payment to attract *The Wolverine* to film in Sydney.[1] The investment package at the time effectively represented an increase of the Location Offset from 16.5% to 30%; however, the current rate is still 16.5%. The film is reported to be worth A$82.6 million in investment and created up to 2,000 jobs. According to Ausfilm, the filming of *The Wolverine* in Australia resulted in meaningful benefits for the industry and the economy including jobs, skills and training, and investment back into the local industry. The extension of the Location Offset demonstrated substantial Government support for the Australian film industry and highlighted the importance of an increase to the Location Offset to attract and compete for large-scale international productions to shoot in Australia.[42]

- Tourism Australia developed their 'Come Walkabout' campaign in partnership with Baz Luhrmann based on the success of his film *Australia*, which was seen by more than 23 million people worldwide. The 'Come Walkabout' campaign ran in 22 major markets around the world and '…of the long haul travellers who have seen components of the

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[40] Brooke Turner, *Gatsby's great news for film industry*, Austra an F nanc a Rev ew, (12 September 2011), <http://www afr com/ festy e/arts and ente ta nment/f m and tv/gatsbys great news for f m ndustry 20110911 4910>

[41] Patr ck Frater, *Pirates of the Caribbean 5' to Shoot in Queensland, Australia*, Var ety, (1 October 2014), <http://var ety com/2014/f m/as a/p rates of the car bbean 5 to shoot n queens and austra a 1201318991/>

[42] Pau ne Cha , *Wolverine meets Gatsby*, Var ety, (6 May 2012), <http://var ety com/2012/f m/news/wo ver ne meets gatsby 1118053180/>

campaign, 24 per cent seriously intend coming to Australia in the next 12 months, representing a 60 per cent increase in intention.[43]

The campaign was validated by extensive research around the world quantifying the nexus between what viewers see on the large and small screen and driving visitors to the location where the projects are filmed. Previous studies that have found evidence of motion picture and television-induced tourism in other global territories include:

- United States: A 1998 study measuring the impact of 12 motion pictures on visitation to specific locations found that motion pictures increased visitation by, on average, 40 to 50% for at least four years following release.
- New Zealand: In a 2003 survey of international visitors, 8.6% of respondents indicated that the Lord of the Rings Trilogy was a factor in their decision to visit New Zealand, and 89% of international visitors were aware the productions were shot in New Zealand before they arrived.
- Ireland: A 2010 survey of overseas travellers found that 20% of total respondents identified films as an information source that influenced their decision to visit Ireland.
- Scotland: A 2012 survey of UK adults found that 19% of respondents had been inspired to visit or consider visiting Scotland by a film they had watched.
- United Kingdom: A 2011 analysis estimated that approximately 12% of international visitors to the UK were motion picture and television- induced tourists.
- In Louisiana, a survey undertaken by Federated Sample and HR&A Advisors of 1,381 recent visitors to the state found 14.5% of domestic U.S. out-of-state leisure visitors to Louisiana were film induced tourists, generating $2.4 billion (US) in economic activity in the state.[44]

[43] Tour sm Austra a, *Annual Report 2008 2009*, (October 2009), <http://www tour sm austra a com/documents/corporate/Annua   Report 2008 2009 pdf>
[44] The Austra an F m & TV Bod es wou d be p eased to prov de further, comprehens ve nformat on on ncent ve amounts ex st ng n these and other terr tor es

Appendix C: Full list of 21st Century Fox titles produced internationally between 2013 and 2017 in countries with higher incentives than Australia's 16.5%[45]

Fox feature films and production locations:

- *Die Hard 5* **Hungary**. Released 2013
- *The Book Thief* **Germany.** Released 2013
- *Secret Life of Walter Mitty* **Iceland**. Released 2013
- *Dawn of the Planet of the Apes* **British Columbia, Canada.** Released 2014
- *Night at the Museum 3* **British Columbia, Canada and the UK**. Released 2014
- *Exodus* **Spain and the UK**. Released 2014
- *X-Men: Days of Future Past* **Montreal, Canada**. Released 2014
- *Agent 47* **Germany / Singapore / Canada**. Released 2015.
- *X-Men: Apocalypse* **Montreal, Canada**. Released 2016.
- *Deadpool* **British Columbia, Canada.** Released 2016.
- *Spy* **Hungary**. Released 2015.
- *Miss Peregrine's Home for Peculiar Children* **The UK**. Released 2016.
- *War for the Planet of the Apes* **British Columbia, Canada.** To be released in 2017.

The aggregate production spend on theses 13 Fox films was over US$1.4 billion.

Fox major television shows and production locations:

- *24 Live Another Day* **The UK**. 12 episodes aired in 2014.
- *Homeland Season 4* **South Africa**. 12 episodes aired in 2014.
- *Bastard Executioner* **The UK/Wales**. 10 episodes for season one aired in 2015.
- *Tyrant* **Hungary**. 32 episodes in 2014-2016.
- *X-Files Season 10* **British Columbia, Canada.** 6 episodes commenced airing in 2016.
- *Minority Report* **British Columbia, Canada**. 10 episodes that commenced airing in 2015-2016.

[45] The Austra an F m & TV Bod es wou d be p eased to prov de further, comprehens ve nformat on on ncent ve amounts ex st ng n these and other terr tor es

21[s] Century Fox produced 82 episodes for these six shows at an average cost of US$3 million per show, representing a total investment of almost US$250 million.

Appendix D: Infographic – Why Territorial Copyright is Important for Australian Feature Film Production

Why Territorial Copyright Is Important

FOR AUSTRALIAN FEATURE FILM PRODUCTION

Average foreign investment in Australian features in the past 8 years thanks to territorial copyright:

≈A$70 MILLION

Screen Australia Funded Films
08/09 - 15/16

Pre-sales = A film secures part of its investment on the back of pre-selling its script and creative team to distributors around the world

Advance = Usually paid by a sales agent to secure the right to gain commissions when selling it to distributors all around the world

Films That Attract Presales "Travel Better"

More films with pre-sales are released theatrically overseas and perform better

	Total No. of Films	ROW theatrical release	% ROW theatrical release	Average B.O. (A$ MM)	Total B.O. (A$ MM)
Films which obtained ROW presales	28	27	96%	5.8	162.4
Films which did not obtain ROW presales	66	35	53%	0.7	23.6

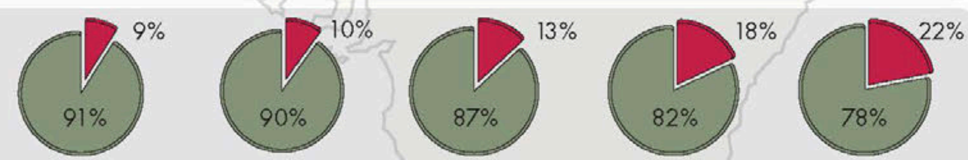
More effective promotion of Australian culture and tourism

Helps Australian talent, behind and in front of the camera, develop their careers and become cultural ambassadors of Australia

It's The Bigger Australian Stories That Need International Funding The Most To Get Made

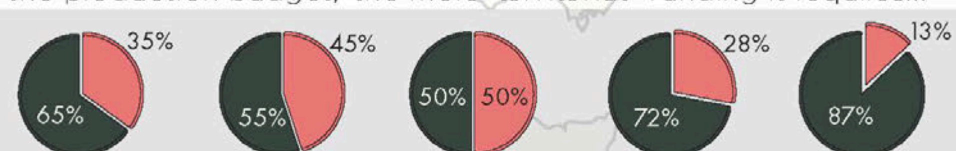
BUDGET (A$) — **600K - 3M** — **3 - 6M** — **6 - 10M** — **10 - 15M** — **15M+**

CONTRIBUTION **TERRITORIAL** VS **EQUITY**



The bigger the production budget, the more 'territorial' funding it requires...

TERRITORIAL CONTRIBUTION **AU** VS **ROW**



...and more of that funding comes from overseas.

The Dressmaker

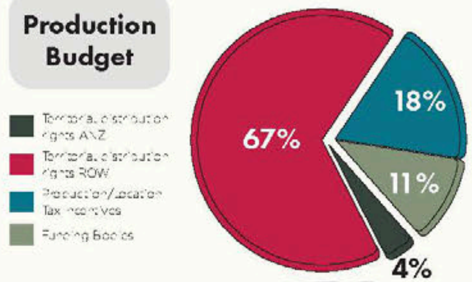
Production Budget

"It would simply not be possible to raise the budget for a film like *The Dressmaker* or engage international stars without being able to sell the film territory by territory internationally. A whopping 35% of the budget was raised in just this manner and only possible by protecting access to exclusive rights for each territory."

Sue Maslin
Producer

Lion

Production Budget



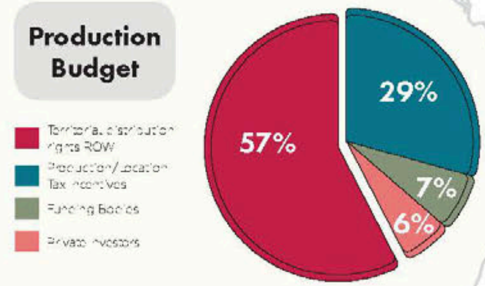
"We were able to access over 70% of the finance for *Lion* from the domestic and international marketplace. Our domestic distributor, Transmission Films, was confident that Saroo's story would resonate with an Australian audience. Similarly, our international sales agent, The Weinstein Company, knew that there would be plenty of interest in the film throughout the rest of the world. Accordingly, each of Transmission and The Weinstein Company took substantial commercial risks on the film which they could only afford to take on the basis that access to the film could be quarantined by territory.

If we could not give these assurances, it would have been impossible to produce *Lion* and put our Australian film industry once again on the world stage."

Emile Sherman
Co-Managing Director, See-Saw Films

Nest 3D

Production Budget



"We have worked tirelessly to help craft stories with appeal to Asian audiences, and have sold these ideas to distributors throughout Asia. This has created many jobs and opportunities for Australians. *Nest 3D*, which is currently in post-production, is our largest production so far. Being named 2016 NSW Premiers Asian Exporter of the Year was a real validation for us and a great recognition of the work we have done.

Reading about the Productivity Commissions attack on copyright in general and territorial copyright specifically is more terrifying than the horror films we sell; our sales business and independent film production would be decimated if these changes were to be implemented."

Mark Lazarus
Arclight, Head of Creative & Acquisitions - Australia