interactive games & entertainment association

Submission to the Senate Environment and Communications References Committee

Response to National Cultural Policy Inquiry

October 2025

IGEA acknowledges and pays respect to the past and present Traditional Custodians and Elders of this land and the continuation of cultural, spiritual and educational practices of Aboriginal and Torres Strait Islander peoples. IGEA recognises that our work also extends across to the lands of Aotearoa, and recognise the strength, wisdom and creativity of the Māori and the Moriori people. We would like to extend our acknowledgments to the indigenous people from countries overseas and recognise their strength, wisdom and creativity.

1. Introduction

The Interactive Games & Entertainment Association (IGEA) welcomes the opportunity to provide a submission to the inquiry into the National Cultural Policy under the 48th Parliament, led by the Senate Environment and Communications References Committee.

This follows on from the inquiry under the previous term of Parliament, to which IGEA made two submissions.[1] For this latest iteration of the inquiry, we understand that the Committee is particularly interested in our views on:

a) potential tax reform and ways to boost the productivity of Australia's arts and creative sectors; and

b) any opportunities, risks and challenges for Australia's arts and creative sectors associated with emerging technologies such as artificial intelligence.

Our submission will therefore specifically focus on these two components in the video games industry context.

We note that this inquiry occurs at the midpoint of the Australian Government's *National Cultural Policy: Revive*, recent release of the Productivity Commission's Interim Report as part of its inquiring into harnessing data and digital technology,[2] and recent economic reform roundtable discussions including on AI.[3] This inquiry is therefore timely, especially as other states and territories continue to explore opportunities to support the creative sectors and addressing AI.[4]

From the perspective of the video games industry, increased investment and support in Australia would contribute to a more sustainable and globally competitive sector, while also delivering broader economic and cultural benefits. This submission outlines practical ways in which the Australian Government can help achieve this.

About IGEA

IGEA is the industry association representing and advocating for the video games industry in Australia, including the developers, publishers and distributors of video games, as well as the makers of the most popular game platforms, consoles and devices. IGEA has over a hundred members, from emerging independent studios to some of the largest video games companies in the world.

Amongst our various activities, IGEA also organises the annual Games Connect Asia Pacific (GCAP) Conference for Australian game developers and the Australian Game Developer Awards that celebrate the best Australian-made games each year.

---

[1] IGEA submission (March 2023), https://www.aph.gov.au/DocumentStore.ashx?id=bd200d3c-24f2-405d-a28c-f388695e7fbb&subId=734941; IGEA supplementary submission (March 2024) https://www.aph.gov.au/DocumentStore.ashx?id=921fa3fa-a900-44da-93e9-452a49ee5486&subId=734941

[2] See: https://www.pc.gov.au/inquiries/current/data-digital/interim

[3] See: https://treasury.gov.au/review/economic-reform-roundtable

[4] For instance, we have recently made a submission to the NSW Department of Creative Industries, Tourism, Hospitality & Sport's Discussion Paper on 'The Art of Tax Reform: Unlocking opportunities to improve taxation for Australian creative industries': https://igea.net/2025/08/igea-submission-to-nsw-cultural-tax-reform-discussion-paper/

Overview of submission

We note that this inquiry follows on from the one under the previous term of Parliament, to which IGEA made two submissions.[5] Given this new term, we consider it a welcome and timely opportunity to take a refreshed look into these issues, while building on from our previous submissions.

Tax reform and other incentives

Overall, we support effective tax reform and other incentives for creative industries guided by key public policy considerations. This includes aligning with national cultural policy, where the government plays a central role. It also means improving access to support for smaller studios to ensure a fairer and more inclusive sector. There is a clear public interest in investing in and supporting the growth of local creative industries. Importantly, the Australian Government should look to best practices that encourage local content creation and boost export potential.

We have welcomed the introduction of the Digital Games Tax Offset (DGTO), coupled with other federal, state and territory incentives, setting a critical foundation for building momentum and a pipeline for growth. It is essential that funding for the DGTO and other incentives are maintained for the longer term.

To ensure the long-term viability of Australia's video games sector and its role within the broader creative industry, targeted support for emerging creators and smaller studios is essential. Despite being a vital part of contemporary art and culture, video games receive comparatively less recognition and support than other screen sectors. For Australia to become a true cultural and creative hub, this gap must be addressed through competitive and timely financial mechanisms.

Tax reform presents a valuable opportunity to close existing funding gaps, particularly for studios with budgets below the minimum spend under the DGTO, state and territory support, by enabling earlier-stage capital access, reducing production risks and supporting talent retention. However, meaningful change will require more than tax reform alone.

A coordinated approach across federal, state and territory governments, combining grants, rebates and operational support, is critical to ensure Australia remains competitive with other sectors and jurisdictions. Addressing these disparities will not only strengthen the local industry but also unlock the full cultural and economic potential of the games sector in Australia.

AI in the video games industry

AI has long played a valuable role in video games, enhancing entertainment, creativity, accessibility and player safety, without presenting the risks typically associated with other AI applications. In this context, regulatory approaches should remain proportionate and risk-based, reflecting the creative and low-risk nature of AI in games. As global frameworks like the EU AI Act have recognised, video games should not be subject to unnecessary or

[5] IGEA submission (March 2023), https://www.aph.gov.au/DocumentStore.ashx?id=bd200d3c-24f2-405d-a28c-f388695e7fbb&subId=734941; IGEA supplementary submission (March 2024) https://www.aph.gov.au/DocumentStore.ashx?id=921fa3fa-a900-44da-93e9-452a49ee5486&subId=734941

overly broad obligations that could impede innovation. Any AI regulation in Australia should be clearly scoped, future-ready and coherent with existing laws, while acknowledging the distinct characteristics of the video games sector. It would be prudent to first leverage existing regulatory frameworks, as recommended by the Productivity Commission's Interim Report as part of its inquiry into harnessing data and digital technology.

Similarly, as the use of AI (including generative AI tools) expands in game development, copyright law must continue to support both innovation and the protection of original works. In our sector, AI is a general-purpose tool used in ways that complement human creativity. Broad or unclear obligations, such as blanket disclosure requirements, could create uncertainty without delivering clear public value. Maintaining legal clarity and protecting human-directed creative outputs will be essential as technologies evolve.

We note that the Productivity Commission also recently considered a potential text and data mining (TDM) exception, raising important questions about how to enable innovation while allowing rights holders to express their preferences. We see this as an opportunity to explore practical and effective rights reservation mechanisms that reflect global experiences and the needs of diverse creative sectors. Ongoing government-led stakeholder engagement such as through the Copyright AI Reference Group (CAIRG) will be critical to ensure that any reform in this space is workable, proportionate and future proof.

Below is a summary of our recommendations:

Topic	**IGEA's recommendations**
DGTO	• Address the funding gap between early-stage prototyping and large-scale incentives like the DGTO by introducing mid-tier production funding ($150K-$500K). This would allow studios to retain staff, finish vertical slices and reduce risk when engaging publishers or investors, and act as a funnel into the DGTO by enabling more studios to reach offset scale. • Redesign the DGTO to improve cash flow alignment, certainty and accessibility. Allow annual claims, remove restrictive requirements and take inspiration from developer-friendly international models (e.g. Canada). • Support continuity between project milestones, particularly post-launch and pre-greenlight phases, to avoid team dissolution. • Recognise the importance of marketing, community management and content updates to long-term success. Provide targeted grants or tax support for activities beyond initial development.
Holistic and coordinated approach	• Addressing current disparities, both across the federal, states and territories, and compared to overseas jurisdictions, requires integrated reforms. With coordinated tax policy, equitable funding and targeted initiatives, Australia can position itself as a global

Topic	IGEA's recommendations
	leader in the flourishing international markets for games development and transmedia opportunities.
Commercial sustainability	• Introduce a program resembling the previous Australian Interactive Games Fund with a blend of repayable loans, milestone-linked grants and success-based reinvestment. The fund should focus on supporting studios between prototype and publisher-readiness stages, bridging the 'missing middle' while encouraging scalable, long-term commercial growth and ambition.[6]
Games and film	• The $12 million funding committed for Australian video game development as part of the National Cultural Policy should be increased to $25 million in recognition of the critical need for 'catch-up' investment in the sector. • Maximising support across creative sectors, by extending the benefits of investment in film to the video games sector, fostering shared infrastructure and cross-industry collaboration, and investing in transmedia opportunities.
Geographic fragmentation	• Encourage federal, state and territory agencies to adapt to modern studio structures, including distributed teams, co-productions, hybrid pipelines and service-oriented business models. Evaluation should prioritise project outcomes over geographic spend. Moreover, service providers to the industry should be eligible for game-related funding. • Establish rolling travel grants for studios and service providers attending international events. This is vital for networking, pitching and attracting foreign investment.
Scaleup barriers	• Establish a program offering structured mentorship, business development training and investor-readiness support to close the 'growth gap', the prohibitive difficulty of scaling to AA/AAA levels in Australia's shallow investment landscape, and help ambitious studios transition into sustainable businesses aligned with market opportunities. Equip studios to scale ambitiously without needing to go public and educate domestic investors to see games as a viable sector for early-stage capital. • Decentralise opportunity through funding for regional hubs, incubators, co-working spaces, and state- and territory-based events. Encourage cross-state collaboration and reduce barriers for studios outside major cities.

[6] In this submission, we refer to the 'missing middle', arising where there is a structural gap between small-scale prototype grants (typically $30K–$100K) and large-scale mechanisms like the DGTO (which only deliver

Topic	IGEA's recommendations
	• Co-fund programs that build business acumen, leadership capacity and commercial literacy. This should include targeted mentorship in business operations, production management and investor literacy, helping to rebuild the leadership pipeline hollowed out since the GFC. Prioritise peer mentoring, founder support and access to expertise in under-resourced states and territories.
Supporting data	• Funding support should be provided to resource the ABS through Screen Australia to publish statistics annually on digital games in Australia, to help inform the impact of government programs for supporting the video games industry, the size of the industry's workforce, talent demands and skills shortages.
Online harms	• Before introducing new technology regulations, existing regulatory frameworks should be leveraged wherever possible, in line with principles of best regulatory practice and good public policy design. Such principles include transparency, collaboration, practicality, proportionality, technology neutrality, and evidence-based design, which will ensure productivity-enhancing, globally competitive outcomes. • Regarding AI-related online harms, AI has been utilised over a long period of time in video games and is low-risk. Therefore, we would object to any mandatory obligations or guardrails being applied to low-risk applications such as in video games.
Copyright infringement	• The Government should preserve the core principle of the existing copyright framework to protect rights holders, while enabling responsible innovation, including through AI. Reforms must provide regulatory certainty and uphold IP rights. • The Government should clarify copyright law to ensure works generated using AI involving human authorship remain eligible for copyright protection. • The Government should maintain ongoing consultation with the video games industry on copyright and AI regulation, including through the CAIRG. Engagement should be evidence-based and have regard to the unique ways AI is used in video games development, ensuring policy supports innovation and protects IP. • Noting that there are range of views on introducing a TDM exception in Australia, such a reform should also consider the development of a proven, practical, standardised and user-friendly rights reservation mechanism that operates effectively across different content types and business models. This should be explored through government-led forums like the CAIRG to

Topic	IGEA's recommendations
	ensure it is evidence-based, balanced and supports innovation across Australia's creative sectors.

2. The cultural and economic value of the video games industry

Before addressing the two key matters in this inquiry, it is important to first reflect on the cultural and economic value of the video games industry. Doing so provides essential context for understanding the opportunities and challenges the sector faces, and the rationale for why tailored tax and funding support can unlock its full potential.

Video games are a much-loved part of Australian life, delivering significant benefits to players, communities and the broader economy. Game developers and publishers are creators, innovators and business leaders, reimagining entertainment and transforming how we learn, connect and play. Over 80% of Australians play games, and most households own at least one device used for gaming, primarily for enjoyment and relaxation.[7] Increasingly, games are also being used for serious and educational purposes, including by governments.

Video games are also a powerful digital outlet for Australian art, culture and storytelling. Australian-made games are among the country's most successful and valuable cultural exports. The medium also helps introduce young Australians to Science, Technology, Engineering, the Arts and Mathematics (STEAM), building vital digital skills and inspiring future careers that meet the needs of Australia's evolving workforce.

The video games industry is a key driver of the Australian digital economy and a major contributor to local content creation. According to industry data, video games generate approximately $3.8 billion annually in Australia,[8] with Australian-made games contributing $339.1 million in export revenue in the 2023/24 financial year alone.[9] The Australian Government has also recently highlighted the sector's rapid growth, with updated figures from the Bureau of Communications, Arts & Regional Research (released as part of *Revive*, Australia's National Cultural Policy) showing that digital games development has been the fastest-growing domain of cultural and creative activity from 2014–15 to 2023–24, averaging 15.9% annual growth and expanding from $92 million to $336 million in cultural and creative GDP over the period.[10]

[7] IGEA, 'Australia Plays' (September 2025), https://igea.net/2025/09/australian-parents-embrace-the-power-of-play/
[8] IGEA, '2024 Australian Video Game Consumer Sales Results' (Media Release, July 2025), https://igea.net/2025/07/2024-australian-video-game-consumer-sales-results/
[9] IGEA, 'Australian video game development industry stays steady, generating $339.1 million for the economy' (Media Release, December 2024), https://igea.net/2024/12/australian-video-game-development-industry-stays-steady-generating-339-1-million-for-the-economy/
[10] Bureau of Communications, Arts & Regional Research, 'Frequently Asked Questions: Cultural and Creative Activity in Australia, 2014– 15 to 2023–24' (September 2025), p. 3, https://www.infrastructure.gov.au/sites/default/files/documents/cultural-and-creative-activity-in-australia-2014-15-to-2023-24-methodology-refresh-faqs-9september2025.pdf

Uniquely positioned at the intersection of entertainment, the arts and technology, the video games industry supports a diverse range of high-skilled careers across creative, technical and professional fields. It offers high-quality and sustainable employment opportunities, and serves as a growth engine for the national economy.

According to our *Game Development 2023-24* survey, the Australian games development industry employs nearly 2,500 full-time equivalent employees.[11] The top three challenges facing the industry are: securing international publisher deals; securing local publisher deals; and attracting early-stage development funding. Despite the clear economic and cultural value of video games, this significance is not yet adequately reflected in current funding policies and programs.

In this context, the Australian video games industry, though still relatively young, presents a significant opportunity to diversify our economy and grow high-value, weightless exports. Its consistent year-on-year growth points to strong global potential. The global video games industry is valued at around $300 billion,[12] already surpassing the combined value of the film and music industries. By 2040, video games could account for 44% of consumer entertainment spending, eclipsing both streaming and traditional video.[13]

International comparisons also highlight the untapped potential. For example, Canada's video games industry employs 34,000 full-time workers and contributes CAD $5.1 billion to its economy.[14] Australia, with a comparable talent base and time zone advantages, can achieve similar results with targeted investment and policy support.

A welcome first step has been the bipartisan introduction of the 30% Digital Games Tax Offset (DGTO) at the federal level, signalling a renewed commitment to the sector and helping the industry recover ground lost during the GFC. With the DGTO in place, larger productions are already beginning to take root in Australia, driving deeper specialisation and capability growth across the sector.

We also celebrated the restoration of the Australian Interactive Games Fund, a historic moment announced by the Government during the launch of the Australian National Cultural Policy. This was followed by Screen Australia's introduction of funding opportunities, directly supporting original games (Games Production Fund), emerging gamemakers (Emerging Gamemakers Fund), and professional development (Future Leaders Delegation).

These funding commitments, coupled with select state government digital games rebates, position Australia as having one of the world's most generous games incentives, fostering project delivery by highly creative digital businesses and enticing multinational game studios to establish a presence and invest in Australia. Australian studios of all sizes and

---

[11] IGEA, 'Australian video game development industry stays steady, generating $339.1 million for the economy' (Media Release, December 2024), https://igea.net/2024/12/australian-video-game-development-industry-stays-steady-generating-339-1-million-for-the-economy/

[12] Newzoo, 'Global games market to hit $189 billion in 2025 as growth shifts to console' (September 2025), https://newzoo.com/resources/blog/global-games-market-to-hit-189-billion-in-2025

[13] McKinsey Global Institute, 'The next big arenas of competition' (Report, October 2024), https://www.mckinsey.com/mgi/our-research/the-next-big-arenas-of-competition

[14] Entertainment Software Association of Canada, 'Canada's Video Game Industry: Powering the Future of

locations now have the opportunity to access government funds which ultimately will lead to a diversified local development ecosystem.

We deeply appreciate the support for Australian video game creators, which could only be achieved through cross-party support. Industry continues to share positive feedback about the DGTO and we look forward to increased industry uptake of this tax offset being well-utilised by the industry.

Australian game developers are internationally recognised for their creativity and innovation. With the right mix of federal-, state- and territory-level support, the industry can become one of Australia's most important growth sectors, and a vital contributor to the Australian Government's goal of becoming a top 10 digital economy and society by 2030.

3. Tax reform and other incentives

As noted above, we have welcomed the introduction of the DGTO, coupled with other federal, state and territory incentives, setting a critical foundation for building momentum and a pipeline for growth. It is important that funding for the DGTO and other incentives are maintained for the longer term.

To support a growing industry, a key issue that tax reform and other incentives can address is the current lack of support for the growth and sustainability of local creative industries, particularly emerging and mid-sized game studios that often fall through the gaps in existing public and private funding schemes. By targeting this gap, tax reform and other support can help Australian creators scale their businesses, retain skilled talent, and contribute meaningfully to both cultural and economic outcomes. Addressing gaps in government tax incentives and funding programs would significantly strengthen support for Australian games studios.

Reforms need to assist studios that currently struggle to access existing government support. This support is crucial to sustaining studios beyond reliance on private equity. When private investment is insufficient or inaccessible, consistent government backing becomes critical to growing the local industry. For instance, while some studios can access both the DGTO and state- or territory-based support, others remain ineligible for either, highlighting a gap in the current support framework.

To better understand this complex landscape and the seeming contradiction between vastly expanded support and commitment to the sector and ongoing concerns regarding funding, IGEA conducted a qualitative research initiative in mid-2025 involving interviews with 24 studios across all Australian states and territories. These ranged from sole developers to mid-tier mobile studios and AAA-scale teams. The central goal: to determine whether current funding models are fit-for-purpose, what gaps remain, and how support mechanisms can evolve to reflect the industry's commercial and cultural realities. Many of our findings are pertinent to this inquiry, which we discuss further below.

3.1 Principles for reform

Overall, we support the principles for good tax policy and targeted government incentives to support the video games industry. Several core public policy considerations should guide tax reform and other incentives for creative industries, including:

- supporting national cultural policy, where government has a central role;
- levelling the playing field for smaller studios by enabling more equitable access to support;
- acknowledging the public responsibility to invest in, grow and sustain thriving local creative industries; and
- adopting best practices that promote local content creation and export growth.

With these principles in mind, the following sections explore the key challenges facing Australia's games industry and highlight opportunities for meaningful policy intervention.

3.2 DGTO

We reiterate that the DGTO is widely praised, especially by larger studios, as a transformative, globally competitive policy that boosts Australia's reputation in game development. It builds publisher confidence, retains local talent and supports diverse projects, including long-term and strategic work. However, despite its benefits, the DGTO's structure poses challenges for both large and small eligible studios, though the impacts differ across scale.

3.2.1 The 'missing middle'

One key concern is that video games projects with budgets below the $500K minimum spend are ineligible for the DGTO, and also fall short of the minimum spend in respective states and territories. This effectively leaves lower-budget projects without meaningful support at any level. Ensuring targeted assistance for studios working with lower budgets will be essential to fostering a more inclusive and sustainable industry.

Delving deeper into this issue, our recent consultation with studios showed a strongly shared sentiment across interviews regarding the existence of a 'missing middle' in Australia's funding landscape: a structural gap between small-scale prototype grants (typically $30K–$100K) and large-scale mechanisms like the DGTO, which only deliver value at multi-million-dollar scale and post-release. While early-stage support helps test concepts, studios with proven potential often lack the capital or investor-readiness to scale, leaving them stuck in a 'valley of death'.

What is missing is targeted mid-stage production funding in the $150K–$500K range, essential for hiring, completing vertical slices, expanding pipelines, and negotiating with publishers and platforms. This tier of investment would help studios grow sustainably and create a pathway to access larger incentives like the DGTO. A proposed minimum spend of $150K serves as a working baseline, low enough to support accessibility for smaller developers, yet high enough to ensure a tangible and meaningful investment, providing a practical starting point for further refinement.

Studios stressed that they are not seeking handouts, but commercially structured support. Many praised the former Australian Interactive Games Fund (AIGF) for its flexible and scalable model that helped launch successful studios and recouped its investment. Building on this concept, interviewees proposed a new repayable mid-stage fund, designed to bridge this gap and foster long-term and sustainable games businesses in Australia.

3.2.2 Timely support and access to capital

For companies eligible for tax incentives, delayed access to capital remains a significant barrier. For example, the DGTO is only accessible after submitting their tax return and only once a project has been completed and tax filing. In practice, because rebates are only claimable after game release and not paid until the following tax year, studios often wait two or more years (in some cases, up to five) to receive the benefit.

This delay creates significant cash flow challenges for studios needing capital during development, especially making it difficult for studios to cover upfront development costs. This in turn can dissuade external investors and complicate financial planning.

Additionally, many studios operate on a continuous project cycle to maintain their workforce and remain viable. Without timely support, these businesses face an increased risk of collapse or loss of key staff, undermining the stability of the broader games industry.

A more sustainable support system should include options that support earlier-stage funding access (e.g. bridging mechanisms or complementary grant programs), and provide stability between development cycles (e.g. rolling grants, business continuity funding or operational support), to ensure studios can manage production costs, retain talent through the development cycle, plan ahead and invest in long-term growth.

In practice, specific solutions could include linking rebates to annual Qualifying Australian Development Expenditure (QADE), rather than to the release of a game. Meanwhile, for work-for-hire projects, eligibility could be determined based on contract value, not final release.

3.2.3 Completed work versus final release of a game

The ultimate objective of the DGTO is to support and incentivise Australian game development and the broader benefits that it generates. However, in practice, tying DGTO eligibility to a game's final release creates problematic incentives.

Several studios have reported feeling pressured to launch prematurely, which can compromise quality and long-term success. More critically, projects that are cancelled, despite having completed substantial eligible development work, become ineligible for the DGTO. This outcome undermines the DGTO's intent.

To address this, studios have proposed that DGTO eligibility be realigned to reflect work that has been completed and paid for, rather than being contingent on final commercial release.

3.2.4 Primary developer requirement

Under current DGTO rules, only one company per project can claim the offset, and only if they secure a 'primary developer' letter from the game's publisher or IP holder. In practice,

this creates significant legal and operational hurdles for Australian studios on work-for-hire or co-development contracts, who must chase overseas publishers or partners for documentation, and are often stalled by staff turnover, legal caution or low prioritisation. As a result, studios lose out on work or rebates, despite meeting the eligibility criteria in substance.

Affected studios recommend removing the primary developer requirement. They argue that the $500K QADE threshold already guarantees meaningful local development activity and prevents token claims. Simplifying eligibility would broaden access, especially for mid-sized and service-oriented studios, without compromising the DGTO's integrity. The $65K salary cap for company directors has also been criticised for undervaluing leadership.

Recommendations:

- **Address the funding gap between early-stage prototyping and large-scale incentives like the DGTO by introducing mid-tier production funding ($150K-$500K). This would allow studios to retain staff, finish vertical slices and reduce risk when engaging publishers or investors, and act as a funnel into the DGTO by enabling more studios to reach offset scale.**
- **Redesign the DGTO to improve cash flow alignment, certainty and accessibility. Allow annual claims, remove restrictive requirements and take inspiration from developer-friendly international models (e.g. Canada).**
- **Support continuity between project milestones, particularly post-launch and pre-greenlight phases, to avoid team dissolution.**
- **Recognise the importance of marketing, community management and content updates to long-term success. Provide targeted grants or tax support for activities beyond initial development.**

3.3 R&D Tax Incentive

These challenges are compounded at the federal level by limitations in how the R&D Tax Incentive (RDTI) applies to the video games sector. The RDTI provides targeted offsets to encourage innovation. The video games industry is a proven leader in R&D, with 85% of the Australian studios developing their own IP.[15] Despite this, the industry remains under-represented in RDTI claims. Fewer than 30 claimants accounted for $23m in benefits, representing less than 10% of Australian games companies.[16] This low uptake points to a potential innovation or R&D paradox within the sector.

At the state and territory level, a technical limitation affects studios receiving government funding (such as grants from Screen Australia or Screen NSW). If a studio claims R&D on the same expenditure, the benefit is reduced by the additional assessable income. This

[15] IGEA, 'Australian video game development industry stays steady, generating $339.1 million for the economy' (Media Release, December 2024), https://igea.net/2024/12/australian-video-game-development-industry-stays-steady-generating-339-1-million-for-the-economy/

[16] Note: When we refer to the video games industry, this does not include the gambling sector which is not

mechanism limits the overall return for studios, particularly if they are not eligible for the DGTO, and R&D is their only avenue for support.

As the RDTI is currently under review by the Australian Government as part of its strategic examination of the R&D system, we will not address it further in this submission.[17]

3.4 Holistic and coordinated approach

We believe a holistic approach is necessary to effectively incentivise growth in the video games industry. This should include a balanced mix of public and private support, ranging from targeted tax reforms to grants and other funding mechanisms. Tax changes can complement, rather than replace, existing grants and regulations to build a more sustainable and flexible support system for the industry.

Within this mix of support, Australia's screen funding landscape is shaped not only by federal programs, such as the DGTO, but also by diverse state and territory-based initiatives. These vary widely in size, scope and administration, leading to different experiences for studios depending on their location or operating model. Further, many federal, state and territory grants remain less focused on building commercially viable studios. As this inquiry focuses on federal incentives, we will not address specific funding and support challenges across the various Australian jurisdictions.

In a global industry, Australia's combined DGTO and various state- and territory-based incentives represent progress, but they remain complex, inconsistent across jurisdictions, and difficult to access for many smaller studios.

Several countries are now offering more streamlined, generous or business-friendly incentives that make them attractive destinations for game development, particularly for startups and SMEs. For example, Canada and Belgium offer support covering games companies of all sizes:

- Canada: Offers various tax credits for video games development across Canada, such as rebates of up to 37.5% on labour costs in Quebec,[18] and 35–40% on eligible expenses in Ontario.[19]
- Belgium: Offers a Tax Shelter for Video Games, a scheme that provides up to 30% tax exemption for qualifying investment in video games production.[20] This is further strengthened by funding from the Flanders Audiovisual Fund (VAF),[21] and Wallimage.[22]

Effective tax reform and other support require targeted and coordinated support at both federal, state and territory government levels to truly benefit local studios. Without alignment, conflicting incentives or support gaps may emerge, undermining efforts to sustain and grow the local creative industries. Prioritising intergovernmental collaboration

[17] A copy of our response to this consultation can be found here: https://igea.net/2025/04/igea-submission-to-strategic-examination-of-research-and-development-discussion-paper/
[18] See: https://www.investquebec.com/international/en/industries/multimedia/a-favourable-tax-climate.html
[19] See: https://www.ontariocreates.ca/our-sectors/interactive/tax-credit
[20] See: https://www.vaf.be/files/1.-SF-website/Publicaties/brochure-tax-shelter-2024-en.pdf
[21] See: https://www.vaf.be/en
[22] See: https://www.wallimage.be/en/services/wallimage-enterprises/

will help ensure complementary policies, reduce administrative inefficiencies, and build a stronger and globally competitive video games sector.

Recommendation: Addressing current disparities, both across the federal, states and territories, and compared to overseas jurisdictions, requires integrated reforms. With coordinated tax policy, equitable funding and targeted initiatives, Australia can position itself as a global leader in the flourishing international markets for games development and transmedia opportunities.

3.5 Disparities in support

3.5.1 Commercial sustainability

Our consultation with studios revealed frustration that government support often overlooked commercial viability, sustainability and modern game monetisation models. Several felt commercially scalable titles frequently miss out.

Respondents suggested public funding should be expanded to ensure commercial studios can grow, retain staff and reinvest locally. Greater transparency, through clearer communication of each funding program's goals and evaluation metrics, would further strengthen the system.

The previous AIGF was widely praised for balancing creative ambition with commercial outcomes through grants and repayable loans, helping studios move from contract work to original IP, hire staff and establish commercially viable operations. With a 4:1 leverage ratio and national reach, it demonstrated how reinvestment and scalability can be built into funding models.[23] Its past success offers a blueprint for future programs.

Recommendation: Introduce a program resembling the previous AIGF with a blend of repayable loans, milestone-linked grants and success-based reinvestment. The fund should focus on supporting studios between prototype and publisher-readiness stages, bridging the 'missing middle' while encouraging scalable, long-term commercial growth and ambition.

3.5.2 Games and film

While the Australian Government supports screen content creators, more can be done to offer an equivalent level of support for video game developers. Game developers face similar needs as film and TV producers. Funding is crucial for emerging talent to secure seed funding, attract investment and hire necessary talent, resulting in successful game releases.

Despite critical support through the DGTO and other incentives, the video games sector arguably receives significantly less support than the traditional TV and film sectors. More can be done to offer an equivalent level of support for video game developers.

[23] IGEA submission (August 2017), https://www.igea.net/wp-content/uploads/2017/08/Interactive-Games-and-Entertainment-Association-IGEA-Inquiry-into-the-Australian-film-and-television-industry.pdf

As raised in our March 2023 and 2024 submissions to this inquiry, there is still more to be done to ensure the Australian video games industry can continue to grow and be sustainable in the longer term, which should be the next phase of industry support. The $12 million funding as part of the National Cultural Policy unfortunately falls short of what is required, following almost a decade of limited support at the federal level. As per our previous submissions, it is critical that support is boosted to $25 million, matching the Australian Labor Party's 2019 election commitment. This is still considerably less than support received by film and TV production and will ensure Screen Australia can provide even more funding streams such as enterprise funding.

Additionally, there is a unique opportunity to extend the benefits of investment in film to the video games sector, fostering shared infrastructure and cross-industry collaboration. Supporting video games alongside film and television opens new transmedia possibilities, where storytelling and economic value are amplified across formats. Successful examples include:

- *LA Noire*, developed by the former Sydney-based studio *Team Bondi* and published by *Rockstar Games*, which combined cinematic storytelling with interactive gameplay and achieved global recognition.
- The *Carmen Sandiego* game, developed by *Gameloft Brisbane* with *HarperCollins Productions* and supported by Screen Queensland, brought a globally known IP to life through an Australian-made game, featuring iconic local locations.
- *Bluey*, though primarily a TV series, has expanded into mobile games, books, merchandise and digital platforms, demonstrating how Australian IP can thrive globally across media.
- *Storm Boy,* developed by Sydney-based studio *Blowfish Studios*, adapted the iconic 1964 children's novel into a uniquely Australian experience.

Investing in transmedia capacity not only strengthens Australia's cultural exports, but also enhances the resilience and innovation of the broader creative sector.

Recommendations:

- **The $12 million funding committed for Australian video game development as part of the National Cultural Policy should be increased to $25 million in recognition of the critical need for 'catch-up' investment in the sector.**
- **Maximising support across creative sectors, by extending the benefits of investment in film to the video games sector, fostering shared infrastructure and cross-industry collaboration, and investing in transmedia opportunities.**

3.5.3 Geographic fragmentation

Mid-sized studios reported difficulty accessing state- and territory-based support due to distributed workforces spanning multiple jurisdictions. This has become a post-COVID norm that helps with talent attraction, retention and scaling, but also conflicts with state-

and territory-based funding rules requiring most qualifying expenditure within only one state.

While intended to stimulate local economies and job growth, these state- and territory-based rules no longer reflect modern distributed production models. This highlights the need for federal programs that are platform- and location-agnostic focused on project outcomes (as opposed to geographic considerations).

Developers also cited Australia's 'tyranny of distance' as a barrier to networking, highlighting the value of travel grants. Studios suggested these should be offered on a rolling-basis rather than being tied to fixed dates or events.

Recommendations:

- **Encourage federal, state and territory agencies to adapt to modern studio structures, including distributed teams, co-productions, hybrid pipelines and service-oriented business models. Evaluation should prioritise project outcomes over geographic spend. Moreover, service providers to the industry should be eligible for game-related funding.**
- **Establish rolling travel grants for studios and service providers attending international events. This is vital for networking, pitching and attracting foreign investment.**

3.5.4 Scaleup barriers

A related challenge to the 'missing middle' is the 'growth gap'. That is, the difficulty of scaling from a mid-sized studio to AA/AAA level, due to limited private capital and investor unfamiliarity with games as a viable sector. Without going public or securing foreign investment, growth is near impossible. To bridge this gap, smaller studios seeking to scale would welcome enterprise funding schemes, proactive government investment support, investor education and targeted co-investment schemes.

The issue is compounded by a shortage of senior leadership and business acumen, a legacy of the 'brain drain' from the GFC and weak talent pipelines. Creative founders often lack preparation for commercial roles, making it essential for structured mentorship in business, production and investor readiness. Respondents stressed the need for a holistic approach that values long-term studio investment across multiple projects.

The gap is felt most acutely outside of the major East Coast hubs. Studios in WA, NT and Tasmania also face similar concerns, with geographic and structural isolation, limited access to mentors, peers, training and skilled workforce. Funding alone was seen as insufficient without connection, follow-through and embedded support, and providing proximity to knowledge, networks and feedback loops.

Recommendations:

- **Establish a program offering structured mentorship, business development training and investor-readiness support to close the 'growth gap', the prohibitive difficulty of scaling to AA/AAA levels in Australia's shallow**

investment landscape, and help ambitious studios transition into sustainable businesses aligned with market opportunities. Equip studios to scale ambitiously without needing to go public and educate domestic investors to see games as a viable sector for early-stage capital.

- **Decentralise opportunity through funding for regional hubs, incubators, co-working spaces, and state- and territory-based events. Encourage cross-state collaboration and reduce barriers for studios outside major cities.**
- **Co-fund programs that build business acumen, leadership capacity and commercial literacy. This should include targeted mentorship in business operations, production management and investor literacy, helping to rebuild the leadership pipeline hollowed out since the GFC. Prioritise peer mentoring, founder support and access to expertise in under-resourced states and territories.**

3.6 Supporting data

As raised in our 2024 submission, if well-utilised, the funding commitments position Australia as having one of the world's most generous games incentives, fostering project delivery by highly creative digital businesses and enticing multinational games studios to establish a presence in Australia.

To this end, it is critical that these commitments continue for the long term. Ensuring they are built and measured for success would also be valuable. Therefore, it is important that the government has access to up-to-date, timely and accurate information over a reasonable period, to help better inform it about the effectiveness of its industry programs.

Through Screen Australia, the ABS publishes statistics on film, television, and digital games in Australia every 3-5 years.[24] The most recent dataset was produced for the 2021-22 financial year and published in June 2023. Given the ever-evolving state of the emerging video games industry, alongside the rapid advancements in technology use such as generative AI, we recommend that this occurs annually. Therefore, sufficient funding should be allocated to resource this work accordingly.

Recommendation: Funding support should be provided to resource the ABS through Screen Australia to publish statistics annually on digital games in Australia, to help inform the impact of government programs for supporting the video games industry, the size of the industry's workforce, talent demands and skills shortages.

[24] See: https://www.abs.gov.au/statistics/industry/technology-and-innovation/film-television-and-digital-games-australia

4. AI and video games

4.1 AI use in video games

We support the advancement of AI as a tool in the video games industry to enhance player enjoyment, accessibility and safety. AI has been used in video games for decades to enhance entertainment and innovation, with a strong track record that demonstrates its low-risk profile.

To illustrate how AI is practically deployed in video games, several real-world applications are outlined below:

- Playtesting: For popular mobile games featuring thousands of levels, AI-powered playtesting tools have been developed to simulate gameplay at scale, analysing numbers of levels in minutes and generating key metrics and insights. This data supports developers in making design decisions that keep both new and existing levels engaging and enjoyable.
- Writing: To allow writers work to focus on crafting key storylines and narrative arcs, publishers have developed internal generative AI tools to create dialogue lines for Non-Playable Characters (NPCs) in open world games. While NPCs may not significantly drive the main plot forward, they play a crucial role in creating a dynamic and living world.
- Coding: As video games are increasingly used to support STEAM education, platforms that allow users to create their own games, are integrating AI-powered tools to assist with tasks like coding and prototyping. For junior developers, these tools help to build foundational skills in game development.
- 3D modelling: AI and machine learning technologies are being used to assist artists and developers by providing recommendations that would assist the artist to realistically depict thousands of characters in a game, which is typically a tedious process that require artists to manually process tens of thousands of images. This form of technology has also been used by environmental artists, allowing artists to spend more time focusing on design detail of unique landmarks in a game.
- Supersampling: A technique that significantly improves the visual quality of games. This technique renders graphics at a higher resolution and then scales them down, producing sharper, clearer images. AI enhances this process by intelligently determining which areas of the image need more detail, thus optimising the rendering process. Supersampling is particularly beneficial for gamers who may not have the latest hardware but still seek a high-quality visual experience.
- Content moderation: Most online multiplayer games now rely on AI-powered tools to detect and remove harmful content at scale, and reduce the burden of repeatedly viewing harmful content on human moderators. Many of these systems are multimodal, meaning they can moderate across text, voice, and image-based content while accounting for cultural and linguistic nuances, and expanding the capacity of moderation systems to a wider range of languages. In some cases, the accuracy of basic automated moderation has been shown to surpass that of human moderators, allowing

human teams to focus on more complex cases that require critical thinking and deeper investigation.

- Game balancing: Real-time matchmaking in online games presents complex challenges, due to factors such as ranking disparities between players, reduced player availability during off peak times, and varying role or position preferences. To create fair and balanced matches in a timely manner, AI-driven matchmaking systems are increasingly being used, optimising skill parity and player preferences, while maintaining quick match formation times.
- Anti-cheating and anti-spamming: Anti-cheat software are in place to detect bots, hacks and other unusual behaviours. To maintain player trust, many online game providers use AI and machine learning-based anti-cheat systems to detecting suspicious player behaviour. These systems analyse real-time gameplay data, such as reaction times, movement precision, and input patterns to identify and flag cheating methods such as aimbots, wallhacks, or automation tools. They can also detect bot-like behaviour, the creation of multiple accounts, and the sending of spam messages, helping to prevent broader forms of abuse.

More recently, the industry has been utilising both proprietary and third-party generative AI tools, reflecting the immense potential to enhance creativity, streamline development, and elevate player experiences. Global survey data shows that 52% of game developers work at companies where generative AI tools are in use, and 36% report using them personally.[25]

For the purposes of this submission, we will focus more on two specific areas that arise in the creative sector which relates to online harms and copyright infringement.

4.2 Best practice regulation

Discussions about online harms and copyright infringement often raise questions about the adequacy of existing legislative and regulatory frameworks. Before addressing those specific issues and introducing new regulations, whether related to AI or other technologies, it would be prudent to first leverage existing regulatory frameworks, as recommended by the Productivity Commission in its interim report.[26]

It is vital that the regulatory environment keeps pace with technological developments and reflects the unique nature of emerging digital industries such as video games. Poorly designed regulation or reactive regulation risks undermining productivity and economic performance.

The pace of technological change often outstrips regulatory processes. We have observed instances where rushed or overlapping reforms have led to uncertainty, unnecessary complexity or unintended consequences. In some cases, this has diminished public confidence in regulatory decisions and created barriers for innovative businesses operating in Australia.

[25] Game Developers Conference, '2025 State of the Game Industry'
[26] See https://www.pc.gov.au/inquiries-and-research/data-digital/#interim-report

We support modern, practical, sensible and evidence-based policies that are compatible with the digital economy and reflect global best practice. Regulation should be well-defined, reasonable and clearly scoped, proportionate, future-proofed, and supported by meaningful industry guidance to ensure clarity and certainty.

Where possible, standardised technical solutions that can evolve with technology should be prioritised over legislative measures. Where new regulation is necessary, it should follow good public policy design and best practice regulation. This includes identifying clear problems, considering alternative solutions, and avoiding unnecessary duplication with existing frameworks. Any such measures should also be subject to sufficient Parliamentary oversight, especially to ensure that regulators do not operate with unfettered power. These principles are essential to fostering innovation, reducing regulatory burden, and strengthening trust in Australia's digital ecosystem.

While it may be outside the scope of this inquiry, we believe there is merit in reviewing the broader landscape of overlapping and concurrent digital regulations. A more coordinated and system-wide approach could reduce regulatory duplication, streamline compliance, and improve outcomes across interrelated areas such as AI, privacy, online safety, content classification, and consumer protections. Such a review would help ensure that reforms do not unintentionally conflict with, or add to, existing regulatory burdens, ultimately supporting a more efficient and innovation-friendly environment for emerging industries, and maintaining public trust in Australia's digital policy framework.

Improving the productivity potential of AI and safeguarding against harms are important goals. Achieving these objectives should be reflected in regulatory frameworks that are guided by key policy principles, including transparency, accountability, collaboration, practicality, proportionality, technology neutrality, fit-for-purpose and evidence-based policymaking. When well-designed with the right policy and regulatory settings in place, such frameworks enhance productivity, support optimal policy outcomes, and empower the Australian video games industry to continue to grow and become globally competitive as a high-value sector and play a leading role in Australia's digital future.

With this context in mind, we turn to specific policy issues regarding AI, beginning with online harms, insofar as they relate to the video games industry.

4.3 Online harms

As noted above, the video games industry has long used AI in games development. In this regard, this strong track record demonstrates its low-risk profile.

In line with a risk-based approach, we believe that the use of AI in video games should not be subject to unnecessary or overly broad regulatory obligations. This reflects the approach taken in the EU AI Act, where the European Commission specifically stated that AI-enabled

video games are "AI systems [that] represent only minimal or no risk for citizens' rights or safety".[27] We consider this assessment equally applicable to the Australian context.

AI in video games differs significantly from other AI applications. The primary purpose of video games is entertainment, offering interactive experiences, storytelling and gameplay.[28] Unlike social media platforms, video games are not primarily designed to facilitate social interactions, drive engagement through algorithmic recommendations, or support the creation and sharing of user-generated content – features more commonly associated with higher-risk environments. Video games are designed around play, not public discourse, and without algorithmic amplification features – they pose a lower risk of hosting or spreading illegal or harmful content. This risk is further mitigated by widespread industry adoption of safety-by-design principles and content moderation systems.

In this context, AI is generally used to support gameplay, accessibility, safety or creative features, making it a low-risk application. As such, it is not an area that would benefit from additional regulatory oversight. Introducing heavy regulatory burdens on these use cases could stifle innovation without improving outcomes.

Should the Government pursue AI-specific regulation, any measures should be grounded in clearly defined policy objectives and tailored to the actual risk profile of different use cases. As discussed above, best practice regulation should be: evidence-based and proportionate; carefully scoped and limited to what is practically necessary; future-proof and flexible; and supported by clear and practical industry guidance.

Importantly, regulation must ensure that low-risk uses of AI in video games are not inadvertently captured. Industry-specific approaches are essential to avoid unintended consequences, particularly given the comparatively lower risk of harm posed by AI in video games.

International regulatory coherence should also be a key consideration. For example, while the EU AI Act provides a useful reference point, it only commenced in August 2024 and remains in its early stages of implementation.[29] It also forms part of a broader EU digital legislative framework, which includes the General Data Protection Regulation (GDPR), the Data Governance Act, the Digital Markets Act, the Digital Services Act, and the Data Act. Although complex, the EU's framework is supported by a strong political commitment to AI innovation. In contrast, Australia has yet to articulate a clear policy position supporting AI development. Australia's overly cautious regulatory stance risks deterring low-risk and high-value applications such as those in the video games industry.

Any new Australian framework must take a holistic view, considering how AI regulation interacts with our existing laws. This includes online safety, privacy, security, IP, consumer

[27] European Commission, 'Europe fit for the Digital Age: Commission proposes new rules and actions for excellence and trust in Artificial Intelligence' (Press Release, 21 April 2021), https://ec.europa.eu/commission/presscorner/detail/en/ip_21_1682; European Commission, 'AI Act' (8 August 2024), https://digital-strategy.ec.europa.eu/en/policies/regulatory-framework-ai

[28] For example, see: https://www.comeback.world/2023/05/12/difference-between-social-media-video-games/

[29] European Commission, 'European Artificial Intelligence Act comes into force' (Press Release, 1 August 2024), https://ec.europa.eu/commission/presscorner/detail/en/ip_24_4123

protection and competition. Regulatory overreach, especially in absence of a clearly defined problem, could introduce unnecessary complexity into Australia's legal landscape and undermine industry confidence and innovation.

IGEA made a submission regarding these issues in response to the Department of Industry, Science & Resources on its proposals paper, *Safe and responsible AI in Australia: Proposals paper for introducing mandatory guardrails for AI in high-risk settings*.[30] Below is a summary of our recommendations to this consultation:

- Defining high-risk AI: AI has been utilised over a long period of time in video games and is low-risk. Therefore, we would object to any mandatory obligations or guardrails being applied to low-risk applications such as in video games.
- Guardrails ensuring testing, transparency and accountability of AI: Given that we do not consider video games to fall under the high-risk category, we have limited comments with respect to guardrails. As a general comment, if we are applying a risk-based approach, this implies that the regulatory requirements should be proportionate to the risk associated with any organisation and harm. There should also be weight given to the size of the business and their capability and resources to meet any obligation.
- Regulatory options to mandate guardrails: The Government will need to consider how proposed AI regulations can be coordinated and integrated with existing regulations e.g. high-risk AI in the online safety context and copyright. This coordination needs to also occur across government departments and regulators at the federal level, as well as across Australian state and territory jurisdictions. A cost benefit assessment of different approaches (i.e. centralised versus fragmented regulations dealing with AI) would be useful, with an objective of reducing regulatory and administrative burden.

Additionally, IGEA also made a recent submission to the Productivity Commission on its interim report as part of its inquiry into harnessing data and digital technology, with the following recommendations:

- We agree with the Productivity Commission that, before introducing new technology regulations, existing regulatory frameworks should be leveraged wherever possible, in line with principles of best regulatory practice and good public policy design. Such principles include transparency, collaboration, practicality, proportionality, technology neutrality and evidence-based design, which will ensure productivity-enhancing, globally competitive outcomes.
- Regarding AI-related online harms, AI has been utilised over a long period of time in video games and is low-risk. Therefore, we would object to any mandatory obligations or guardrails being applied to low-risk applications such as in video games.

[30] IGEA submission (October 2024), https://igea.net/wp-content/uploads/2024/10/IGEA-submission-Safe-and-responsible-AI-Proposals-Paper-4-Oct-2024.pdf

Recommendations:

- **Before introducing new technology regulations, existing regulatory frameworks should be leveraged wherever possible, in line with principles of best regulatory practice and good public policy design. Such principles include transparency, collaboration, practicality, proportionality, technology neutrality and evidence-based design, which will ensure productivity-enhancing, globally competitive outcomes.**
- **Regarding AI-related online harms, AI has been utilised over a long period of time in video games and is low-risk. Therefore, we would object to any mandatory obligations or guardrails being applied to low-risk applications such as in video games.**

4.4 Copyright infringement

4.4.1 General comments

The video games industry, and its broader value chain, fundamentally relies on technology-driven innovation and a robust copyright system to sustain creativity and encourage investment. Copyright law is deliberately designed to strike this balance, enabling rights holders to protect their works while fostering the development of new ideas and expressions. Preserving this core principle of the existing copyright framework is essential to promoting innovation and safeguarding creators' rights.

While it is understandable to consider potential risks associated with AI, in the context of video games, these tools are typically used in low-risk and creative scenarios, as discussed above. They are not designed to deceive or cause harm, and regulation should remain proportionate and focused on addressing clearly identified harms. For example, mandatory transparency, disclosure or labelling requirements may be inappropriate for creative and fictional works, where intrusive notices could disrupt player experience.

More broadly, AI should be used to enhance human creativity, deliver added value, and contribute to economic growth.

As AI capabilities evolve, they present significant legal and policy questions for the copyright system. These include the use of copyrighted materials as training data for Large Language Models (LLMs), text-to-image generators and similar tools, as well as questions about the copyright status of works created with the assistance of generative AI tools. At the same time, it is crucial to carefully consider transparency requirements that must strike the right balance: providing clarity to rights holders and users, while protecting confidential information, sensitive data and trade secrets.

As in other creative sectors, use of generative AI tools in the video games context opens up new fields of possibility and innovation, while also raising important questions around using copyrighted data for training and protecting new creations. Where AI tools are used to enhance or enable human creativity, the resulting work should remain eligible for copyright protection. It is also vital copyright regulation must be distinguished from AI safety regulation. Labelling AI's use in connection with copyright-protected materials as a 'high-

risk' AI use conflates IP issues with online harms and mischaracterises the nature of creative production.

There are games-specific considerations to be taken into account when considering copyright reform, for example:

- When AI developers own or license relevant training data or outputs;
- When disclosure would risk compromising confidential information, trade secrets or protected datasets;
- When foundation models are used in low-risk environments e.g. generating brief in-game dialogue;
- When AI supports creative processes without producing standalone content; and
- When transparency requirements are technically infeasible and offer minimal user benefit.

Factoring in games-specific implications of proposed reforms are critical to supporting innovation and meeting player expectations, as audiences increasingly seek sophisticated and AI-enhanced experiences without unnecessary disruptions, and as game developers increasingly are leveraging new technologies to pioneer innovative and engaging new gaming experiences.

As AI technologies continue to evolve, we welcome ongoing collaboration with the Government and stakeholders on proposed reforms. As a key stakeholder, we actively engage in this space, including through the Copyright and AI Reference Group (CAIRG), and support Government's efforts to establish a consultative and evidence-based forum to consider copyright reforms. Ongoing dialogue and close collaboration with industry will be essential to ensuring that copyright and AI regulation continue to promote innovation, creativity and sustainable growth in the thriving Australian video games industry.

Recommendations:

- **The Government should preserve the core principle of the existing copyright framework to protect rights holders, while enabling responsible innovation, including through AI. Reforms must provide regulatory certainty and uphold IP rights.**
- **The Government should clarify copyright law to ensure works generated using AI involving human authorship remain eligible for copyright protection.**
- **The Government should maintain ongoing consultation with the video games industry on copyright and AI regulation, including through the CAIRG. Engagement should be evidence-based and have regard to the unique ways AI is used in video games development, ensuring policy supports innovation and protects IP.**

4.4.2 Text and data mining exception

The Productivity Commission recently raised questions in its interim report on whether Australia should introduce a text and data mining (TDM) exception in the *Copyright Act 1968* (Cth). We understand that the concept of TDM exception exists in copyright laws of overseas jurisdictions including the EU, UK, Japan and Singapore.

A TDM exception may be considered along with the development of a proven, practical, standardised and user-friendly rights reservation mechanism that allows rights holders to express their preferences over whether their works can be used for AI training and other forms of TDM. Such a mechanism must be effective across diverse business models and content types, while remaining user-friendly and cost-efficient.

We understand from public reports that views on introducing a TDM exception may differ. However, this is not an issue unique to Australia and is the subject of policy debate in other jurisdictions. We also understand that many countries have already introduced a TDM exception or have fair use doctrines that permit TDM. This has the potential to place Australian innovators who develop, fine tune and use AI at a competitive disadvantage and an uneven playing field compared to AI innovations in jurisdictions that have a TDM exception.

We believe that any consideration of a TDM exception should be progressed through collaborative government-led forums and stakeholder consultations, such as the CAIRG. Ongoing consultation is essential to ensure that any proposed solution is practical, evidence-based and appropriately designed to support innovation without eroding copyright protections.

European Union

The *EU Digital Single Market (DSM) Copyright Directive 2019/790* provides for a TDM exception for scientific research (Article 3), and a broader exception or limitation (Article 4).[31] Since its introduction in 2019, concerns have persisted over the feasibility of technical opt-out measures, which rely on machine-readable rights reservations by creators and businesses. Implementation has varied across creative sectors, and conflicting court rulings have added to the uncertainty. The use of standardised opt-out controls, as required in the EU AI Act Code of Practice, should enable greater certainty for both AI developers and rights holders.

United Kingdom

Similarly, the UK's TDM exception under section 29A of the *Copyright, Designs and Patents Act 1988* (UK) applies only to non-commercial research. The UK Government is currently reviewing whether this remains fit-for-purpose, including whether to introduce a rights reservation or opt-out mechanism.[32] The UK video games industry, for instance, holds mixed views on potential amendments.

[31] See: https://eur-lex.europa.eu/eli/dir/2019/790/oj/eng
[32] See: https://www.gov.uk/government/consultations/copyright-and-artificial-intelligence/copyright-and-artificial-intelligence

In theory, a rights reservation system could allow creators to opt out of commercial use of their works for AI training, even where lawful access exists, thereby requiring licences for such uses. To be effective, this system must be practical, easy to use, and proven to work in real-world conditions.

An opt-out model shifts the responsibility onto creators rather than AI developers. To ensure fairness, it must provide legal certainty and undergo thorough testing. However, scepticism remains in the UK, especially among smaller studios and independent creators who question its practicality, while larger companies are also concerned about the potential impact on their business models.

Beyond technical feasibility, any rights reservation framework must require AI developers to respect opt-outs and uphold copyright protections. This should be supported by robust monitoring, enforcement and transparency mechanisms. Without these safeguards, such a system risks undermining the Government's broader policy goals to foster innovation and sustainable growth in creative sectors.

Recommendation: Noting that there are a range of views on introducing a TDM exception in Australia, such a reform should also consider the development of a proven, practical, standardised and user-friendly rights reservation mechanism that operates effectively across different content types and business models. This should be explored through government-led forums like the CAIRG to ensure it is evidence-based, balanced and supports innovation across Australia's creative sectors.

Thank you for providing IGEA with an opportunity to contribute to this inquiry. For more information on any issues raised in this submission, please contact the IGEA Policy Team at policy@igea.net.