



April 18, 2013

House of Representative Standing Committee on Economics
Parliament House
CANBERRA ACT 2600

Dear Sir/Madam

**INQUIRY INTO TAX AND SUPERANNUSATION LAWS
AMENDMENT (2013 MEASURES NO. 2) BILL 2013**

Essential Media and Entertainment Pty Ltd (Essential) is a wholly Australian owned television production company with offices in Sydney, Melbourne, Los Angeles and Toronto. Essential employs 30 full time staff in Australia and in any year we provide the equivalent of over 200 full time equivalent positions for specialist freelance workers in Australia.

Essential is a member of SPAA and wholeheartedly supports the submission that SPAA has made to your committee on behalf of its members.

Essential has a current turnover of about \$30 million with a significant proportion of that coming into Australia from overseas sources. The introduction of the Producers Tax Offset (PO) has compensated for the very high Australia dollar over the past five years which has forced up the cost of production in Australia relative to other countries. Despite the strong Australian dollar Essential has been able to grow more than 100% over the past five years. This is due, in no small measure, to the introduction of the PO which has enabled us to push many more projects into production which would otherwise have remained marginal.

The declared object of the PO was to assist with growing viable production businesses and in this regard it has been successful though not without flaws in its implementation.

The success is evident in SME's like ours creating world class Australian developed IP. In Essential's case we see programs like **Rake** being remade in the United States for Fox Network with the consequent inflow of royalties into Australia and production opportunities for Australians in the United States.

Despite Essential's success in television drama fifty per cent of our slate by economic value, and the engine room of the company, is factual television. This is the area of production where glaring flaws in the PO's implementation have been evident. The definition of "documentary" was inserted into the draft PO legislation provide a

lower eligibility threshold (in terms of qualifying spend) for lower budget programs - not as a cultural tool.

Essential is the company that successfully appealed the AAT to overturn Screen Australia's decision to deny certification to one of our programs. We were also successful in the Federal Court when Screen Australia appealed the AAT's decision.

The rationale for Screen Australia's appeal (and for the change to the legislation now being contemplated) was that the AAT's decision would "open the floodgates" and have deleterious consequences for Treasury. This has been proved to be patently incorrect by Screen Australia's own figures which show that there has been no significant upsurge in "documentary" offset payments since it was forced by the courts to apply the courts definition of documentary, over one year ago.

We understand the Government is most concerned that the PO only be used in situations of market failure. The few additional factual projects that may attract the PO if the proposed amendment is set aside are not projects that would be funded by the market in any case. Australian producers face competition from an absolute flood of cheap foreign content on Australian networks and we need the PO to try to displace some this cheap programming with Australian made factual television that features Australian creativity, Australian voices and which creates Australian jobs.

There is a violent inconsistency in Government policy between, on the one hand, providing over \$54 million for jobs in the feature film industry over the past year (**Wolverine, 20,000 Leagues** and the new \$20 million international attraction fund) while at the same time acting to implement a legislative change that will deny the factual production sector up to, perhaps, an additional few million dollars.

Some of my colleagues have presented the case for the proposed legislation stifling creativity and being overly prescriptive which Essential wholeheartedly endorses. However we believe the economics and policy inconsistency as presented above are sufficiently compelling that the Committee should set aside the proposed amendments on these grounds alone.

Yours sincerely

CHRIS HILTON

Executive Producer/ CEO

chris.hilton@essential-media.com