Supporting Australian stories on our screens

Options analysis and proposed system design.

About the author

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Executive Summary

This submission is a response to the Options Paper developed by the Australian Communications and Media Authority (ACMA) and Screen Australia in response to Australian Competition and Consumer Commission's (ACCC) Digital Platforms Inquiry (DPI).

This response accepts the need to harmonise the media regulatory framework and considers the options presented in the Paper from the perspective of Australian content producers, both experienced and emerging.

This response agrees the role of government is to ensure the proper functioning of markets and a fair approach for <u>**all**</u> players, **including current and emerging Australian producers and content creators.**

The Government desires a platform neutral regulatory framework, however cinema screens, social media and emerging mobile platforms (e.g. Quibi) have not been included in the options presented. Australian box office revenue is currently $1.2 billion. In order to attain true platform neutrality, the new media regulatory framework needs to include all current screens and have a mechanism to identify and include future screens. The impacts of COVID-19 will need to be considered.

Government must recognise that the need to reform media content quotas and offsets is a significant system reform that will have flow-on effects for all stakeholders, not just service providers and audiences. Changing the media regulatory framework will require additional reforms, a re-thinking of overall system design and greater stewardship in order to meet stated objectives.

As such the role of the government is also to be a dynamic investor, risk-taker and innovator in respect of Australian content creation.

This response has considered the lessons from past government reviews, not only the myriad of recent reviews but also those dating back to the very beginnings of the screen industry. These lessons, such as David Gonski's 1997 recommendation for 'many doors' for funding and the Tariff Board Report identifying oligopsony practices in the retail end of the content marketing chain, have been used to review and evaluate the four options.

This evaluation found that ***Option 3 - Screens pay a proportion of revenue into an Australian Production Fund*** **(APF)** – best targets the opportunities for the Australian film and television production sector and optimises its chances for future success.

The evaluation also highlighted a number of risks (both downside and upside) of the preferred option for Australian producers that will need to be managed through the design of the system through the new regulatory framework, screen policy, and funding streams.

It is recommended that the Government set a high 'nominal' contribution (for e.g. 10% of revenues) from service providers (broadcasters, streamers, cinemas) through an **Australian Audience Benefited Access Contribution**. This would be reduced to a smaller rate (e.g. 5%) if the service provider screens a minimum Australian content in the previous year (as incentivised regulation).

This contribution is 'bonded' back to service providers who can use the funds to either invest in equity in Australian content, provide a guarantee, or purchase a license fee. The 'bond' can only be used to provide a guarantee or license fee after principal photography is completed (or near completion). These bonds can be transferred, creating a quasi-market-based policy instrument.

The contributions are to be paid into an **Australian Production Fund** which is distributed by the Department to **both state and federal screen** agencies in order to create '*many doors*'. The way the funds are to be used will be determined by state-federal funding arrangements and a Ministerial Charter Letter, including public reporting.

There should be two funds:

- **Australian Media Fund (AMF)**: allocated to screen agencies against a weighted criteria that includes state government allocations, production activity, and size of production industry.
- **Screen Performance fund (SPF)**: allocated against commercial and cultural performance outcomes of each agency such as return on content investments and awards/festival screenings of projects invested in. This sets up a competitive environment to promote quality production and innovation.

Screen Australia should receive a flat allocation from the AMF, with the remainder distributed to the state agencies. Screen Australia would compete equally with the states for funds from the SPF.

Screen Australia should continue to receive Commonwealth direct funding, but its role and responsibilities would be focussed on project development, production, and professional development. Investment in emerging talent, diversity, and children's content should be embedded in its legislation as part of its cultural mandate and monitored through an annual charter letter.

Other functions, such as research and strategy, cultural funding and industry development should be transferred to other agencies. An appropriate portion of Screen Australia's current annual allocation, resources and assets, would be transferred accordingly.

This response supports in-principle the notion that one **screen offset** be created for both Australian and foreign production; but 'cultural uplifts' are necessary. The level of incentive should be set at 25%, with location funding and PDV no longer being separated. Legislation should allow the Minister to temporarily increase this by 5% in response to market conditions; any adjustments must be content/format neutral. There is to be no Location Incentive for foreign productions.

The offsets should have two uplifts for 'desired' Australian content:

- **Australian commercial content uplift** – stories created by Australians that are not obviously about Australia. This would be set at 40% for features, children's drama, and documentaries and some TV. The government should consider if this should be capped.
- **Australian culture content uplift** – stories originated by Australian content creators that are about Australia. This would be set at 50% and include features.

Eligibility would be through more stringent definitions of **Significant Australian Content** (SAC).

It is also recommended the Government introduce a **Marketing Rebate** (not an offset) payable to Australian producers for Prints and Advertising expenditure over $350,000 and capped at $4 million on Australian feature films certified as Australian cultural content. The Rebate should be set at 20%.

The Government should establish an annual **Australian Content Marketplace** to facilitate the sale of Australian screen content through the use of 'bonded' APF allocations and promote networking. Annual State-Industry planning for the Australian screen industry would also take place at this event.

This submission is intended to guide the system design where interactions of market power and position play a critical role in success. The Government should use innovative means (game theory/war games) to help refine the most efficient, fair and effective rules of engagement.

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Background to the Options Paper

The *Supporting Australian stories on our screens: Options paper* (the Options paper) has been developed in response to the Australian Competition and Consumer Commission's (ACCC) Digital Platforms Inquiry (DPI). Specifically, the government requested an immediate focus on:

> The extent of Australian content obligations on free-to-air television broadcasters (including drama and children's content), and whether there should be Australian content obligations on subscription video-on-demand services.[1]

Recommendation 6:

A new platform-neutral regulatory framework be developed and implemented to ensure effective and consistent regulatory oversight of all entities involved in content production or delivery in Australia, including media businesses, publishers, broadcasters and digital platforms. This would create a level playing field that promotes competition in Australian media and advertising markets.

The framework should reflect the evolving media landscape and be underpinned by a sound policy rationale based on the functions or impact of the regulated entities. The framework should include the following matters:

- Underlying principles: clear platform-neutral guiding principles that are applicable across media formats and platforms, and adaptable to new services, platforms and technologies
- Extent of regulation: determination of the appropriate extent of regulation and determining appropriate roles for self-regulation and co-regulation.
- Content rules: a nationally uniform classification scheme to classify or restrict access to content consistently across different delivery formats.
- Advertising restrictions: a consistent system of advertising restrictions across all delivery platforms, including online and offline channels.

Presumably, these options have been developed in direct response to *Recommendation 6: Process to implement harmonised media regulatory framework* (see insert). This recommendation (outlined in Chapter 4 of the DPI Report), largely focusses on **news and journalism**. Entertainment (drama and documentary) carries with it unique, culturally specific characteristics and benefits relating to drama and non-fiction story telling narratives.

These cultural arguments have formed the basis of Commonwealth Government support of Australian screen production since the late 60's. Past policy has noted the importance of ensuring new generations of Australian children grow up experiencing Australian stories, history, and accent. This cultural imperative has not changed.

While some may argue that globalisation has weakened the need for, and effectiveness of, national cultures, the business concepts of differentiation and unique selling propositions make a local offering in cultural screen entertainment even more important for Australian businesses to compete internationally. As Charles Chauvel, Australian director of *Jedda* (the first Australian film screened at Cannes Film Festival) said at the 1928 Royal Commission "the only way to make Australian Film successful overseas is to make them Australian".

This response has been developed within that framing.

[1] Australian Government, Regulating in the digital age, Government Response and Implementation Roadmap for the Digital Platforms Inquiry, p. 12.

Role of government in the new world

Definitions and scope

The Options paper states:

> The government's role is not to protect domestic businesses from digital competition, but rather to **ensure the proper functioning of markets and a fair approach** to regulation that ensures the rules of the physical world apply equally to the digital world.

Media content markets do not function properly anywhere. They are 'information economies' and are inefficient due to the heavy concentrations of market power in a few buyers (streamers, broadcasters and subscription television, cinema chains). Asymmetries of information (demand and supply uncertainties) exist and these do not support properly functioning markets as traditionally defined, particularly for suppliers of Australian cultural products (Australian producers and other content creators).

This response uses the following definitions[2]:

- **Producer**: someone who 'manages the financial, creative, technical and/or logistical challenges of making screen content'
- **Screen content**: 'audio-visual material produced for cinema, TV, video, online, or interactive formats'. The focus is on 'professional' formats such as feature film, TV drama, documentary, and some emerging formats such as online.

Impacting trends

The title of the Options paper provides assurance that the Government remains committed to supporting domestic cultural screen production in spite of fierce cultural competition from large overseas production centres like Hollywood; cultural content that is now largely being distributed through digital channels. Despite a resulting degree of disintermediation and re-intermediation, the retail end of the screen market remains significantly distorted, with power heavily skewed and concentrated in a few buyers and aggregators at the wholesale and retail end of the chain.

There are also environmental forces converging that represent an opportunity for Government to create something truly special and unique in screen industry policy, with rules that create a 'fair go' for all. Over the last 20 years digital technology has significantly changed both supply and demand, reducing barriers of entry and costs in production equipment. But the production sector remains largely human driven. Globalisation, rising wealth inequality, a lack of trust in banks, government and other institutions, big data, and COVID-19 will further change global attitudes and outlooks, fundamentally shifting who and what Australians believe, how they behave, and ultimately what content they consume.

There is more change to come with artificial intelligence, robotics, automation, 3D printing, quantum computing, nanotechnology. Revolution and renaissance is just around the corner. A new mindset will be needed to successfully navigate the new world. Governments and political parties will not be immune. Maria Muzzacato, a thought leader

[2] See Verhoeven, Deb and Allan Cameron, 'Above the bottom line: Analysing the culture of Australian screen content producers'.

in economics, innovation and the public sector notes that modern economies currently reward activities that extract value rather than create it. She argues that this must change to ensure a future capitalism that works. **This then is a pivotal moment.**

Need for a new policy lens

For the Australian screen industry, Government will need to view content creation very differently to what it previously has in order to ensure screen production is 'future facing'; it must play a very different role and authentically participate in risk rather than transfer it. Professor Mazzucato in *The Entrepreneurial State: debunking public vs private sector myths*, found the private sector only finds the courage to invest in radical innovation after an 'entrepreneurial state' has made initial high-risk investments. In her research she has observed that every technology that makes the iPhone so 'smart' was government funded: the Internet, GPS, its touchscreen display and the voice-activated Siri. Yet by not admitting the State's role in such active risk taking and pretending that the state only cheers on the side-lines while the private sector roars, an 'innovation system' whereby the public sector socializes risks, while rewards are privatized.

No Screen Australia feature film has returned a profit out of 94 project investments between 2008 and 2017 returns, yet the agency notes that other parties have extracted profits from Australian films (cinemas, distributors, etc). This is an obvious example where government is socialising the risks of cultural production and privatising the rewards - at the expense of those who created those films (see **Attachment A** for more detail on the importance of creating Australian stories). Greater balance is needed.

An enhanced role for government

The role of government then is to:

- ensure the proper functioning of markets and a fair approach for **all** players, including Australian producers and content creators <u>**AND**</u>
- be a dynamic investor, risk-taker and innovator in the creation of Australian content.

The Government is to be commended for acting to reform screen policy in Australia and this submission welcome the opportunities to create a fairer, more efficient and effective approach to supporting Australian stories on our screens across the whole system (see **Attachment B** and **Attachment C** for a review of current policy levers).

Government should recognise that the need to reform broadcast content quotas and offsets will have flow-on effects that will require additional reforms and a re-thinking of system design. This submission aims to highlight issues and challenges for Australian content creators (those who create value) and their relationship with service providers (those who extract value), and evaluates the options presented from this perspective. It also makes recommendations on how the Government could re-design the system to ensure a fair approach for all players,

Defining the policy problem from a creator perspective

To ensure clarity over the policy position and that there is no conflation, this part of the submission clearly defines the policy problem from the producer's perspective.

The policy problem: DPI perspective

The DPI (pp 180-181) defines the policy problem as:

There are currently a range of broadcasting regulations governing screening of content. None of the broadcasting regulations apply to digital platforms. This creates a

- *significant **regulatory imbalance** between broadcasters and digital platforms in the provision of audio and/or visual content to the Australian public. For example:*
- *digital platforms are not required to ensure a **minimum amount of Australian or regional local content** is distributed on their platforms*
- *digital platforms are not under any **obligations to classify content** or to restrict access to prohibited content*

This is a problem from the perspective of competition at the **retail end** of the marketing channel for audio-visual products (that is, it is a problem of competitiveness for local audiences between broadcasters, subscription television, and new entrants i.e. streamers).

Policy problem: Options paper perspective

The options paper on the other hand defines the policy problem as simply:

Audiences are no longer guaranteed access to Australian stories in their increasing screen content diet.

According to the options paper, Australian audiences are increasingly using online services, specifically subscription video on demand (SVOD), as a primary way of accessing narrative content. These online services have no Australian content obligations and provide and commission comparatively few Australian stories. Neither do Australian cinemas or other platforms such as YouTube, Vimeo, and other Free-VOD and AVOD services despite their size, power and revenues. This is a policy problem for those at the very **end of the marketing channel** – that is, Australian audiences.

The Marketing Channel for Australian Content

The producer of Australian content plays a central coordinating and entrepreneurial role in the creation and distribution of Australian content. Australian content producers sit at the beginning of a long marketing channel (see figure below).

The policy problem: a review

There are two points to note about both the approach of the DPI and of the Options Paper with respect :

- **Firstly**, there is a **limited definition** of 'screens'. Both the DPI and the Options paper do not really include cinemas in the 'screen' discourse, nor does it offer any explanations as to why cinema screens or other screens (like mobile) have been omitted from the options. This omission is significant as cinema as a 'screen' has significant revenue of $1.2 billion in Australia, of which Australian share was only 3.3% (from 59 films out of a total of 752 films released; less than 8%). In order for true platform neutrality, cinema and other screens need to be considered. This would also include Facebook, YouTube and other social media who profit from the creation of Australian professional and amateur content for free.

- **Secondly,** the proposed options will have significant ramifications for **Australian producers and content creators** that operate at the beginning of the channel. These will need to be appropriately addressed in order to ensure that Australian audiences have access to the best Australian stories.

This response is countenanced from the primacy of the perspective of content creators as the 'author' of Australian stories from a copyright perspective, and in particular the Australian producer as the primary coordinator of content creators and other inputs needed to produce cultural outputs. In this regard, the Australian content producer is the 'entrepreneur' of Australian content.

In order to fairly, efficiently and effectively reform media regulatory framework, the Government must fully consider the proposed reforms from the perspective of the 'Australian producer'. History has a lot to say on this matter which remains relevant to the issues of today.

Social media – the regulatory challenge

Like cinema, there is an argument that major social media platforms should also contribute to Australian content. However, greater understanding of the issues, structures and inter-dependencies of these businesses is required.

Over 400 hours of video is uploaded to YouTube every minute and Facebook now challenges that domination in video content. YouTube charges advertising on much of the content on its platform, regardless of the quality or the popularity of it but the company does not generally pay for the production of this content, except for some of the content on their own subscription channels (YouTube Premium with 20 million subscribers worldwide and YouTube Originals which produced *Cobra Kai*, the Karate Kid spin off). These costs are incurred by the channel owner. In the Australian case, some of this content is actually funded by the Australian tax-payer through Screen Australia's online programs (e.g., *Beached Az, Biogenisis, Cancelled, Glenridge Secondary College*). Facebook also has Facebook Watch which has original content.

Google makes significant revenue through advertising - $134.1 billion globally. YouTube may have made $15 billion of that in 2020. Reports of content 'acquisition' costs has ranged between $1 billion to about $8.5 billion. The budget for Original programming was reported to be only 'hundreds of millions'. The YouTube Partner program is paid to the top 3.5 per cent of YouTube's most-viewed channels (around 8,000 partners annually) — which means videos of at least 1 million video views a month. The revenue split is reportedly 55/45 in the creator's favour, but amounts paid can fluctuate. According to Forbes, 1000 views will earn a creator somewhere between 25 cents and $4.

Most advertising revenues go to the top 1% of creators yet YouTube still makes significant revenues in the long tail. How much of that comes from Australia and is paid to Australian creators is unknown, although there are some Australians in that elite list. Like the argument made in the DPI that Australian media journalists are created IP that Facebook and Google are profiting from without paying, so too can YouTube and Facebook seen to be profiting from Australian drama and other forms of content made by Australians, of varying degrees of professionalism and quality. Of course, YouTube creators agree to the commercial terms and conditions when they upload videos.

Vimeo, YouTube's competitor made $160 million in 2018, but this was from fees paid by content creators for hosting but also subscription to Vimeo Subscriptions, taking only 10% of the fee. It also invests in content itself. Its model appears to be more about supporting content creators (B2B) than profiting from them.

There is a wide variation of business models and government policy and the new media regulatory framework will need to define more broadly who should contribute and who does not need to. This response makes no recommendations other than that legislation should be flexible enough to incorporate these businesses, relying on regulation for the finer definition, based on further work.

https://variety.com/2020/digital/news/netflix-2020-content-spending-17-billion-1203469237/

https://www.forbes.com/sites/hughmcintyre/2017/09/18/how-much-money-does-3-billion-youtube-views-bring-in/#832652d4aece

The Policy Problem: The content producer's perspective

Learning from the past

There have been numerous government inquiries into the screen industry dating back to the *Royal Commission on the Moving Picture Industry in Australia* (1926-1928). No significant support was provided to local producers of Australian content in those early days such that by 1969, virtually no Australian feature films were being produced. This is despite significant production levels and innovation (Australia after all invented the feature film) in the early years of the industry. Only when distribution and exhibition became heavily concentrated in the Australasian/Union Theatres 'combine' in 1912 did the production of Australian feature film content dramatically reduce, where after World War 2, became a mere trickle.

Australian documentaries were provided a continuity of production when the Federal Government established the Commonwealth Film Unit and was directed to capture and record Australian history and life. This agency existed, in different forms, up until the amalgamation of Film Australia into Screen Australia in 2008.

In 1956, television was launched in Australia. Four years later (1960), the Australian Postmaster–General, Charles Davidson, recognised the importance of the medium to Australian society and announced the requirement for TV stations to broadcast 40 per cent Australian content overall and four hours in peak time every 28 days. The quota was increased in 1962 to 45 per cent overall and eight hours in peak time. In 1965 the overall percentage was raised to 50 per cent, and in 1968 stations were required to transmit 18 hours of locally made content per month. Originally, there was no specific requirement for Australian television drama.

In 1963, the *Senate Select Committee on the Encouragement of Australian Productions for Television* (the Vincent Report) found that for one month of 1961 only 1.06 per cent of programs broadcast had been Australian drama. It noted that 'this country has already demonstrated that it can make world quality films… and the only reason it did not continue to do so is that the industry was left unprotected and squeezed out of business by an overseas industry'. The report added that 'the rise and fall of the Australian film industry is a melancholy spectacle for contemplation by Australians'.

None of the Vincent Report recommendations for the film industry were adopted by the government of the day but in 1969, Liberal Party Prime Minister John Gorton announced a major support package for the Australian film industry. The Government established the Australian Film Development Corporation alongside an initial grant of $100,000 to set up the Experimental Film Fund. A further $100,000 would be allocated to commence the planning and construction of a film school - the Australian Film and Television School - which opened in 1973. Over the last three decades there has been a proliferation of film and media production programs offered by the tertiary education sector.

The Gorton initiatives played a critical role in fostering the Australian film revival of the 1970s. Gorton also initiated an inquiry which culminated in the Tariff Board Report (1973) which found that the high concentration of market power in screen distribution and exhibition, alongside the higher cost of production (and acquisition) of locally made content, were the key reasons why a local production industry had struggled to establish itself. Specifically, the Tariff Board Report (1973: page 13) found:

- the local cinema market was too small to provide a satisfactory return and no satisfactory continuing export markets had been found
- finance on reasonable terms was too difficult to obtain
- the existing ownership of exhibition and distribution facilities and the resulting market relationships were such that it was difficult for Australian films to obtain opportunities for exhibition *commensurate with their intrinsic worth*.

The period preceding 1969 is a foreshadowing of what is likely to happen in a fully de-regulated content market (Option 4). In this period, virtually no professional Australian drama was produced, screened, or made available to Australian audiences.

Fortunately, since the 1970's there has been a bi-partisan acceptance of the cultural importance of local content that has resulted in 40 years of committed federal support and policy experimentation. The LNP led the charge on generous tax incentives in the 1980's known as 10B and 10BA, an era which produced *Crocodile Dundee*, the highest grossing Australian film of all time as well as the highest levels of local share of the Australian box office. It also laid the groundwork for business investment in facilities and other production services that enabled Australia to become a significant player in runaway production in the early 90's and remains so to this day. Despite being touted as the 'greatest gift a government could give an industry', the Hawke-Keating Government wound back the 10BA incentive and established the Australian Film Finance Corporation (FFC) in 1988.

The Howard Government experimented with Film License Invest Corporations (FLICs) to create 'many doors' in response to the Gonski Review in 1997 who believed the self-replicating value structures of bureaucratic screen agencies limited Australian film success and audience choice. This sentiment was an echo from the findings of an earlier independent review of the then super agency, the Australian Film Commission, by KPMG in 1978 and criticisms from the production sector of having to self-edit to ensure their projects fit the 'AFC Genre'.

In 2007, the Howard Government signaled the intention to introduce the Producer Offset and create a super-agency in Screen Australia. This policy has been continued by subsequent governments from both sides of the political spectrum.

For the most part, policy for the local screen production industry has been informed by clear and transparent reviews including:

- *The Gonski Review of Commonwealth Assistance to the Film Industry (1997);*
- *The Review of Divisions 10B and 10BA (2005), Review of Division 376 of the Income Tax Assessment Act 1997: Refundable Film Tax Offset Scheme (2006) and the Review of Australian Government Film Funding Support (2006);*
- *The Review of the Independent Screen Production Sector (2010); and*
- *The Convergence Review (2012).*

Recent Reviews and the Australian producer's dilemma

Prior to 2017, only the Convergence Review touched on the issues of digital delivery of content, even though Amazon introduced video on demand services in 2006, Netflix announced streaming video in 2007 and Hulu (a consortium of NBC Universal, Disney and Comcast) launched in 2008. Since 2017, the Australian Government has undertaken a number of reviews and inquiries into the screen industry and began considering the broader impact of streaming services on local content and broadcasting in general (see insert below).

While the players may have changed, the basic problem for locally produced content remains the same –

> ***powerful intermediaries control access to content for local and overseas audiences, and the high cost structures prevent locally produced content from being cost/quality competitive[3] compared to other larger production centres which are more effectively and efficiently able to export the very best of their screen stories to the world.***

The options presented by Screen Australia and ACMA signal an exciting opportunity for a significant shift in the policy landscape which, although seemingly quite simple, will significantly impact the business of Australian producers – that is, the financing, budgeting, resource coordination, copyright management, marketing, distribution and royalty flows from Australian cultural production in the home market and throughout the rest of the world.

2017 **Australian and Children's Screen Content Review**

- Joint Screen Australia, ACMA and Departmental review. Despite a large number of submissions and numerous FOI requests, findings and response were never published.

2017 **Standing Committee on Communications and the Arts' Inquiry into the Australian Film and Television Industry**.

- Recommendations released December 2017. A single harmonized offset for all Australian screen productions increased to 50% was recommended. SVOD should invest part of their revenue earned in Australia in new Australian content.

2018 **Australian content on broadcast, radio and streaming services**

- Report tabled in Senate 2019. The Senate Committee affirmed the cultural importance of locally produced Australian content, which also has both cultural and economic benefits in the form of income, employment and tourism across a range of sectors. Australian broadcasters occupy a privileged position in regards to access to public spectrum.

2019 **Digital Platforms Inquiry**

- Notes the profound impact of digital platforms on media markets - media being used in a very broad sense to include all forms of media but with principally a focus on news and journalism and largely the impact of Google and Facebook on advertising, including issues of privacy and use of consumer related data. The scope of the inquiry was largely online search engines, social media platforms and other digital content aggregation platforms. Issues of protection of copyright-protected content were also raised.

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[3] Page 5 of the Options Paper notes: It is expensive to create screen content. Drama, documentary and children's content is easier and cheaper to import than to commission and produce in Australia. Successful overseas content, especially American television programming, usually recovers its costs in its home territory. Distributing that content internationally represents only an incremental additional cost but can deliver significant returns. While the cost of importing content can vary, an Australian network can generally import a high-quality program for $100,000 to $300,000 per hour. Commissioning an equivalent Australian program may cost a broadcaster anywhere from $500,000 to more than $1 million per hour. Older foreign content can be imported for as little as $1,000 per hour. In many circumstances, the broadcaster can expect a similar return on investment (revenue and audiences) for foreign and local programs. Australian content, therefore, is very often a less attractive option than foreign programming.

Analysis of the Options

Despite the passing of time and policy reforms, many of the issues for Australian producers remain. Learning the lessons of the past is therefore important in planning for a successful future where there is to be '*a proper functioning of markets and a fair approach for **all** players'*.

The historical reviews discussed in the previous section offer many insights from which to assess the merits of the options presented in the Options Paper and can help guide their further design. A full evaluation of each option can be found in **Appendix C.**

The criteria for this evaluation has been built on the following lessons from past reviews:

- Ensuring that Australian content has exhibition/broadcast opportunities **commensurate with their intrinsic worth**
- Ensuring Australian producers to obtain **finance on reasonable terms**
- **A 'many doors' approach** to avoid the pitfalls of a state-owned financing monopoly through a self-replicating value system disconnected from the Australian audience4
- Optimising opportunities for Australian producers to **expect a reasonable return** from their creations
- Building in **intrinsic incentives**, not just extrinsic
- Encouraging the creation of **'quality' and 'audience engaging' content**

The evaluation criteria also includes important principles used by more recent enquiries:

- Simplicity of design
- Transparency
- Accountability
- Platform neutrality

Preferred Option

The results of this evaluation found that ***Option 3 - Screens pay a proportion of revenue into an Australian Production Fund* (APF)** – best targets the opportunities for the Australian film and television production sector and optimises its chances for future success.

The evaluation however, does highlight many of the inherent risks and downsides of this option that will need to be managed in the design of policy and programs that will influence the 'rules of the game' of the future system and ultimately determine whether the market functions properly and there is a fair approach that benefits all players.

[4] 'excellence on their own terms' – a phrase coined by Annabelle Sheehan in 1998, current CEO of NZ Film Commission to explain the risks. Noting that this was a major critique of the Australian Film Commission in 1978.

Managing the risks of the preferred option

While **Option 3** is preferred, there are significant downsides which may 'sink the boat' if not addressed. These risks are outlined in the table below.

Downside Risks	Likelihood	Impact	Possible treatments & Controls
Whilst Australian content will be guaranteed to be produced, there is no guarantee that content will be made available on Australian screens for Australian audiences	High	High	1. Incentive-based regulation to encourage screening of content. 2. Marketing incentives.
The APF could be potentially the single funding 'door' (monopoly) for Australian content producers. This is inefficient, anti-competitive and can act against true innovation.	High	High	3. Create 'many doors' through the allocation of AFP funds
A 'single' door risks low levels of transparency and accountability of funding decisions from the central agency with little recourse or appeal from those adversely affected. An example is the decision to restrict eligibility for emerging filmmakers in 2008 (later reformed in 2018).	Medium	High	4. Ensure strict governance on any 'single' door and annual public auditing of funding practices and decisions by the Auditor-General. 5. Ensure that at least 10% of development and production funding is dedicated for 'emerging' talent as defined in the Metro Screen Emerging Visions Report 6. 'many doors' (see item 3)
A 'single' door does not encourage production of quality content that is audience engaging.	High	High	7. Introduce or incentivise innovative assessment practices at the federal agency such as 'crowdsourcing' 8. Introduce performance-based incentives for agencies and or producers ('reference principal')
Contribution level on revenue is not set at a high enough level to maintain or grow Australian content levels	High	High	9. Annual regulator review of effectiveness of contribution against historical funding levels. 10. Set an initial high level because it is easier to go down than to go up.
Option fails to capture current and emerging platforms, opportunities/challenge.	High	High	11. Legislation needs to be flexible and broad and include cinemas. 12. Policy needs to define screens, now and in future.
Regulatory capture – potential for regulator and AFP (agency) to be is co-opted to serve the commercial, ideological, or political interests of the regulated entities.	Medium	High	13. Ensure no ambiguity in regulations. 14. Regulator to be partially funded out of production budgets (0.5%) to ensure they are committed 'employer' of Australian content creators. 15. Regulator board to include at least 2 representatives from industry guilds 16. Regulator to assume research role of Screen Australia.

There are also additional upsides which should also be considered in the policy design of this option, which if not properly considered will mean the industry and Australian audiences will 'miss the boat' in terms of establishing a properly function market and/or fairness in approach.

Upside Risks	Likelihood	Impact	Treatments & Controls
A 'pre-sale' is a fire sale and is biased against innovation (novelty).[5] Content acquisition utilises a market-based pricing mechanism to counter the information asymmetries inherent in artistic goods (demand and product uncertainty). Significant sales are generated through bidding wars for quality content. The last 40 years of funding policy has been pre-sale based which minimises downside but destroys upside. It also acts as a disincentive for quality since the content is 'guaranteed' income or screens before the camera starts rolling. Usually there is no more revenue beyond the minimum, so little commercial incentive to exceed expectations of audiences.	High	High	1. As a matter of policy, the marketplace should not be the ONLY deciding requirement for the Offset or other funding program[6]. A broader, more flexible definition of 'intended' theatrical release should be adopted and decisions and criteria gazetted for increased transparency and a fair playing field. 2. Government carry more upfront risks, but bond service provider contribution to equity, guarantee, license fees to later stages of production 3. Fund a 'content market' for Australian buyers of Australian content to showcase and promote competitive bidding. 4. State-industry planning.
Opportunity to set fair terms of trade. The AFP (or the proposed beneficiary(s)) could set reasonable terms of trade for Australian producers and, as co-investor, can share in revenues to be used to further grow and develop the industry.	High	High	5. Enshrine in any new legislation regarding the AFP that one of its goals is to ensure Australian content creators gain a fair share in the financial success of their endeavours. 6. Policy principles should prioritise fair terms of trade for producers.
Competition facilitates innovation and can focus on outcome performance rather than just outputs. Many doors – financing of Australian content has largely been uncompetitive. Under the FFC, there had been experimentation in financing structures including the Film Funds, two-doors, and investments in minimum guarantees as opposed to equity.	Medium	High	7. Distribute AFP funds through 'many doors' to create competition and offset human bias and avoid a 'genre' defined by the central agency. 8. Build in performance-based allocation to promote a degree of competition and innovation.

[5] As evidence, the Box Office share of Australian films over the last 40 years has averaged between 4-5%. But in the 1980s under 10BA when pre-sales were not as important was significantly higher at XX%. Additionally, the marketplace has not proven to be a reliable predictor of audience tastes. Mackenzie, Rossiter, and Shu (2018) found that 'marketplace films' were less successful than 'Evaluation films' during the period in which the Australian Film Finance Corporation operated it's two door policy (2004-2007/8).

[6] The Producer Offset legislation defines a feature film as one which is intended for theatrical release. Screen Australia, which administers the offset on behalf of the Department, requires a minimum guarantee from a theatrical distributor (regardless of the quantum or whether the guarantee is 'at risk') as a matter of policy.

Proposed solution – designing the new system

This response proposes a number of solutions to the risks presented in Option 3 which are intended to assist government in **designing the new regulatory and policy landscape** to ensure that Australian producers have a:

- significant determination in the type of content made in Australia and/or made by Australians;
- system that has a much higher risk appetite for novelty and innovation than the current system;
- focus on quality and the production of audience-engaging content;
- fair and equitable share in both cultural and commercial returns from Australian content.

The solution aims to provide a relatively cost-neutral approach for government and broadcasters, noting that the description of the preferred option (option 3 with an Australian Production Fund and a *single flat rate Offset* for all platforms with modified thresholds and cultural uplift) could imply some increase in government expenditure to be expected, particularly from the offsets.

Further this solution has been developed with the following assumptions:

- **Australian cultural values** are **important and unique**. Foreign screen content continues to exert a privileged and significant influence over the formation of those values and ideals. The 'degree of influence' principle in the *Broadcast Services Act 1992* therefore remains fundamentally important in the system design.
- **Australian screen stories told by Australians about Australia/Australians are the highest priority** and are more important than screen stories told by Australians that are not obviously about Australia (e.g. *Upgrade, I am Mother, Mad Max: Fury Road*); recognising of course that a mix of both is required for a healthy production sector.
- **The production of Australian screen stories** (about Australia and/or made by Australians) **are of higher priority than foreign productions** shooting in Australia (Australian screen production sector should not be considered a backlot for offshore production).
- The new media regulatory framework, screen policy, and the allocation and share of the **quantum of taxpayer subsidy and support provided should reflect those priorities** (currently it does not, see **Attachment A**).
- Policy needs to recognise both the **economic importance** of the screen production industry and also its **contribution to the innovation ecosystem** of the country (referenced in **Attachment A**).
- The production of **Australian screen stories** (about Australia and/or made by Australians) are a form of **cultural and commercial research and development** (see **Attachment B** for more detail).
- A **high failure rate** is therefore both acceptable and encouraged; policy should be appropriately placed in an R&D framework and recognise that a high-risk appetite is an inherent and necessary part of screen success[7].

[7] Arthur De Vany in his book *Hollywood Economics* observed non-normal returns to screen sector with heavy tails and infinite variance. He describes the industry as a 'winner takes all' paradigm and notes that the industry is never in equilibrium and always renewing itself, but many errors are made, and many false beliefs are held – it

- The **government is committed to true platform neutrality**, of **all current and future screens** and platforms (including cinemas).
- **Regulatory incentivisation** can significantly reduce the need for direct regulatory compulsion on the regulated, increasing regulatory effectiveness and efficiency.
- An **outcomes-based framework** is more effective and efficient than a policy framework that targets inputs and outputs.
- Whilst simplicity of design is a useful aim, it should not override the needs of a **complex system**. Content creation, distribution, and consumption are highly complex systems.

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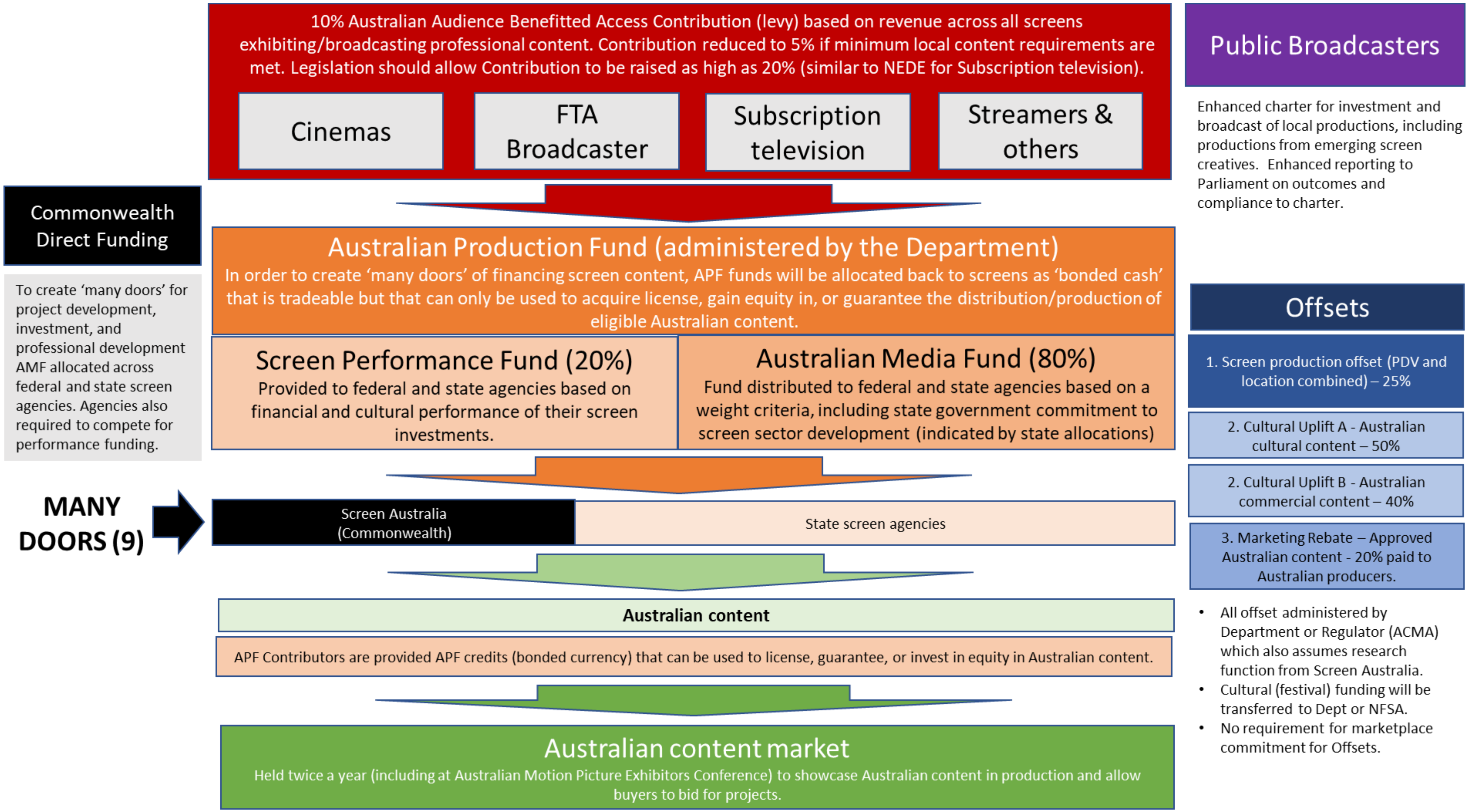
is an 'industry of innovation and discovery'. Learning is hard and when you do learn, tastes change. Experience is not reproduceable when it comes to greenlighting movies and it may be a hindrance because experience relies too much on past success and selective memories blot out failures. He argues that decisions are made by storytelling, not good decision logic, prone to errors and the only way to make better content is to constantly test assumptions and see through the 'illusion of control'.

Proposed system design: overview of proposed new regulatory and policy framework



Australian Audience Benefited Access Contribution

Those businesses at the end of the chain (exhibitors, broadcasters, streamers) take a privileged position in being able to influence Australian culture. They also **benefit** from a variety of tax-payer and publicly funded assets and infrastructure, including intellectual assets from the Australian publicly funded education system, a stable political system which enables businesses to operate in an environment of trust, as well as more obvious benefits to their business models from superior ICT (NBN), mobile and broadcast spectrums, transport, and energy infrastructure; all of which are enabled by Australian tax payers.

Along with the general wealth of the Australian consumer, the high level of concentration (few players) and infrastructure of these players and their position in the chain means they function as an 'access' gate to Australian audiences, enabling them to extract high rents from the throng of content from around the world vying for screen space. This market position and power means they can minimise their risks (even transfer it), through options contracting, cross-collaterising rights, and charging high fees.

If Australian screen content is viewed as cultural R&D, then the proposed contribution (or levy) creates the foundation of a public-private partnership in Australian screen content innovation eco-system sourced from those able to benefit the most from access to it[8].

Key features of the proposed contribution include:

- Contribution should be set '**nominally' high (at say 10%)** of revenues from screens (broadcasters, streamers, cinemas) and consistently applied across all current and future screens, noting that 10% of revenues is below what most successful companies and countries spend on R&D.
- **Inbuilt incentive:** there should be a **deduction to the nominal rate** (of say 5%) if the service provider meets a screen quota criteria. As the preferred option 3 places no direct requirement for broadcasters/streamers and other screens to screen Australian content, legislation should build in an 'incentive to screen' whereby the contribution is reduced (possibly on a proportionate basis) based on the factors such as the number of 'first release' Australian drama (including children's and shorts) and documentaries (including shorts), the amount of hours of Australian 'first release drama', and the prime placement of Australian drama and documentary content on channel/screens (e.g., prime time). An 'effective' minimal contribution of 5% of revenues which matches that of the Canadian Media Fund.
- **Adjustments:** the Minister should have the power to adjust the 'nominal contribution' up or down by 1% in any given year in order to respond to market forces. These adjustments would be temporary and would only be effective for one year.

This will help the markets function properly by ensuring there is a minimum investment in Australian cultural R&D those sections of the screen industry that extract the greatest benefit from Australian audiences, making sure important local production activity continues. It also ensures a fair approach for **all** players, including Australian producers and content creators, by making sure there is financial capital available to fund cultural products sourced from the very sector that benefits the most from the activity.

[8] Noting of course that R&D negatively impacts revenues in the short term, and it is more cost-effective and less risky for Australian service providers to utilise the proven cultural R&D activities of other nations. R&D of course has longer term returns.

There are two key sources of risks with the administration of the contribution:

1. **Hiding revenues** – it is rational that businesses will seek to minimise their contribution and keep revenues flowing into activities that offer the greatest benefit to the business, usually with a short-to-medium term view. Any form of R&D expenditure tends to divert resources from short term profits but have long term benefits. The regulator will need to ensure there is adequate and appropriate risk-based approach to manage for this risk, including regular auditing and review, as well as fines for non-compliance will need to be considered.
2. **Varied revenue streams** - many companies engaged in content distribution and broadcast/exhibition are complex and multi-faceted. It may be difficult to separate and verify revenue earned from screen content related activities versus definitely non-screen content related activities. For examples, cinemas device income from food and beverage. There is a high association because the content is what draws the customer to the cinema and food and beverage is an augmentation to the screen content. Similarly, Amazon Prime and Apple are a subsidiaries of much larger business entities of which streaming screen content is not the primary business activity. Depending on how these companies structure their business and cross-collaterise their activities, it may be difficult to identify and define 'revenues' adequately in the legislation. The use of business industry codes from the ATO used to define primary business activity may be useful in identifying businesses that should contribute. Information sharing agreements between ACMA and the ATO will need to be established.

Additional detail can be found in **Attachment D.**

The impact of COVID-19 on cinemas

COVID has resulted in the closure of cinemas across the country, with a significant impact on box office and on supply chains. Whilst set to re-open from 1 July 2020, with almost 3 months in lockdown, cinema may take more than 12 months to recover. Some estimates in the USA suggest that 40% of screens will not re-open, that there will be greater amalgamation and less competition, and a weakened position with respect to supply windows. While participation in the new system may assist with supply as greater investment in Australian content will enable cinemas to negotiate exclusive windows, it should be acknowledged that the industry will need time to rebuild.

Recommendation: *Cinema screens are included in the legal definition of 'screens' in the new media regulations to ensure platform neutrality but be exempt from paying the contribution for up to two years to support rebuild and recovery efforts based on a review.*

Platform neutrality and content classification

Currently there is little consistency in the way content is classified on different screens in Australia. In the broadcast sector, classification is voluntary. In cinema it is heavily regulated where producers (through distributors who recover the costs from revenues) pay to have feature films and short films classified by the community. The burden on the regulated is in excess of $2 million a year. The principle of platform neutrality requires the government to align content classification laws.

Recommendation: *The Government amend the Classifications (Publications, Films and Computer Games) Act 1995 and repeal the requirement for film to have official classification. The new Act should ensure classification of films released on Australian screens should align with the requirements for broadcasters in the Broadcasting Services Act 1992 – that is, the primary responsibility for ensuring films that screen in Australian cinemas reflect community standards rests with the cinemas. Responsibility for administration and enforcement should sit with ACMA. The Government should then disband the Classifications Board.*

Australian Production Fund

The options paper states that the intention of the contribution (levy) is to be paid into an 'Australian Production Fund', although little is known about the mechanism through which those funds get funnelled back into Australian production other than it would be administered by Screen Australia. This would be a significant allocation – at 5% of revenues it would be estimated to be around $409 million (see **Attachment E**) if cinemas were included as this response suggests.

Screen Australia is a 'super agency' – a one stop shop in the delivery or development, production and marketing. Past reviews have warned of the dangers of a 'single' door (See Gonski 1997; PMM 1978) which bring with it the pitfalls of a monopoly (whether government or privately owned). This is even more of a challenge in arts funding in general where quality is difficult to measure, where the government needs supplant those of the customer, and human decision errors occur more broadly - particularly the case in an industry with high levels of uncertainty and where 'nobody knows' (see De Vany, Hollywood Economics and Richard Caves, Contracts between Art and Commerce).

David Gonski in the 1997 Review of Commonwealth Funding for the Film Industry recommended a 'many doors' approach to avoid the inherent risks of decision error that derive from a single funding source where quality and excellence is highly subjective (in 1998 Annabelle Sheehan coined the phrase 'excellence on their own terms'). In addition to the 'many doors' approach, a 'reference principle' approach has also been shown to drive results in aggregate and was recommended by Peat, Marwick and Mitchell (the forerunner to KMPG) in 1978 in their review of the Australian Film Commission (the other super screen agency). A 'reference principle' is where success is rewarded. It is also a key component of 'outcomes-based' regulatory and funding models.

Whilst multiple agencies is administratively expensive, there is still an opportunity to learn from the mistakes of the past and to implement both 'many doors' and 'performance-based' allocation, utilising a direct funding mechanism to allow a greater degree of control over federal budget expenditure. The Australian federal system provides appropriate channels to create many doors and there has been decades worth of experience and expertise built into the State screen agencies, with established administrative systems and innovative funding programs. Using this mechanism to create ‘many doors’ would come at no extra administrative cost to the Commonwealth and could fit within the new ‘National Cabinet” framework.

It is recommended that the Government disburse the Australian Production Fund to the various state screen agencies alongside Screen Australia and allow the federal system to do what it was intended – to create a division of power and administrative efficiency, encourage greater effectiveness through state-based competition and cooperation, and distribute decision making to check the excesses of a single super agency, promoting cultural progress and diversity across the country. The Commonwealth Minister would direct how these funds are to be spent through an annual/bi-annual charter letter which would be a broad direction setting and coordinating letter (a statement of expectations). The idea is that by sharing the contributions collected from screen content service providers (both of which are necessary for a private-public investment in Australian cultural R&D), there will be created both a competitive and co-operative system (co-opetition) to generate mutually beneficial results. States would no longer have to follow the policies of the federal agency, but would be empowered to innovate independently or jointly, to the benefit of Australian producers and audiences.

How should the funds be disbursed?

The APF would be allocated across existing screen agencies, if they wish to participate.

The APF will be broken into two funds:

- The Australian Media Fund (AMF) – 80% of the APF.
- The Screen Performance Fund (SPF) – 20% of the APF.

A standard flat allocation would be provided to Screen Australia alongside its budget allocation – for example $100 million from the AMF (this example being an indicative and arbitrary amount). This would be adjusted for inflation every year.

A weighted criteria would be established to distribute the remaining AMF to the states agencies, an example of which can be found in the following table:

	Share of all drama production (20%)	% Share total state government appropriations - (40%)	% of Total State Production Company Expenditure (20%)	Share of sector employment (20%)	Weighted average
NSW:	37%	16.87%	17%	47%	27%
VIC:	30%	37.47%	37%	24%	33%
QLD:	17%	16.73%	17%	15%	16%
SA:	10%	8.84%	9%	5%	8%
WA	5%	16.33%	16%	6%	12%
Tasmania	>1%	1.98%	2%	1%	2%
ACT	>1%	0.60%	1%	2%	1%
NT	>1%	1.19%	1%	1%	1%

Note: this has been modelled on available data most of which is derived from Screen Australia National Drama Survey. However, there has been a disturbing trend in state agency financial reporting which has made getting state government appropriation data difficult so estimates in table should be used with caution. Adequate and appropriate reporting would be a necessary component of the Charter Letter and the Funding Agreements between Commonwealth and States.

The largest weighting proposed here is state government appropriations as this reflects the degree of commitment of the state government to maintaining and developing a screen production sector in their state. The other criteria reflect the degree of production activity in the state, a function of both the capital infrastructure (studios, post-production) and human infrastructure (crew, creatives) located in the state.

Alternative options could include having no federal agency and distributing both Commonwealth direct funding and the AMF to the states directly; or, rather than a flat allocation, Screen Australia would also receive a shared allocation of Commonwealth direct funding and the AMF based on a criteria. The reason why these options have not been put forward is that Screen Australia would need to perform a strategic role (as a competitor and also a moderator/mediator) to manage any principle-agent problems that might arise.

The **Screen Performance Fund** would also be distributed based on a weighted criterion. This would include both commercial and cultural criteria. The commercial criteria would principally be a return on screen production and development investments of the agency[9]. Cultural performance could be similar to those expected by the agencies of content creators in their judgements of whether or not a filmmaker has promise and is worthy of support. This might include awards won, A-list festival screenings, viewership from their investments, equally allocated in cases of co-investment.

How should the funds be used?

The funds distributed by the Commonwealth to the screen agencies must be spent only on:

- Project Development (drama and documentary, including emerging sector)
- Production (drama and documentary, including emerging sector)
- Professional development (no more than 10%).

Other forms of TV production such as light entertainment, news and current affairs, and other content would not be eligible for APF funding. It cannot be spent on administration. This would be assumed to have been covered by government appropriations. Only projects from independent Australia producers that have **Significant Australian Content (SAC)** would be eligible (see Screen Offset section below for more detail on SAC).

APF funds must be made available from applications from all over Australia, regardless of applicants place of residence. Reporting against this would be mandatory and made public. The Commonwealth Minister could manage any prejudice observed through the Charter Letter - the purpose of the funds would be for the state agencies, through their experience and expertise, to identify and invest in the 'best' projects that meet the overarching strategic goals of the Australian screen sector (see Screen market place below). They would be expected to achieve output targets in line with that strategy. Additional outcomes targets would be set at an industry level and would align to the allocations of the Screen Performance Fund.

[9] Noting again that most screen agencies have ceased publishing financial return information in their annual reports which is a disturbing trend given the expectations of accountability and transparency of public funds. Also, many agencies including Screen Australia, now treat small investments (under $500k for Screen Australia and $100k for many state agencies) as grants and not as equity investments, largely due to the administration expense. Under these circumstances this would not be counted in the assessment of performance. It would be up to the agencies whether they continue this practice or not.

A certain allocation of funding would also be required to be spent on:

- New talent/emerging screen talent (no less than 10%)[10]
- Children's content (as a proportion that matches or exceeds current levels).

The APF and Commonwealth direct funding could only be used for productions that have SAC certification (see section on Screen Offsets). How screen agencies spend their own state government allocations and revenues from their investments would be at the complete discretion of the state agency.

The risks of this approach are:

- **State priorities** - State agencies will use the funding to develop their own state screen sectors. This is not in itself a bad thing and to a certain extent should be encouraged. The smaller states have long complained about the inherent "Sydney-Melbourne" bias in Commonwealth funding and such a design will go some way to ensuring a more equitable spread of funding to the smaller states. It only becomes a risk when the states place their own sector development against the spirit of the fund, which is to ensure the best quality projects get made.
- **Undue political interference** – partisanship and a break-down in state-federal relationships. This would be managed through COAG/National Cabinet and through a State-industry strategy (see section on Australian Content Marketplace).

These risks can be managed through various mechanisms including Screen Performance Fund, Charter Letters, COAG or a new National Cabinet (state-federal relationships), and clear reporting requirements in the legislation and the state-federal funding agreements. State-federal relationships intersect around other sectors such as infrastructure and education, so this is not a new concept. What is the role of service providers?

What is the role of service providers in the disbursement of the APF?

In this model, which is adapted from the Canadian model, service providers ultimately get their contribution redistributed back to them, only that their contribution is future 'bonded'. That is, it the money can only be spent on:

- Equity in Australian drama/documentary
- Minimum guarantee/advance of future revenues for Australian drama/documentary
- License fee for Australian drama/documentary

This is no different to how service providers expend revenue on content, only that the expenditure is 'bonded' to Australian content and time-based, with the exception of equity. In the Australian case,

[10] NZFC spends approximately 10% of its revenue on new talent through short film production. South Africa and Israel has similar allocations. Between 2008 and 2015, the amount of dedicated funding for works created by new talent dropped by 60-80% across Australian federal and state screen agencies while enrolments in media production at Universities and other higher education providers continued to increase significantly. Equity is an issues with highly experienced filmmakers with strong Hollywood business connections such as Mel Gibson (Hacksaw Ridge), Baz Luhrman (Australia) and See Saw (Academy Award winning producers of The King's Speech) accessing direct government funding through Screen Australia when so many emerging filmmakers that do not have the same resources available to them are not able to access support. There is no current policy with respect to funding needs of screen content practitioners in the early stages of the screen career pathway, but those who need funding and support the most (new talent) are virtually closed off from the system while more experienced creators who have benefited from 50 years of government funding, get privileged access.

it is recommended that a minimum guarantee or license fee can be bonded only once a project is completed (or near completion, i.e. in post-production). The rationale for this is explained in detail below.

The involvement of the marketplace in the greenlight decision is reduced in the model proposed here. This is because the model assumes the need for cultural R&D, which requires a degree of risk taking and newness/novelty. Economists like Arthur De Vany (see his book Hollywood Economics) show that in industries of high uncertainty, high risk is required. The marketplace has shown it is not always ready for the degree of risk required in cultural R&D – it tends to follow trends, rather than lead them. Audiences, including production executives, often don't know what they like until they see it and the current policy requiring a signal (endorsement) from the marketplace in financing does not lead to the creation of superior content for audiences, who are always a step ahead of programmers and who demand novelty[11].

Consequently, this model leaves it up to each individual agency and the filmmakers to ultimately decide the funding criteria and how service providers would be involved in the greenlight decisions, letting the performance incentives generate process innovations that will generate the best outcomes. There is no doubt that there will be pressure on agencies from service providers to include some sort of market signal to give them confidence in the investment decisions. This could be through board membership, investment committee membership, letters of intent, first look, pre-sale/guarantee, equity investments using APF allocations as the signal, or nothing at all. Policy should not mandate one means over another but allow brave agency executives the opportunity to experiment and take risks.

Since quality and audience demand is not revealed until after production has completed (and often after release), creating a market by which service providers can use their bonded contribution to competitively bid for completed funds, rather than requiring a commitment upfront, matches the market-pricing mechanism used by the industry and balances out the risks and the distortions created by current policy settings. Service providers can manage the risk of over-pricing a lower quality product by waiting to see what the finished product looks like. Simultaneously, they can hedge their bets of a product being of high quality if they believe a project to be the case by investing upfront (as equity). Since 'nobody knows' either decision could be the right one.

In this model, what producers and projects receive funding is a decision for the agencies (the 'many doors') who might decide to partner with other agencies (co-invest) or may go it alone. It should be acceptable that agencies can choose to fully fund projects using APF allocation alongside the producer offset without the requirement of service provider endorsement. However, neither should agencies act as studios. Output deals or packages of projects could be negotiated between agencies and service providers, but only with producer support. This is why a higher level of cultural uplift for some projects is needed (to ensure producers have a seat at the negotiating table) and why there needs to be a State-industry strategy, to take an aggregate view of Australian screen content production as a portfolio and broaden the framing of decisionmakers beyond the one-project at a time. Similarly, agencies need to be incentivised (through the Screen Performance Fund) to focus on aggregated outcomes to lift the performance of the entire system.

[11] Analysis of the two-door policy under the former FFC where films could be funded as either 'marketplace' (automatic funding based on significant marketplace endorsement) or 'evaluation' (less reliance on marketplace as a signal for greenlight) showed 'evaluation' films to have a slight performance advantage over those in which the 'marketplace' had the final say over what was made (see McKenzie, Rossiter, Shin, (2018), For Love or Money? Assessing outcomes from direct public investment in film, International Journal of Cultural Policy, December).

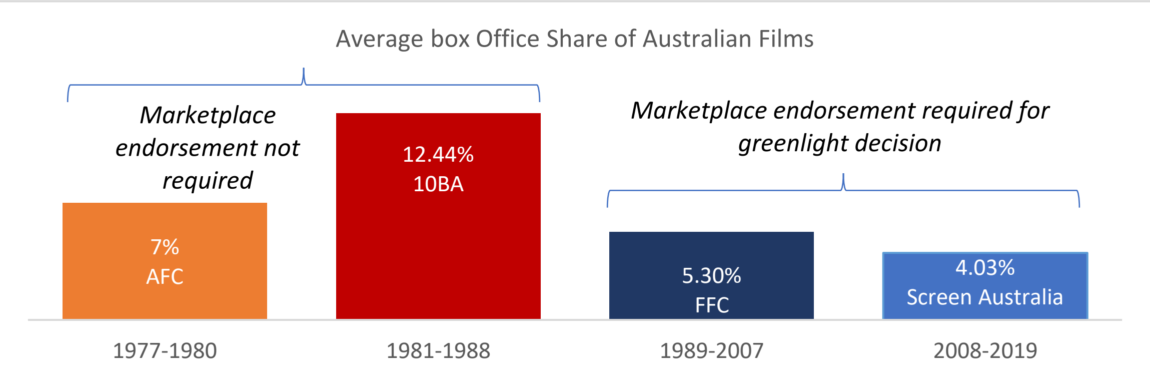
The need for a different policy frame - 'Presale is a fire sale'

In the Canadian system, the Canadian Media Funds are re-distributed through Telefilm (the central agency) back to the service providers based on Performance Allocations. Funds are 'bonded' in that they can only be used for license fees and equity, but a $1 contribution does not mean the service provider gets $1 to spend on acquisition or equity in Canadian media. Rather, the amount available will be more or less than the initial contribution based on previous performance. This outcome based focussed has merit.

However, marketplace participants are still very much 'pivotal buyers' that signals to the agency on which projects the funds should be spent. This means that they exert additional market power over Canadian producers.

Australia has also relied on the marketplace as a strong signal of future quality and a 'pivotal buyer' in the funding mechanism since 1989 and the winding back of 10BA, which did not require marketplace participation if most of the financing could be raised privately, although in practice pre-sales often were a component of the financing mix as the level of incentive was lowered. Under 10BA, Australian feature films performed their best at the box office and there was also innovation in the creation of 'event' television miniseries such as *Dirtwater Dynasty, Bodyline*, the *Shiralee*. In a defiance of logic, this provides evidence to suggest that the marketplace endorsement may be a weak, if not false, signal. After all, the marketplace rejected Strictly Ballroom and more famously, Dirty Dancing and Star Wars in early greenlighting negotiations.

As Arthur De Vany says 'experience is not reproduceable when it comes to greenlighting movies; it may be a hindrance because experience relies too much on past successes and selective memories that blot out failures' (Hollywood Economics, pg. 1920). The marketplace tends to rely on co-branded elements which increase costs but not revenues. Stars raise expectations only, not performance, and executives have an illusion of control. This *certainty effect* means that small projects by unknowns or lesser knowns are underweighted in comparison to large projects with knowns.



In the current Australian policy environment, the requirement for a market signal may sound reasonable and efficient, but it actually adds to the market power of the buyer. In order to get a project funded and made, the producer may well have to sell the most, if not all, future revenues (all rights) in order to access government support at the negotiating table. Distributors put in less than 5% of the budget through a staggered guarantee but reap most of the rewards. This is not a good situation for anyone, as those at the end of the chain carry little real risk and have no incentive to put in efforts beyond that which would earn more than the minimum they have already outlaid. They manage their downside by transferring risks and negotiate an option on the upside. In such a situation, the producer has no incentive to make the best quality product that they can because there is little financial benefit to do so. Whilst artists care about their work, the benefits of that care largely fall to the latter part of the marketing chain who have negotiated most of the title and the return – a situation reinforced by policy.

Screen Australia

Screen Australia is seen as the key system steward for the screen production sector. In the model proposed, Screen Australia remains the federal screen agency but has a more focussed role and set of responsibilities. As per the Options paper, Screen Australia would continue to directly fund quality content of cultural significance but would limit its investments and funding programs to:

- Project Development
- Screen content production
- Professional Development (including industry promotion at overseas markets)[12]

In this respect it would compete and cooperate (co-invest) with state agencies (the other 'doors') in allocating APF funds as outlined previously, vying for a share of Screen Performance funding alongside other agencies. Along with its direct allocation from the Commonwealth, the agency would use these funds as a lever to manage an overarching strategy for the Australian screen production sector that would be jointly developed by all sectors of the screen industry through their various representatives (screen agencies, guilds, sales agents, distributors, exhibitors, broadcasters and streamers). This State-Industry Strategy has been mentioned previously and will be explained in more detail in the section covering the Australian Content Market. Screen Australia annual allocations (both direct funding and APF) would be dependent on their ability to performance outcomes in a charter letter (or annual Statement of Expectations) set by the Minister and coordinated by the Department.

Screen Australia would also use their funding to balance out any excesses/restraints and/or biases that might emerge from the actions of other stakeholders (e.g. state agencies, level of broadcaster investment in cultural content) or that might arise from unforeseen errors or omissions, emerging market trends (e.g. new technologies and platforms, and other matters not otherwise covered in state-federal funding agreements and charter letters. In doing so, it may lead or follow co-investments or make full-funded investments alongside the producer offset and any other funding partners (private investors, charitable grants, international pre-sales, etc).

The other functions currently with Screen Australia would be spun-off to other government agencies to provide focus (see following table).

Current Screen Australia function	Roles, resources and assets transferred to:
Research and strategy	Department and/or ACMA
Cultural funding (including industry support)	National Film Sound Archive (NFSA)
Producer Offset Unit	Department or ACMA
Co-production program	Department or ACMA
Policy	Department

It is estimated that from the current allocation of $81.8 million, around $12 million would be diverted from Screen Australia and re-allocated for these purposes[13]. As previously mentioned, Screen Australia would also get a flat yearly allocation from the APF and would compete for additional funds based on their prior performance from the Screen Performance Fund.

[12] This would include what would otherwise be called marketing support (i.e. funding for sponsored filmmakers to attend festivals and markets).

[13] Pg. 114 of the Screen Australia 2018/19 Annual Report states that the cash used by the agency in Investments – film industry assistance was $50,420,000. Another $2,587,000 was on film industry assistance loans.

Screen Australia would also retain past and future equity investments which would continue to generate royalties (in 2018-19 this was $5 million) which could be used use to cover administration costs and/or make additional investments.

Further detail can be found in **Attachment F.**

Screen Offsets

The industry has largely applauded the introduction of the various offsets since the introduction of the Refundable Film Tax Offset (now the Location Offset) in 2001, primarily due to its simplicity of design, administration and transparency.

Under the preferred option (option 3), it is proposed that the Producer, Location and PDV Offsets would be set at a single rate for content on all platforms, creating a platform neutral approach**.** Under this model, some Australian content would require further support through 'uplifts'. These uplifts are important because a flat rate for both Australian productions and foreign production regardless of format might be 'neutral', but it is not equitable.

This option should recognise the high importance of Australian content (relative to foreign content) with respect to its contribution to culture, economy and innovation.

The 'cultural uplift' must acknowledge the benefits accruing from locally and independently made television as well as other formats and appreciate that local television drama and documentary production also makes a significant contribution to GDP and export royalties. In terms of returns on government spending, Australian productions have historically accrued more consistent returns in terms of production expenditure (see **Attachment B**).

It is assumed that the base offset be available to any business engaged in screen production (including broadcasters and streamers, foreign or local). For foreign productions, the base offset is virtually a 'grant' to incentivise inward investment. A 'cultural uplift' would be introduced to provide further support via the Producer Offset for children's content and one-off, feature-length content made by Australian independent producers (not broadcasters, streamers, and studios).

The need for cultural uplift

The need for uplift are not just for cultural reasons but also commercial. Australian independent producers accrue different costs of doing business than foreign or large broadcasters and streamers (tax, complex funding and compliance arrangements, financing, insurances, legal). Additionally, and more importantly, without an uplift there will be no incentive for Australian formats (mini-series, tele movies, serials, features) to be made under direct Australian creative control or about Australia if there is no incentive to do so. Presumably, all that would otherwise be required for the base offset is a minimum expenditure on Australian cast, crew and facilities, whilst royalties from copyright would accrue to the foreign owner. This would not support Australia's balance of trade or optimise economic benefits. Therefore any 'cultural uplift' should only be made available to independent Australian producers. It also reinforces the notion that the allocation of the APF is made independent of the marketplace more important in order to ensure genuinely Australian content is produced[14].

[14] If the offset is content neutral and anyone can access it based on hiring Australian production services, then this could lead to inauthentic Australian stories that overuse colloquialisms and stereotypes based on the perceptions of foreign masters as to what Australia is.

This model recommends then that there be a number of levels of 'cultural uplift' that can be applied, not just to features and children's content, but for some television productions as well, with some caveats.

Defining the 'Cultural uplift'

As proposed by the options paper, a points-based test for significant Australian content would be used to determine the degree of uplift.

Section 376-70(1) of the *Income Tax Assessment Act 1997* (ITAA) currently specifies the factors used in determining whether a project has significant Australian content (SAC):

- the subject matter of the film
- the place where the film was made
- the nationalities and places of residence of the persons who took part in the making of the film
- the details of the production expenditure incurred in respect of the film, and
- any other matters that we consider to be relevant.

The SAC test has not always been consistently applied. For example, *Knowing*, with no immediately obvious Australian content, first failed the SAC test and then passed. The *Great Gatsby* (dir. Baz Luhrmann) passed the test with little difficulty. Beyond Films took the Australian government to court over its decision to deny the documentary *Taboo* SAC certification at reported cost of over $200,000[15]. This legal expense is not insignificant and could virtually fund another documentary.

Significant Australian Content Tests	Example criteria:
Part 1 - Australian Commercial Content – stories told by Australians	• Whether the core origination of the project took place in Australia and is under Australian control. • The length and extent of association Australian citizens or residents have had in the film's development. • The degree of ownership of copyright and share of returns accruing to Australians.
Part 2 - Australian culture content – stories told by Australians about Australia	• All of the factors considered under Australian Commercial Content test **PLUS** • Whether the film is based on an Australian story; • The extent to which the film is about Australian characters; • The extent to which the film is set in Australia.

Since the 1980's there has been debate about what is 'significant Australian content' and what is not, specifically whether being Australian is simply a story told by Australian regardless of whether it is actually about Australia and/or set in Australia (the 'koalas and kangaroos' test). The short answer

[15] https://mumbrella.com.au/significant-australian-content-test-passing-the-test-8182

is that Australian content is both, but arguably one is more 'Australian' than the other. The cultural uplift provides an opportunity to make policy priorities clear and to accept the continuum in the SAC test itself- in practice this suggests there needs to be two tests. The criteria recommended in this model is outlined in the previous table.

Eligibility for Screen Offset and the 'cultural uplift'

Details of the recommended criteria for eligibility for the screen offset their cultural uplifts are seen in the table below.

Offset	Level	Detail
Screen Production Offset	25%	As suggested in the options paper, there would be only one offset set at a single rate for the Location, PDV and Producer Offset. Creative control, copyright ownership, and subject matter are not determinants of eligibility. A SAC test is not required for access to the Offset, but at least 80% of the production budget must be spent in Australia on Australian cast, crew and facilities. PDV and location services would be able to be combined which would, in some measure, make up for the lower incentive for PDV-only titles. **The Location Incentive would be repealed[16].** The Minister could temporarily lift (for one year only) the value of the 25% Offset by up to 5% to respond to market forces (like exchange rates) but this should apply across all platforms regardless of whether they are foreign produced or locally produced. Changes to current legislation would be needed to implement this.
Australian Commercial Content uplift	40%	This uplift would apply to Australian feature films, children's content, and documentaries that are made and owned by Australians, with royalties accruing to Australian producers and content creators. It would only be available to **Independent Producers** with projects that have passed the first part of the SAC test (Part 1). [17] At the Ministers discretion and upon application, Australian mini-series could also be eligible. For example, if there is a high budget 'event' mini-series or TV movie being proposed.
Australian Cultural Content uplift	50%	This would apply to Australian **feature films** that are made and owned by Australians about Australia with royalties accruing to Australian producers and content creators (television not eligible). It would only be available to **Independent Producers** with projects that have passed both parts of the SAC tests (Part 1 and 2).

[16] It is acknowledged that the Location Incentive provides government with a greater degree of efficiency and responsiveness in administering and attracting runaway production. The opportunity cost is that this allocation could be used to fund local production. Considering there is hardly any support for emerging content creators, yet the federal government spends $250 million a year in HECS/HELP for media production students who also carry a student debt (7,000 graduates a year, would be an aggregated student debt of $200 million-$450 million). With few opportunities, there is a case for education fraud. This represents a risk for governments.

[17] It is noted that the Convergence review Final Report 2012 found significant support for raising the offset level for television from 20 per cent to 40 per cent consistent with the rate provided for feature films. It also noted that in terms of overall economic benefit for the sector, there appears to be little difference in net terms between an Australian film costing $10 million to $15 million to make and a high-quality 10-part drama costing between $1 million and $1.5 million per episode and that making television programs eligible for the higher 40 per cent offset rate is consistent with the principle of regulatory parity. It recommended that only independent producers be eligible for an increased offset and notes there would be a net additional funding requirement from its recommendation to increase the offset rate to 40 per cent for television.

The offsets would be administered by the regulator or Department and **NOT** Screen Australia to minimise the chances of agency/regulatory capture and ensure the screen agency is focussed totally on the development and production of culturally Significant Australian content. It would also ensure a relatively even playing field for competition between the state and federal agencies, preventing the risks, however small, of any potential for 'hold ups' or 'anti-competitive' behaviour using SAC certification processes. Let the regulator regulate and let the agency deliver.

This submission supports the need for further reforms to the Producer Offset would include removal of the 65-hour cap on drama and minimum duration requirements. Minimum spend thresholds would be revised, and various QAPE reforms to clarify allowable expenditure would be introduced. Projects should be required to demonstrate an appropriate pathway to their audience.

See **Attachments G and H** for more information.

Defining 'feature films'

Feature films remain an enigma. SVOD platforms such as Netflix and Amazon Prime are increasingly commissioning and acquiring television movies that look and feel like feature films. These films are typically dramas and 'genre' films such as science fiction, comedy or horror films that may not 'cut through' in the modern box office environment, but where production values are high.

Recent Australian films acquired by SVOD platforms include *Cargo* and *I Am Mother* (Netflix) and *True History of the Kelly Gang* (Stan). Recent theatrical documentaries include *2040, Mystify: Michael Hutchence, The Australian Dream and Gurrumul*. While box office revenue has stagnated, it has not declined like revenues of traditional free-to-air and subscription broadcast, although COVID-19 has given them a significant hit. Cinema is not dead, however.

As a screen experience, cinema remains differentiated – an out-of-the home, 'stadium' like experience (big screen, big sound) with an augmented service scape that can't be replicated in the home. While the core benefit of mood-regulation, entertainment, and novelty exist form the basis of all content formats, there are additional experiential (immersion), social (dating, social outing), prestige (luxury seating, hype), and practical (no clean up) benefits for cinema audiences. These make feature films and documentaries important outputs for the Australian screen production sector.

Current policy under the Producer Offset uses marketplace endorsement (theatrical distributor guarantee) as a signal to determine the 'intention' of a project to screen in cinema – the intention being the legislative requirement, while marketplace endorsement being the policy. Since a feature film is defined by its release patter, it is only revealed well after the greenlight decision. For certainty, producers need to know whether a project is considered a 'feature' well before it is released.

The Government could solve this boundary issue by choosing to make the offsets format-neutral, so that all Australian content with SAC certification are eligible, but this would result in a significant increase in the cost-to-government. The options paper has suggested that feature films, like children's content, might be a 'special case'. Unlike children's content which is defined by its audience, feature films were once defined by a technology and a release strategy (cinemas first) and an aesthetic quality that is hard to quantify. Now, television has matched, and in some cases exceeded that aesthetic (*Roma, Extraction, The Irishman*) with feature films being defined more by their potential than by anything else. The current policy, based on 'commitment logic' (the commitment to a release through a particular channel), is limited because a) cinematic films are being made for television and b) it puts greenlight power in the hands of Australian distributors, who can use that power to extract most of the rents and transfer most of the risks (a moral hazard). The Options Paper provides no indication how it will solve that dilemma.

More work would need to be done to broaden the criteria of a 'feature film' so that it is inclusive rather than exclusive. It could include P&A funding raised by private equity, plans for self-distribution or co-distribution, pathway-to-audience plans, not just simply a distribution agreement from a local distributor.

Marketing Offset

The options paper notes the following trend (pg. 24):

> *Australian cinemas are widely attended, and several Australian films have reached wide audiences in recent years.*[18] *But many independent films, including many Australian films, are struggling to reach audiences in cinemas. The number of films released in Australia has more than doubled in the last 10 years*[19]*, with a greater number of independent films*

[18] Screen Australia, Top 100 Australian feature films of all time, 2019.
[19] Screen Australia, Australian release strategies for local films compared to overseas films, 2019.

competing for audiences. At the same time, larger budget 'blockbusters', generally created by US studios, backed by extensive marketing and released on hundreds of screens, have more than doubled their share of the Australian yearly box office. Competition is growing at both ends of the market, but gross box office takings have been fairly static over the last five years.[20] *National cinema admissions have not risen in line with population growth,*[21] *and Australians are visiting cinemas less frequently.*[22] *Australian films that lack the marketing support of large foreign studios are finding it increasingly difficult to reach audiences at the cinema. Australia is a relatively small market and films are high cost.* ***Significant investment in marketing can be seen as a further risk, and exhibitors are quick to remove any film that has comparatively low earnings*****.**

We have seen that in order for the new system to be truly 'platform neutral' as intended by the Government in the Options paper, cinemas need to be included in the contribution levy and incentivised to screen and support Australian films. While most Australian feature films produced do end up in Australian cinema, in part because of the requirement for a distributor commitment, they do not end up on many screens when compared to foreign films and their performance is below expectations (4% share)[23].

From a policy perspective, the government needs to take philosophical perspective on Australian cinema:

1. It is more important for **all** Australian feature films produced with taxpayer money to screen on Australian cinemas regardless of their quality OR
2. It is more important that **the best** Australian films screen at Australian cinemas.

From a cultural R&D perspective, relatively high rates of failure should be encouraged[24] and therefore the second view should logically prevail as it aligns with a broader innovation framework. This paper has argued that content is an important part of the innovation eco-system. In addition, only releasing the best Australian films will help change audiences' perceptions of Australian films.

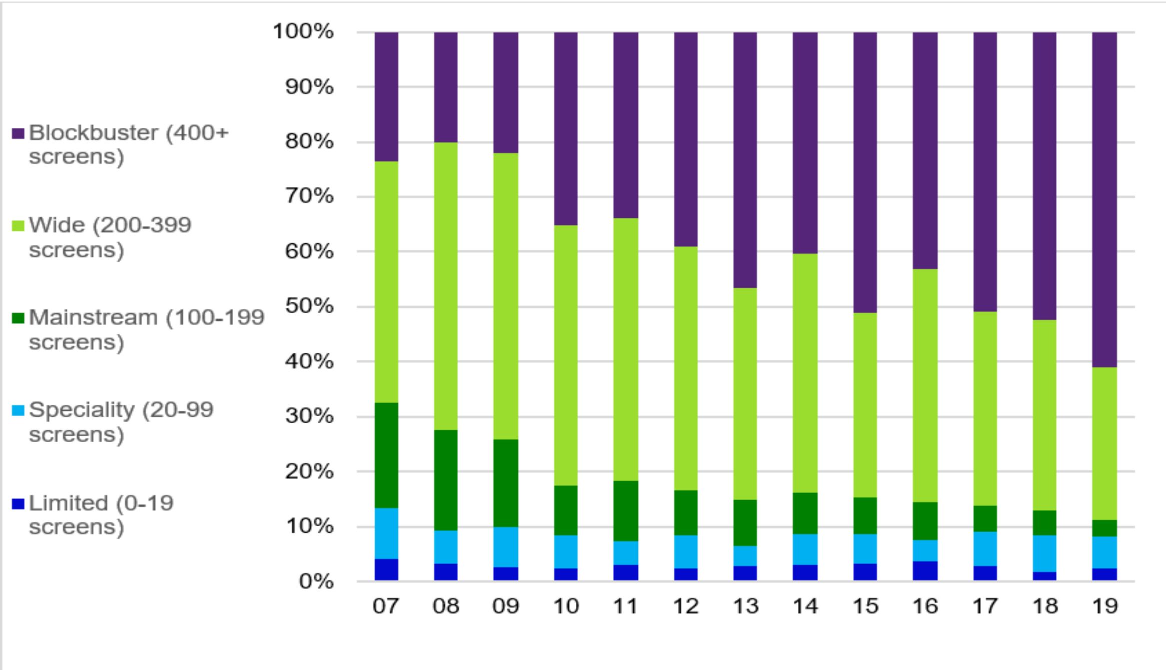
'Everybody makes bombs and never knows why. No one sets out to make a bad movie, but many are bad. Some are good, but don't catch on or are run over by a blockbuster' (Arthur De Vany, Hollywood Economics)

The marketing problem of Australian films

Cinema tends to be a 'land of giants' where one or two films dominate the box office at any given time (Nassim Taleb would refer to this as a 'kurtocracy'). Marketing is an important defensive tactic for content. De Vany says it is needed just to draw attention to the field where everyone is shouting and if you don't shout too, you will be drowned out and may not be noticed. Australian films are being 'drowned out' by US films in Australian cinemas.

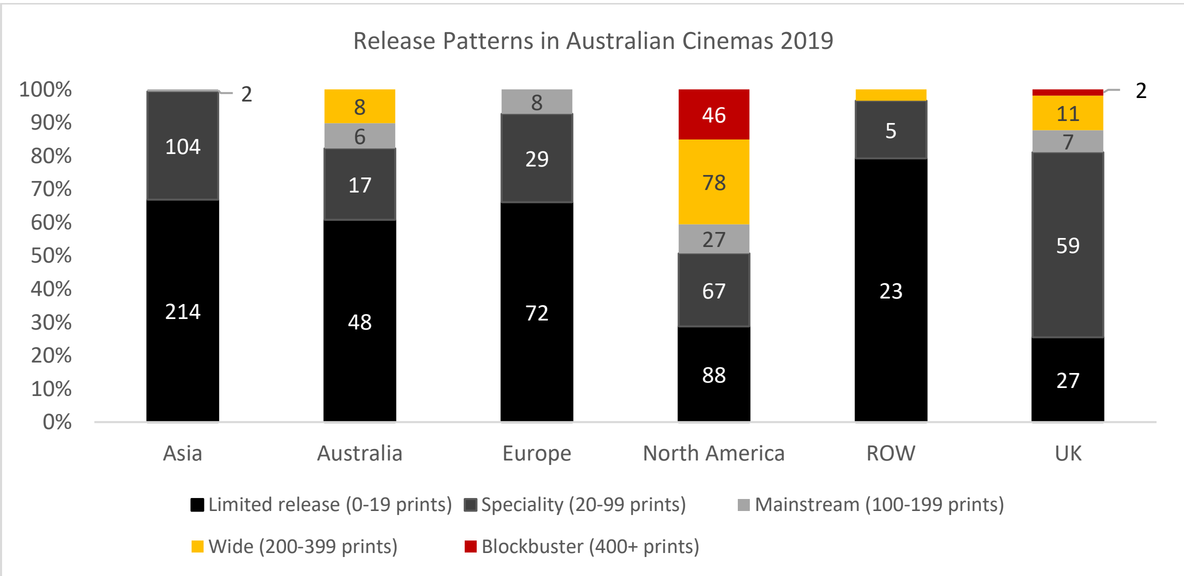
[20] Screen Australia, Cinema industry trends gross box office and admissions, 2019.
[21] ibid.
[22] Screen Australia, Cinema industry trends attendance patterns, 2019.
[23] 8.3% of all films released in 2019 (79 films including documentaries) in Australian cinemas were Australian.
[24] See the Thomas Edison 10,000 lightbulbs anecdote; it takes 3000 ideas to generate 1 successful new product.

Figure 10: Proportion of box office by release strategy of all films released in Australia 2007–19



Source: Screen Australia analysis of MPDAA data.[25]

More than 90% of the box office is earned by films released widely on more than 200 prints. In 2019, only 8 Australian feature films (less than 10% of Australian films release) were released widely (200-399 screens). This included *Ride Like a Girl, Storm Boy and Hotel Mumbai*. None were given a blockbuster release.



Source: Screen Australia, https://www.screenaustralia.gov.au/fact-finders/cinema/industry-trends/films-screened/release-strategies

[25] Screen Australia, Cinema industry trends release strategies, 2019.

It is well-known that when faced with uncertainty over quality, consumers look for proxies. Price is a well-known proxy for most consumer durables. Consumers of experiential products like movies, especially when prices are held constant as they are in cinemas, tend to use advertising as a proxy for quality. To assist Australian audiences in their purchasing decisions, greater advertising and awareness of Australian options is needed.

Australian distributors make a commercial decision against a portfolio of films in their release and will tend to minimise their risks by investing marketing effort in projects that have greater certainty of returns. These are usually foreign films that have had some previous success in home territories, pre-awareness, and pre-tested marketing campaigns with branded elements (star actors, directors). Australian films generally do not have this advantage.

The solution: Marketing rebate

The Australian Government should introduce an incentive for greater expenditure and planning in the marketing of Australian films. It is recommended that a 20% Rebate (not an offset) be introduced on eligible Prints and Advertising expenditure. This would be paid to Australian producers after the release of the film. The reason is that because most distribution agreements provide for Australian distributors to recoup their expenses against returns before any revenues are passed back to producers. Effectively, this means that Australian producers pay for Prints and Advertising from future revenues. While distributors carry some initial risk, much of this is mitigated with costs sometimes cross-collaterised across the portfolio.

Producers could cashflow the P&A rebate and in so doing negotiate better distribution terms, giving them 'skin in the game'. Since the 1980s, anecdotal evidence suggest that distribution fees have increased substantially from 25% to 35% of gross cinema rentals (box office net cinema share). There are also some examples where distributors have negotiated shares in producer profit in addition to their fees. This is because of the policy settings established under the FFC and continued under Screen Australia where distributors are 'pivotal' to the financing decision (pivotal buyers) as previously discussed . Basically, government funding either through the Producer Offset or Screen Australia requires a distributor to endorse a project through some sort of minimum guarantee – valued usually less than 5% of the budget, payable over a period of years with only a portion payable upfront, and sometimes underwritten by a TV license pre-sale or private investment. As mentioned previously, in its own commercial analysis of feature films Screen Australia found that 0 in 94 films had returned a profit for the agency. This is lower than the predecessor agency where the success rate was 1 in 20, even though the FFC often took a secondary recoupment position behind private investment which Screen Australia does not. What is the reason for this? An analysis of distribution agreements and P&A funding since 1989 might shed some light. Screen Australia has this data and should undertake the research to further inform this policy proposal.

If Magazine reported on Screen Australia's analysis (which is no longer available on the Screen Australia Blog) noted the following:

> The report cautions against taking that info as a piece of doomsaying, pointing out correctly that films have a long tail, financially speaking, many individuals and organisations have profited from these films even if they aren't in overall profit, and besides, Screen Australia's remit is "…ensuring Australia has quality local content that connects with audiences and the industry is *sustainable* so that films keep getting made." [26]

[26] https://www.filmink.com.au/screen-australias-94-commercial-analysis/

Sadly, there is no sustainability without profitability.

Some form of distribution support is also required in order to fulfil other government priorities such as gender and diversity. In its report *Gender matter: Women in the Australian Screen Industry* Screen Australia notes that one of the key barriers to greater diversity and gender balance are biased key decision makers that include 'local distributors, investors, network executive producers and international A-list festival programmers' (pg. 7).

Some lever is required to entice local distributors to:

- take greater risks with respect to supporting the marketing release of Australian feature film content
- share the returns made from Australian feature films with Australian producers.

This lever also needs to be mindful not to place greater leveraging power in the hands of distributors at the expense of producers, such that Australian distributors share in the risk and not just the returns, rather than transfer the risks back to the Australian producer or some third party (a moral hazard).

How much would a 20% marketing rebate cost government?

Although Screen Australia has data on both marketing expenses and distribution fees for the films it invested in it has not ever made it available, even in aggregate. However, estimates can be made piecing together publicly available data on the release of Australian film and prior academic work to estimate an 'average' marketing expenditure per print, using maximum screens as the basis for estimation[27].

When adjusted for inflation, a dataset of Australian films in release between 1997 and 2017 (412 films) yielded the following estimates:

Min	$ 9,061
1st Quartile	$ 94,836.61
Median	$ 321,743.99
3rd Quartile	$ 1,269,440.57
Max	$ 7,088,378.65

If the government was to provide a 20% rebate on P&A for all films with this profile, **the cost would be $7 million per year.**

What projects would be eligible for the Marketing Rebate?

It is recommended that eligibility for the rebate be set at a minimum expenditure of $350,000 and be capped at $4 million expenditure. This makes sure that there is some degree of genuine financial commitment to the marketing effort. Over 50% of Australian films have had a P&A above this level.

The rebate would only be available to films that have been certified for the **Australian Cultural Content uplift** (i.e. the 50% offset). Commercial Uplift films would not be eligible.

[27] P&A was estimated by multiplying each print by $9,000 ($2,000 for print costs and $7,000 for advertising, publicity and promotion).

The Australian producer would need to apply for the rebate after the release in cinemas and would need to provide certified copies of receipts from the distributor for the following eligible expenditure items:

- Prints (digital and analogue)
- Advertising expenditure
- Publicity materials

Other items such as website, trailers, and posters would already have been covered under the production budget of the film and would be ineligible. The P&A expenditure of the distributor should also be audited and the audit report (estimated to cost $5,000 per project) should accompany any application.

This is also likely to bring the cost-to-government down significantly to around **$5 million per year**. This cost could be recouped out of the APF making it cost neutral to government.

See **Attachment I** for more information on the Marketing Rebate.

Content marketplace

This submission builds on the proposal in the Options Paper to establish the APF and re-allocate APF funds back to contributors through some sort form of 'bonded' currency. While transferable, the contribution can only be spent on acquiring license fees, distribution rights, or equity in Australian content. In effect, this creates a funded market specifically for Australian content – in other words, a market-based policy instrument (like a tradeable emission scheme proposed for carbon is a market-based instrument) that allows parties to buy and sell Australian content once completed.

As such, it is proposed the government formalise this process by holding 1-2 official 'markets' per year. This will also give the regulator and government a more direct and immediate means to observe how the new regulation and systems policy is working in practice. The market could be attached to an event, say in the days preceding the AACTA Awards, but would be coordinated by the Department or the regulator. This would have dual effect of raising the profile of the market and Australian content and also adding additional public value to the industry awards.

The costs to the hold the event would be unlikely to be significant ($500k to $1 million) if additional to an established event and the market could be supported by an event partner/sponsor to minimise costs. Partial cost-recovery from attendee fees should be expected and the remainder could be taken as small contribution from the APF.

At the market, the focus would be on commerce – using service provider allocations from the APF to bid and purchase productions (completed or near completion) made by the sector or to make equity investments only in projects at greenlighting stage. It would also be an opportunity for important networking to connect production sector (both emerging and established), screen agency personnel, with distributors, sale agents and service providers. Access should be open to anyone wishing to pay the entry fees.

State-industry strategy

One important output from the market would be an annual review of sector-wide strategy and planning, where service providers (broadcasters, streamers, cinemas) identify gaps in their forward programming schedule, discuss content needs, and audience trends, and help agencies and producers formulate a portfolio approach to production planning. The Hollywood Studios often plan their production schedules years in advance, so cinemas know what is coming down the pipeline.

Markets like the Marche Du Film and American Film Market provide opportunities for producers to test their ideas but are also useful to bring the various facets of the industry together at a macro-level.

Although not the preferred option, Option 3B suggests that

> ‘Service providers would be required to negotiate bespoke Australian content investment plans with the ACMA. The ACMA would consider the specific business model of each service and how services would collectively achieve certain policy objectives. Investment expectations could be set by the ACMA to achieve outcomes in the public interest.’

While individual investment plans for service providers would not optimise the opportunities for Australian producers and is therefore not the preferred option, there is some merit in pursuing greater planning across the entire sector.

The UK Government has established the *Industrial Strategy for the Creative Industry* - an agreement between the government and industry with a view to unlocking growth for creative businesses. It outlines contributions of government and private sector to achieve these goals. An annual market provides an additional opportunity for all sectors of the industry, current and emerging, to come together to review past performance, considers emerging trends as either threats and opportunities, and plan for the future of the Australian screen sector as a whole.

See **Attachment J** for more information on the Content Marketplace.

Conclusion

This submission reviews the policy problem presented in the *Supporting Australian stories on our screens: Option Paper* from the perspective of Australian screen content producers. An evaluation of the options is presented against lessons learned from past reviews which suggests that Option 3 provides the best opportunity for a fair approach to media regulation and screen policy for all players. This option requires service provides to contribute part of their revenues to an Australian Production Fund and should be nominally set at 10%, with a 5% deduction as an incentive built-in to encourage the screening of Australian stories. In order to be truly platform neutral, the contribution needs to be applied to all screens, including cinemas and any emerging screens for professional content such as mobile.

A number of risks and opportunities arising out of this preferred option have also been discussed, and this submission provide an approach for Government to manage these risks and opportunities through a variety of levers and broader system design. This includes viewing screen production through the lens of R&D and as a part of Australia's innovation ecosystem, incentivised regulation, better targeting of direct funding, the use of market-based instruments, the creation of 'many doors' of content funding by utilising the federal system, outcomes based funding to screen agencies, clearer definitions of Significant Australian Content, additional low-cost-to-government marketing rebate for Australian films , and state-industry strategic planning.

These suggestions are intended to provide a starting point to consider the broader implications of the significant changes to the screen industry and the policy systems surrounding it, proposed by the Government in the Options Paper. The change logic is that merely setting a broad goal or vision of an end-state will not by itself lead to long term change, but the way system is designed and the appropriateness of the processes and implementation of the option is what will create a proper functioning market for Australian screen content players and a fair approach to regulation.

The current political will for change offers great opportunities for the entire Australian screen industry. The design principles used to evaluate the options and draft the solutions in this response are sound and the suggestions novel and feasible. But more needs to be done to make them workable. After all, it takes 3000 ideas to develop one successful innovation. Successful policy innovation is no different.

This response offers a design solution that is still preliminary - a minimal viable product that needs to be further refined and tested.   The Government is encouraged to use innovative means to test these ideas and develop others. Game theory, war games, scenario analysis, storyboarding, extreme user testing all are ways to refine the 'rules of the game' and create the incentive structures that will be needed in the new media regulatory framework.

If it does so, the Government has a real opportunity to create a dynamic screen production sector which creates significant public benefit, both culturally and commercially, with inspiring and valued stories consumed not just on Australian screen by Australian audiences but by audiences all around the world.

ATTACHMENT A – Why Australian stories are important!

The options paper states that Australian stories are important because of:

- **Cultural value:** Australian stories reflect who we are as a nation, to ourselves and to the world.
- **Economic value:** The total economic contribution of Australian screen content (under Australian creative control) is over $2.6 billion.28 The sector as a whole directly contributes $5.34 billion in industry value-add to the economy, employing more than 30,500 people.29

The options paper adequately captures the way in which Australian screen stories create cultural value, through instrumental impact, institutional impact, and intrinsic enrichment (see pp. 14-16 of the Options paper). However, more can be said about the economic contribution of the industry, and in particular the production of Australian screen content.

Economic contribution

Past policy has viewed the production of Australian fiction and non-fiction via film and television as being justified on the basis of 'market failure'. Depending on which side of the economic theory one sits, such a view may see this approach as having negative impact on the whole economy because the industry ultimately consumes more resources than it produces (as reflected by profit).

The logic goes that government support is a form of welfare which produce 'merit goods', cultural commodities that are welfare enhancing but only viable by transferring resources from the rest of the economy - an industry that produces a 'net drain" but a "net drain worth having". Car manufacturing and other forms of manufacturing were seen as a 'net drain' on the economy, but COVID-19 has recently shed a light on the dangers of such a view and of too much faith in letting the market decide what is important when important supply lines are threatened. Australian screen production has also suffered from this perception, but it is right for the government and the Australian public to demand more from the sector.

There is, however, substantial evidence that the Creative Industries, of which film and television is but one element, is a significant component of the overall economy. Potts and Cunningham (2010) cite the significance of the creative industries as being 4.6% of the overall economy. The economic significance of agriculture is 3% as a point of comparison.

Further, in 2015-16 the ABS reported that the operating profit margin of Film and Video production businesses was 8.8% and had an industry value add of $996.million. Film and Video Post-Production had an industry profit margin of 12.2% and industry value add of $268.3 million. Comparatively, Subscription broadcasters had a profit margin of 9.2% and Commercial Free-to-Air 10.6%. Screen production and the sector more broadly, is hardly a 'net drain'.

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[28] ibid., p. 5.

[29] Australian Bureau of Statistics, *8679.0—Film, Television and Digital Games, Australia, 2015–16*, 2017, with further data from Screen Australia, *Production industry ABS survey*, 2018.

Film and video production and post-production of Australian content is not just a significant contributor to the Australian economy in its own right, but it also has a dynamic and not just static economic value. The industry contributes to the process of economic growth and development over and above their contribution to the economy and to Australian culture and society in two ways:

- as part of the creative industries, screen production is part of a sector of the economy that is currently growing faster than other industries (driven by technology and globalisation). The Creative Industries have grown from 3.7% of the workforce in 1986 to 5.5% in the latest census[30], and is growing 40% faster than the Australian economy as a whole[31].
- Australian screen content production contributes significantly to the coordination of new ideas (Australian owned and originated) and the process of change. That is, they are a critical part of Australia's innovation eco-system.

This response, therefore, rejects the view that tax-payer support of film and television is a form of 'welfare' and argues that government policy has not yet recognised the true value and contribution of film and television production to Australia's cultural and economic future and its role in innovation.

Screen content as Research and Development (R&D)

The Options Paper suggests that Australian screen policy needs a future-focused framework in which to consider the nature of film and video content production and what it actually is. It is natural to view Australian cultural content as a 'failure' when viewing metrics such as Screen Australia's feature film success rate of 0 in 94 films, or even the Australian Film Finance Corporation's 1 in 20 success rate.

It is commonly thought that script development is the R&D of screen production, but screen production is the R&D of the wholesale and retail sections of the broader industry. After all, screen production itself is a process of experimentation (multiple takes and re-takes) where the outcomes of the production process is unknown until it is finished. Screen content is made three times – first on script, then on set, and then in post-production. The result is one single master copy which is then sold or licensed to distributors and/or broadcaster/exhibitors who make duplicates from that single master copy in order to commercialise and exploit the Intellectual Property that is generated from the production process.

Australian screen production is risky because it has high sunk costs, there is demand uncertainty, product uncertainty (novelty), and because it is artistic, it also has qualities that are difficult to measure objectively. It is risky because it is a form of R&D. Arthur De Vany in his booked H*ollywood Economics* says, 'The movies is full of surprises because it is an industry of innovation and discovery'. The UK has developed a policy framework that recognises R&D as a legitimate practice in the arts and humanities, not just in science and technology[32]. Australia should do the same.

[30] https://theconversation.com/an-exploding-creative-economy-shows-innovation-policy-shouldnt-focus-only-on-stem-93732
[31] https://www.qut.edu.au/creative-industries/about/what-are-the-creative-industries
[32] https://ahrc.ukri.org/documents/project-reports-and-reviews/policy-briefing-digital-r-d/

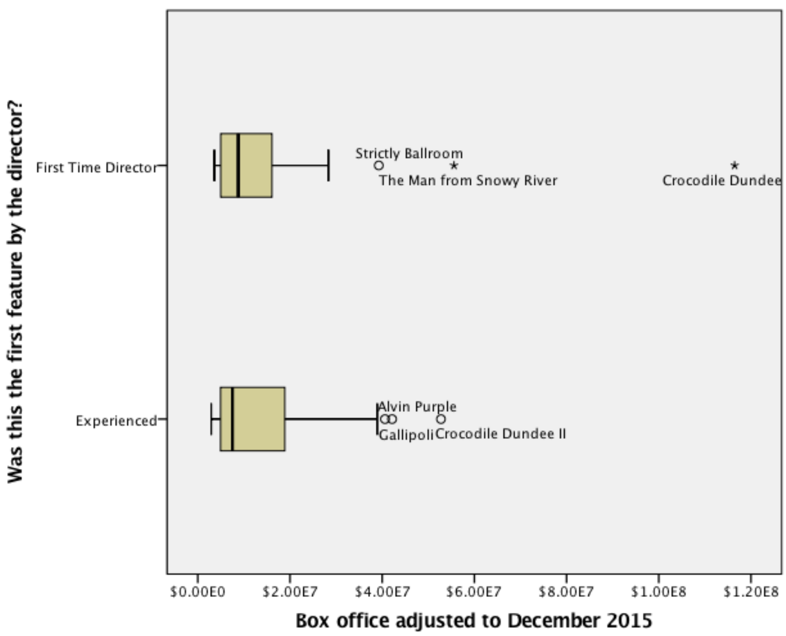
Unfortunately, Australia as a nation does not have a strong culture of investing in R&D, either in the arts or more broadly. For example, the percentage of higher education expenditure on research and development financed by Australian industry 2014 was 4.1%, but this is well below levels set by China at 33.7%, Germany 14.1%, or Korea and Israel (see pg. 75 of *Australia 2030: Prosperity through Innovation*).

Screen content as R&D: New talent perspective

Screen agencies have increasingly diverted funding to support businesses through Enterprise funding, based on the important idea of slate funding but also the notion that bigger production companies are better. When one views content production as R&D, this may not be the case. Indeed, UK Think Tank DEMOS found in 2007 that the creative industries "grow by staying small", such that growth occurs as spin-off entrepreneurial growth. The creative industries evidence substantial sub-sectorial diversity in business models and rates of growth in their temporal and spatial dimensions. Screen production businesses naturally and organically change and adapt out of necessity in order to respond to technology and audience changes. Creative cottage industries therefore have their benefits and may not be as problematic as once thought.

R&D is about new startups, new combinations of resources and experience, where failure is a precursor to success. New entrants, new ideas, are critical to the success of the innovation ecosystem, not as anathema. For example, there is little evidence that Screen Australia's policy between 2008 and 2018 of limiting entry of emerging practitioners access to public funding (a policy followed by most State agencies in response to the lead agency) by diverting resources to subjectively selected creative companies has helped the agency meet its legal obligation 'to support and promote the development of a highly creative, innovative and commercially sustainable Australian screen production industry' (Screen Australia Act 2008, Section 6 (1)(a)). Indeed, this policy may have run counter to it.

Consider the following 2015 analysis of the top 100 Australian films of ALL TIME as listed on the Screen Australia website:



When controlling for films funded by US Studios (like *Legends of the Guardians of GaHoole, Sanctum, Dark City, Knowing, Happy Feet, Babe* I and II), first time (emerging) directors have delivered superior results above those of the more experienced directors. The median result for experienced directors with films in the Top 100 all-time Australian films was $7, 535, 668. For inexperienced (first time directors) the median was $8,767,137 - over $1 million more. Without the added resources of a studio budget, director experience has less of an impact on box office than relative inexperience when considering the best of the best of Australian films.

In 2018, Screen Australia moved away from the decade experiment of barring entry to those who had no professional credit (inequitably focusing on only those who had benefited from the previous 40 years of government support) by creating the Generate Fund. This was not just a morally sound decision, but also a commercially important one with implications for the future health of the sector.

R&D tends to penalise current profits but eventually benefit future profits when new products (or talent) are developed that become profitable themselves. Many analysts regard a high proportion of sales revenue devoted to R&D as a positive sign relative to a firm's profit potential and future stock price. Some of the most successful tech companies spend large percentages of their revenue on R&D – Huawei spends 14.2%, Microsoft spends 12%, Amazon 10.4% and Google 14.9%.[33] The screen industry needs to support new talent and take greater risks in stories, allowing for greater experimentation, than what it currently does. NZ Film Commission spends 10% of its revenue on short films. South Africa and Israel spends a similar amount. Short films develop emerging talent.

If Australian content creators are likened to university researchers, then governments role is to support and link industry (broadcasters, distributors) with creators but not to allow one to dictate to the other. New and novel content draws audiences which draws subscription fees and/or advertising. New talent renews and challenges experience to not repeat the same formulas which in this industry, tend to have a high rate of perishability. Part of the cultural remit of government funding should be to support new voices, new stories, and new story-telling techniques. This requires a different approach to risk employed currently and a broader cultural change that can be catalysed through system design and government as leader and steward.

[33] https://theatlas.com/charts/N1Gs8E4v

ATTACHMENT B – Government Policy Levers

Ensuring access to Australian stories, including drama, documentary and children's content, has been traditionally provided through a framework of regulatory intervention and funding support. This framework includes funding of the national broadcasters, broadcast quotas, expenditure obligations, direct funding and a suite of platform-specific tax rebates. Cinema screens are a key component of this framework but have been left out from the options. This is odd, not just from the stated goal of platform neutrality, but because many of the existing levers were designed with theatrical cinema market in mind.

Description of screen policy levers:

Policy Lever	Description	Target beneficiary	Purpose
Tax Rebates	Producer Offset – 40% of QAPE for feature films, 20% for TV and some other formats	Australian screen producers and practitioners	Cultural production - Incentivises production by reducing risk
	Location Offset – 16.5% of eligible production expenditure	Offshore film production shooting in Australia	Trade and investment - Attract inward investment
	PDV Offset – 30% of eligible production expenditure	Offshore film production	Trade and investment - Attract inward investment
Grants	Location Grant - $140 million over 4 years	Offshore film production	Trade and investment - Attract inward investment
Direct funding	Screen Australia	Australian screen producers and practitioners	Cultural production – government takes on risk of production
Broadcasting service provision	ABC, SBS	Australian audiences	Audience access to local content
Training	Australian Film and Television Radio School	Australian screen producers and practitioners	Cultural production
Broadcast quotas	FTA – Channel 7, 9, 10	Australian audiences	Audience access to local content
Minimum expenditure requirements	Subscription Television – 10% of total program expenditure must be on new Australian drama	Australian audiences	Audience access to local content

Analysis of current screen offsets

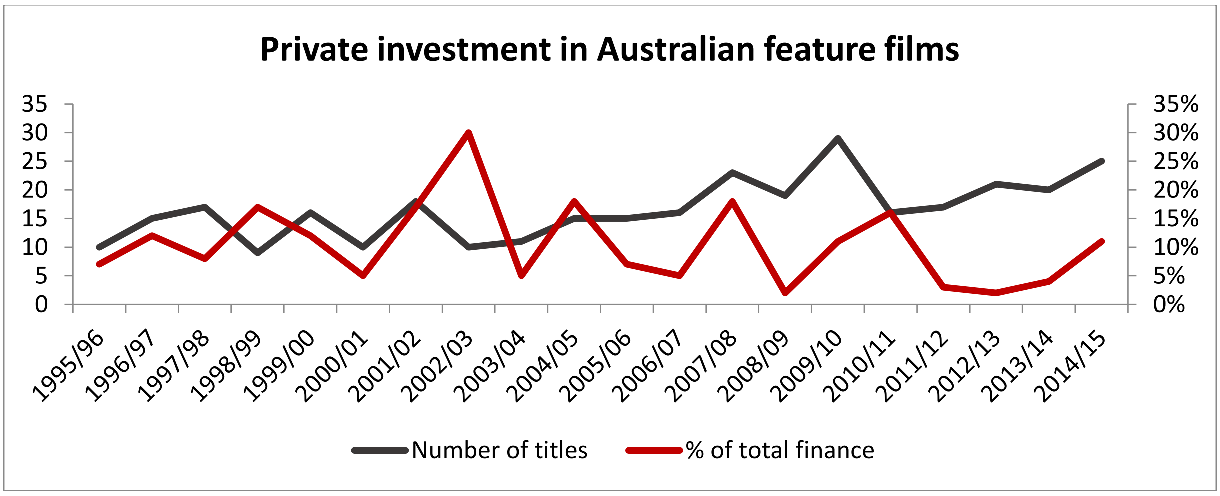
Incentive	Policy objective	Evidence of effectiveness
Producer Offset Producer Offset certificates valued at a total of $207.69 million were issued in 2018–19.34	To assist the industry to be more competitive and responsive to audiences.	Since the introduction of the Producer Offset in 2007-08, Australian share of box office has averaged 4.3% (since 2008). During the FFC (since 1989), the box office average was 5.3%. During 10BA era (1981-1988), 12.4%. Prior to 10BA, (1977-1980), 7.7%. This is despite an increase in large budget Australian films such as *Knowing, Mad Max: Fury Road, Australia, Hacksaw Ridge, the Great Gatsby*. It is more difficult to create a comparison with television audiences.
	To provide a real opportunity for producers to retain substantial equity in their productions and build stable and sustainable production companies.	Screen Australia surveyed 81 production companies in 2017 and found that 91% believed the Producer Offset had enabled them to increase their share of equity, more in television than feature film. According to the ABS there were 761 businesses producing drama and documentaries at the end of 2016.
	To increase private investor interest in the industry.	52% of those surveyed in 2017 believed that they had found it easier to raise private finance since the introduction of the Producer Offset. However, Screen Australia data suggests that for feature films, a large number of films have been able to attract private investment, but the amount contributed to budget has declined. It is unclear whether the private sector contributes equity or underwrites debt (offset). In television, both the number of projects and amount has declined. Now averaging between %, whereas in the 1970's it was much more significant (around 30%). See analysis below.

[34] Screen Australia, *Annual Report 2018–19*, 2019, p. 106.

Incentive	Policy objective	Evidence of effectiveness
PDV Offset The estimated rebate payable to productions receiving the Location and PDV Offsets was $176 million in 2018–19.35	To attract post-production, digital and visual effects production to Australia, regardless of where the film is shot.	The amount of PDV-only work in Australia has increased significantly since the introduction of the PDV Offset to $113 million in 2018/19.
Location Offset The estimated rebate payable to productions receiving the Location and PDV Offsets was $176 million in 2018–19.36	To attract large budget international productions to Australia to provide greater economic, employment and skill development opportunities for the Australian sector.	The Location Offset is generally considered to be important but hampered by global competition and fluctuating exchange rates.
Location Incentive The Incentive will provide $140 million over four years from 2019–20 to attract large budget international productions to Australia.37	To compete with higher foreign incentives and make Australia a globally competitive production destination.	Transparency and accountability is minimal, and the incentive has been criticised because it has largely been funded from cuts to Screen Australia and therefore at the expense of local production. These cuts were the reason why Screen Australia withdrew almost entirely from funding emerging sector as outlined in *Taking Stock*.

Attracting private investment under the Producer Offset

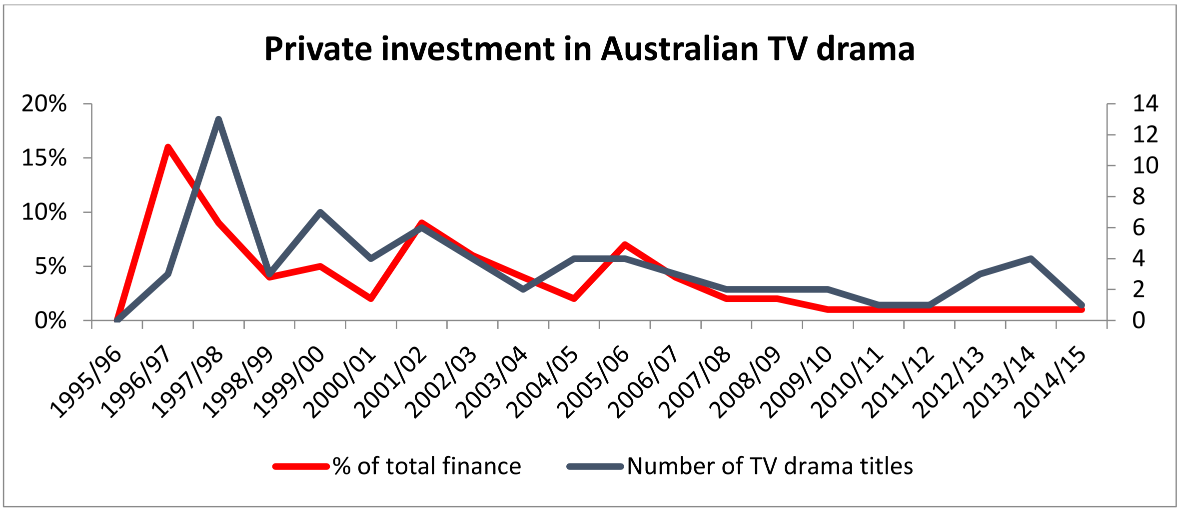
Screen Australia data shows the Producer Offset has been able to increase the number of feature film titles that have had private investment, but not the quantum of money raised.



Source: https://www.screenaustralia.gov.au/fact-finders/production-trends/feature-production/australian-feature-films/sources-of-finance

[35] Department of Communications and the Arts, *Annual Report 2018–19*, 2019, p. 63.
[36] ibid.
[37] Department of Infrastructure, Transport, Regional Development and Communications, *$140 million boost for Australian screen industry jobs*, May 2018.

In terms of TV drama, the Producer Offset has been much less effective at attracting private sector investment.

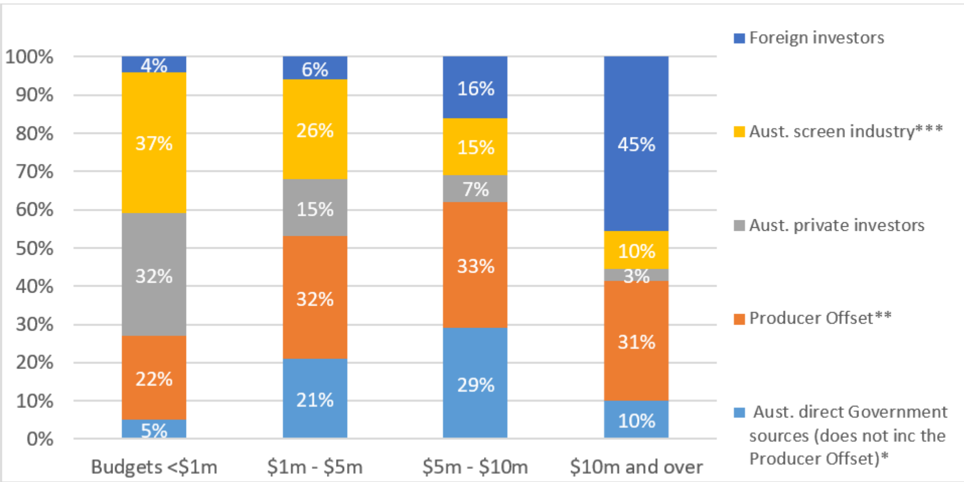


Source: https://www.screenaustralia.gov.au/fact-finders/production-trends/tv-drama-production/all-tv-drama/sources-of-finance

No data is available on documentary funding sources.

There may be some anecdotal evidence to suggest that the level of private investment in Australian production companies (as opposed to individual projects) has increased since the introduction of the producer offset but there is no objective data to properly evaluate this. There are a couple of Australian distributors that have integrated backwards – Hopscotch and Madman – but these two companies also received Screen Australian Enterprise Funding. Most private finance occurs in low budget films, under $1 million.

Finance sources for Australian drama feature films, five-year average (2014–15 to 2018–19)

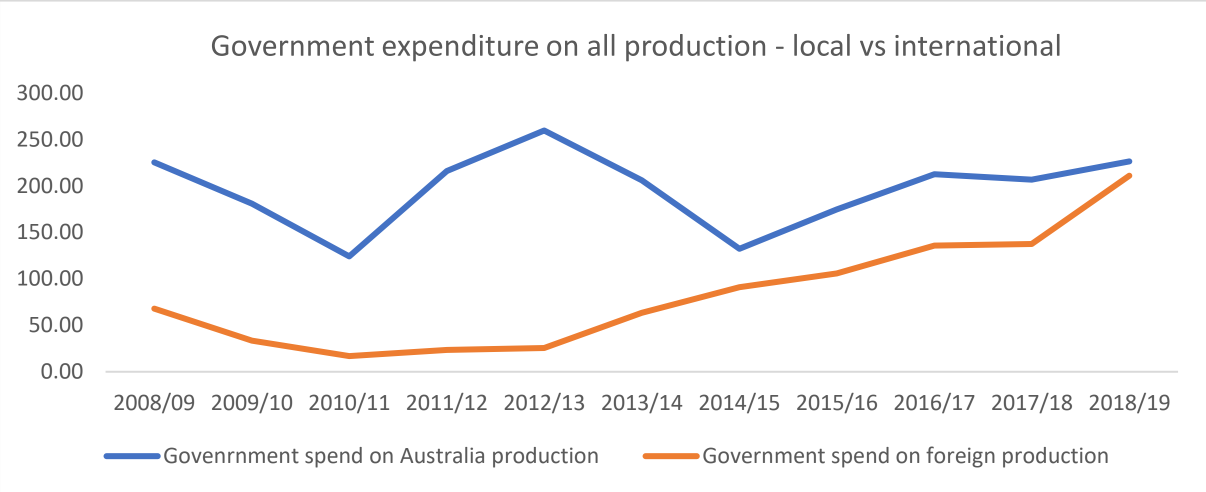


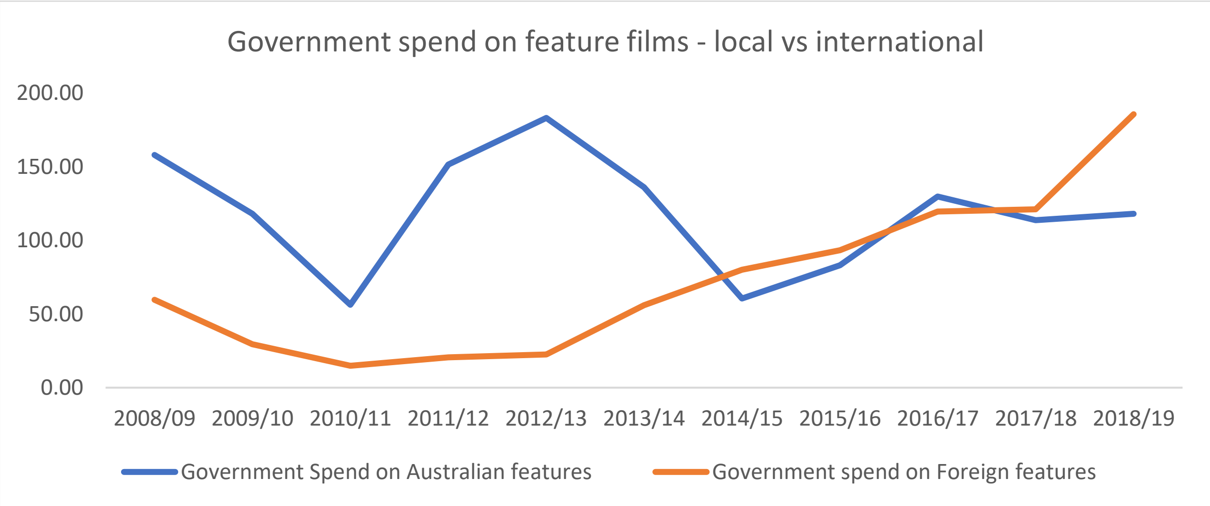
Source: Options Paper

Getting the balance right - Supporting Australian content versus supporting foreign content

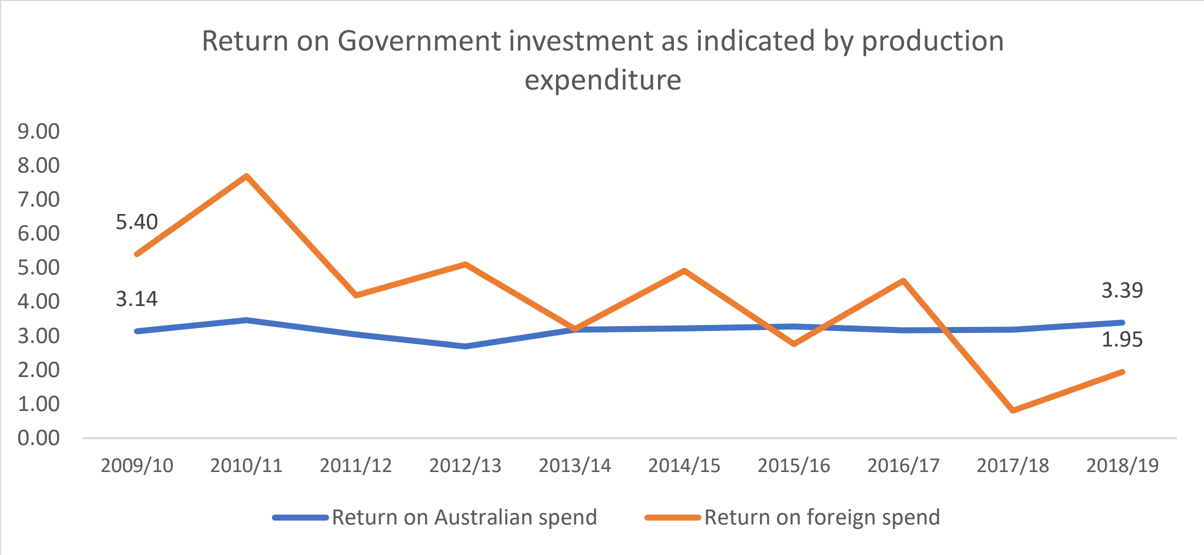
Through its agency and its offsets, the Australian government now spends just as much on foreign production than it does on local Australian production, but without the same regulatory of return.

When it comes to Australian feature films, the Australian government now spends more on foreign features than it does on local feature films by almost $50 million. This trend began in 2012/13 with the introduction of grants by the Gillard Government for *Wolverine*. Under the current system, it is theoretically possible that foreign TV gets more taxpayer support than Australia TV if a large production also gets the location incentive.





And yet the government gets greater bang for its buck on local production with respect to expenditure in Australia. The trend over the last ten years is that the Australian government is seeing a decreasing return on its investment with respect to foreign production in Australia. For every dollar provided through its offset targeting offshore production it now gnereates only $1.95 in production expenditure. The returns (as measured by production expenditure) on Australian production has remained relatively consistent over the last two decades. Australian content is a good bet.



Foreign producers, however, are not exposed to the same level of complexity in accessing the incentive and are also now provided a direct grant. A foreign producer has simply to spend a minimum proportion of their money in Australia, irrespective of other financing arrangements. Australian producers have to have their financing plan scrutinised, there are rules about using the offset with other sources of financing, rules on how the budget is to be spent, and Australian producers have to ensure they have a local theatrical distributor/broadcaster for Australian feature films. Australian television producers have a lower incentive than foreign producers with lower thresholds in some cases (for the PDV offset).

There is a duplication in administration, however, with Screen Australia certifying Australian projects and the Department certifying international projects. There would certainly be cost efficiencies and learnings to be made by combining the administration of these offsets under one area.

ATTACHMENT C – Analysis of options in the Options Paper

	Model 1 – Status Quo	Model 2 – Minimal	Model 3 – Significant	Model 4 - Deregulation
Objective	**To retain existing regulations and incentives**	**Engage subscription streaming services on a voluntary basis**	**To establish platform-neutral, future facing obligations:** **A1: NEDE equivalent** **A2: Australian Production Fund** **B: Individual content plans set by ACMA**	**To remove all regulation**
Allows Australian content exhibition/broadcast opportunities commensurate with their intrinsic worth?	Medium (2)	Low (1)	A1: Medium (2) A2: Medium(2) B: Medium (2)	Low (1)
Allow Australian producers to obtain finance on reasonable terms?	Medium (2)	Low (1)	A1: Medium (2) A2: High (3) B: Low (1)	Low (1)
Does it facilitate a 'many doors' approach?	Medium (2)	Medium (2)	A1: Medium (2) A2: Low (1) B: Medium (2)	Low (1)
Allows Australian producers to expect a return?	Medium (2)	Low (1)	A1: Medium (2) A2: High (3) B: Medium (2)	Low (1)
Will the option create or reinforce a moral hazard (for e.g. through a leveraged transfer of risk)? * values reversed***	*Medium (2)*	*High (1)*	*A1: Medium (2)* *A2: Low (3)* *B: Medium (2)*	*High (1)*
Does it provide Australian audiences access to Australian 'cultural' content?	Medium (2)	Low (1)	A1: Medium (2) A2: Medium(2) B: Medium (2)	Low (1)
Is the incentive to screen/broadcast Australian content intrinsic or extrinsic to the gatekeeper? (Push or pull)	Both (3)	Intrinsic (2)	A1. Extrinsic (1) A2. Intrinsic (2) B: Both (3)	Intrinsic (2)
Will it encourage 'quality' Australian content?	Medium (2)	Medium (2)	A1. Medium (2) A2. Medium (2) B: Medium (2)	Medium (2)
Simplicity of design	Low (1)	High (3)	A1. Medium (2) A2. Medium (2) B: Low (1)	High (1)
Transparency of policy system	Medium (2)	Low (1)	A1. Medium (2) A2. Medium (3) B: Low (1)	Low (1)
Accountability of policy system	High (1)	Medium (1)	A1. Medium (2) A2. Medium (2) B: Medium (2)	Low (1)
Platform neutrality	Low (1)	High (3)	A1. High (3) A2. High (3) B: Low (3)	High (3)
TOTALS	**22**	**19**	**A1. 24** **A2. 29** **B: 23**	**16**

	Model 1 – Status Quo	Model 2 – Minimal	Model 3 – Significant	Model 4 - Deregulation
Objective	To retain existing regulations and incentives to make and show Australian programs, which focus on traditional platforms. The status quo will prevail in circumstances where no future regulatory option can be implemented.	To fine-tune and modernise existing regulatory and funding arrangements to better reflect the contemporary media landscape. This model seeks to engage subscription streaming services on a voluntary basis, potentially as a precursor to future regulation, if needed.	To establish platform-neutral, future facing obligations and incentives that consider individual platform offerings and audience engagement.	To remove all regulation and remove or revise incentives to make Australian programs, in order to support platform neutral deregulation.
Features - Broadcasters	**Commercial FTA broadcasters**: retain transmission quota requirements (primary and secondary) and existing sub-quota obligations. **Subscription broadcasters**: retain New Eligible Drama Expenditure (NEDE) scheme. **Subscription streamers**: no obligations. **National broadcasters**: no change.	**Commercial FTA broadcasters**: revise transmission quota requirements and flexibly apply them across all channels, revise sub-quotas to give greater flexibility, including removal of requirements for preschool (P) programs. **Subscription broadcasters**: revise the NEDE scheme and provide flexibility to acquit obligations across program genres. **Subscription streamers**: set voluntary content investment undertakings with the ACMA. **National broadcasters**: request better reporting to Parliament on Australian content hours and expenditure.	All commercial content service providers (including subscription services): require investment in a percentage of revenue into new Australian content, under one of two implementation approaches: A. invest a percentage of Australian revenue into Australian content that must be made available on their Australian services, or make an equivalent contribution to a new Australian Production Fund (APF) B. negotiate individual Australian content investment plans in line with expectations set by the ACMA. **National broadcasters**: allocated funding for Australian children's programming	All services: all content obligations removed.
Features – Offsets	**Offsets**: no change.	**Offsets**: a Producer Offset with a single flat rate applying to one-off feature length films and children's content distributed on any platform (other Offset rates unchanged).	**Offsets**: a single flat rate Offset for all platforms with modified thresholds and potential for a 'cultural uplift'.	**Offsets:** either: A. all Offsets removed, or all Offsets provided at a single rate to projects of scale which attract significant market investment.
Allows Australian content exhibition/broadcast	**Medium** - Only where there is enough incentivisation to do so (competition, regulatory	**Low** – mechanism is through voluntary compulsion. Current levels in SVOD are low (1—2% of programming) and past has	a1. Medium - mechanism is through regulatory compulsion. May weaken 'quality' outputs as determined by	**Low** – no regulatory compulsion. Intrinsic motivation to support local content will be reliant on

	Model 1 – Status Quo	Model 2 – Minimal	Model 3 – Significant	Model 4 - Deregulation
opportunities commensurate with their intrinsic worth	compulsion). That is, current FTA and Subscription services and Australian-owned/local market focussed SVOD (Stan).	shown the same can be expected in traditional broadcast (1-2% when TV first introduced was local content). May also weaken production 'quality' outputs as determined by audience (via quota quickies). Increase in offset for children's content to 40% or even 50% is unlikely to be enough given that traditionally the contribution of broadcasters to the budget of TV drama (including children's) is around 60% (the effective offset for TV drama is currently 15-18%).	audience (quota quickies) but does not guarantee prime 'time' (shelf space) for local content. a2. **Medium** – no regulatory compulsion, but the creation of supply through APF will create its own demand. Final exhibition will depend on quality of end product and temporary 'stock outs' (say from a Writers Strike in the USA or COVID 2.0). b) **Medium**– mechanism is through regulatory compulsion, but direction set by ACMA theoretically makes investments more strategic to broader industry/audience goals. Cultural uplift will be important to ensuring Australian stories with Australian themes are exhibited/broadcast.	executive support and broader industry conditions which past has shown does not create continuity or long-term commitment to local cultural production. Offset currently provided some leverage and negotiation for fragmented Australian producers, intensely competing against global producers with varying degrees of national/regional support, in a heavily concentrated buyers' market.
Allow Australian producers to obtain finance on reasonable terms?	**Medium –** current quotas set a minimum term of trade. This is not the case with SVOD where acquisitions prices are set by market negotiation where aggregators have superior market leverage.	**Low –** heavily concentrated broadcast creates high power of buyers. History has shown that the market engages consistently with Australian content when compelled.	**A1. Medium –** if there are minimum terms of trade set in regulation; however as in most compliance situations, without inbuilt incentives behaviour tends to focus on meeting minimum. **A2. High –** terms can be set by the Australian Production Fund and/or their recipient. **B.Low –** there is a high risk of regulatory capture due to high political importance of media. Various Royal Commissions, including the Banking Royal Commission and Inflammable Cladding has shown the dangers of	**Low -** heavily concentrated broadcaster/aggregator/streamer creates high power of buyers.

	Model 1 – Status Quo	Model 2 – Minimal	Model 3 – Significant	Model 4 - Deregulation
			'light touch' regulation and powerful business interests.	
Does it facilitate a 'many doors' approach?	**Medium –** current policy settings require complicated mix of financing participants. Pool of competitors is small.	**Medium –** will maintain financing as a complex mix of financing participants. Pool of competitors is small.	A1: Medium – may expand number of current 'doors' but these benefits established Australian producers and promotes "production quickies" simply to meet requirements. A2: **Medium** – depending on policy of the Australian Production Fund B: **Medium** – depending on the powers and political will of the regulator.	**Low –** will maintain financing as a complex mix of financing participants. Pool of competitors is small but under no compulsion to finance.
Allows Australian producers to expect a return?	**Medium –** current policy settings offer some protection to independent producers in the area of FTA (due to terms of trade compliance requirements in legislation). However, subscription and public broadcasters nor distributors are bounded by this and more rights bought for no increase is sale produce or guarantee and higher distribution fees are evident.	**Low –** voluntary self-regulation offers little protection to independent producers.	A1: **Medium** – dependent on what terms of trade policies are built into regulation and administration. A2: **High** – depending on policies of how Australian Production Funds are disbursed, can move away from a pre-sale (fire sale) model of financing. B: **Medium** – dependent on power and will of regulator, noting that setting strategic direction for business is not a traditional role for a regulator and elevates risk of regulatory capture.	**Low –** little protection to independent producers.
Will the option create or reinforce a moral hazard (for e.g. through transfer of risk)?	**Medium –** broadcasters can transfer some financial risk by using power to negotiate greater number of rights; streamers through market power are able to transfer much of risks to producers (or avoid risk altogether) to the extent those risks are underwritten by government through the offsets.	**High –** despite voluntary, which relies on trust, enables broadcasters to transfer more of risks to producers and government though the offsets, to the extent that they are allowed to under the offset legislation.	**Medium** – to the extent limited by regulation and will of regulator to allow and monitor such risk. **Low** – assuming broadcasters/streamers accept revenue levy is cost of doing business in Australia and Australian Production Fund is independent. **Medium** – to the extent limited by regulation and will of regulator to allow and monitor such risk.	High – left to market forces where broadcasters have high concentration of power, producers will carry most of risks and may be even able to dive into the risk carried by the government through the offsets but if the offsets are removed then there will be virtually no incentive to produce because the risks are too high.

	Model 1 – Status Quo	Model 2 – Minimal	Model 3 – Significant	Model 4 - Deregulation
Does it provide Australian audiences access to Australian 'cultural' content?	**Medium –** content quotas are set generally high on FTA. Subscription content is more limited because compliance is about expenditure not availability of screen slots. SVOD 1-2%.	**Low –** while there is likely to be some content, voluntary code ill naturally need to low availability.	A1. **Medium** – the example of subscription television suggests that while production will occur, it may not be at a significant level or be promoted adequately and probably not at prime time. A2: **Medium** – this will depend on the policy around how the Australian Production Fund are used. B: **Medium** – depending on the settings and of the political will and enforcement powers granted to the regulator. Availability of screen content will rise to levels just below compliance or at compliance, but without incentives built in availability will not be above what is required by regulation.	**Low –** while there is likely to be some content, deregulation will naturally need to low availability.
Is the incentive to screen/broadcast Australian content intrinsic or extrinsic to the gatekeeper? (Push or pull)	Both, although largely extrinsic for those that must screen Australian content like the FTA's and Subscription Broadcasters. STAN, however, has recognised the value of Australian content is being able to differentiate its service offering and is therefore intrinsic to the business function. It may not be sustainable.	**Intrinsic.** A voluntary scheme relies on intrinsic motivation, but as history has shown, commercial realities do not support local content.	A1. Extrinsic - there is no requirement to screen Australian desire, but there may be a desire to claw back some of the revenue lost to AFP. A2. Intrinsic – there is no requirement to screen Australian desire, but there may be a desire to claw back some of the revenue lost to AFP. B:Both – presumably, the decision to screen Australian content will be based on business planning imperatives, but with pressure from regulator.	Intrinsic - there is no requirement to screen Australian desire.
Will it encourage 'quality' Australian content?	Medium (2) – quota 'quickies' has traditionally been associated with content quotas. Innovation is unlikely to be encouraged beyond imitation.	Medium (2) – A voluntary scheme is likely to encourage greater due diligence in greenlight decisions, but bottom-line decisions are likely to limit budget range and the types of content made.	A1. Medium (2) A2. Medium (2) B: Medium (2) By themselves, none of these options are likely to strongly encourage 'quality' however there may be ways	Medium (2) – investments in content in a deregulated environment likely to encourage greater due diligence in greenlight decisions but bottom-line decisions are likely to limit budget range and the types of content made.

	Model 1 – Status Quo	Model 2 – Minimal	Model 3 – Significant	Model 4 - Deregulation
			(through competition and performance-based incentives) to do so.	
Simplicity of design	**Low. –** current content quotas are complex, and different across platforms.	High (3) – A voluntary scheme has the potential to be quite simple due to low administration and enforcement requirements.	A1. Medium (2) A2. Medium (2) B: Low (1) In and of itself, options A&B are relatively simple but in order to make them work effectively and efficiently to achieve the objectives and not negatively impact local production, more complexity will need to be designed into the system.	High (1) – deregulated market is simple.
Platform neutrality	Low (1) – no platform neutrality in current state.	High (3) – voluntary scheme would extend across screens. Assuming cinemas and other screens are included in self-regulated/voluntary framework then the platform neutrality could be expected to be high, although theoretically some platforms may 'volunteer' to screen more. The regulation would still be neutral in this matter.	A1. High (3) A2. High (3) B: Low (3) The AFP or content requirements could be highly platform neutral in that they would be equally applicable to all screens. Individual content plans, however, would not be platform neutral other than the requirement that all platforms would have to have one. The content of those plans would be different across screens, and that would be up to negotiation between regulator and regulated. This is not neutral.	High (3) – deregulation would not favour/disfavour one provider over another except through normal market forces (market share, anti-competitive behaviours such as collusion).

ATTACHMENT D – Australian Audience Benefited Access Contribution

Title	Description	Rationale	Lever	Costs to government	Benefits	Risks
Australian Audience Benefited Access Levy	A 10% levy on Australian revenues. The government maintains the option to increase this to 20% (like the former subscription television agreement). A 1% increase/decrease can be undertaken at the Ministers discretion. **Scope:** Levy is paid by all businesses that earning revenue from screening any kind of foreign content. Cinemas have a lower threshold. Public broadcasters exempt because of local content requirements in charter. **Incentivized regulation:** **Penalty levy:** If a service provider broadcast/exhibit a minimum Australian drama/documentary each year (including in prime slots), then the levy is reduced by 5% to 5%. This sets a minimum content requirement.	Levy reflects an access charge to reflect benefits accrued from: a) Use of NBN and other broadcast infrastructure (spectrum) reflecting decades of taxpayer investments. b) Use of other essential infrastructure (transport, telecommunications, regulation which creates trust necessary for business). c) Access to highly educated and digitally literate population, with an education system largely funded by government and community. d) Right to influence the cultural expression, values and norms of Australian society for commercial gain. e) Access to highly educated, developed and professional A list local cast, crew, and creatives that have been developed in Australia by Australian taxpayers and	Compliance regulation (administered by ACMA or internally through the Department).	No direct cost to government other than administrative. However, it is assumed that administrative costs would be covered by current regulator expenditures that would be reallocated.	Expected to generate between \$X and \$X a year to be funded into Australian production. Ensures companies contributes Australian cultural Research and Development alongside	Australian cinemas have been hard hit by COVID-19. The levy should be delayed two years to allow time for the industry to recover. Companies may be able to hide revenue admits complex business structures, or through different revenue models: • Subscription • Advertising • Donations • Pay as you go (Apple iTunes for example) Regulatory powers to audit companies will be required. ACMA would need to keep a watching brief on new entrants into the market such as Qubi and consider Facebook, Instagram and YouTube which benefit from the long tail of Australian production, professional and emerging.

	Performance Allocations (PA) Like the Canadian Model, Broadcasters and exhibitors are re-allocated their proportionate share of Australia Production Fund (see next slide) to be used as 'cash' to purchase license fees/guarantees at Australian Content Marketplace. PA are 'tradeable' and can also be used to invest equity at any stage of production.	that otherwise become more expensive and unavailable to Australian productions (residualisaition of Australian talent to foreign productions)				ACMA would need to publicly report against benefits levy and performance allocations

ATTACHMENT E - Australian Production Fund

	Description	Rationale	Lever	Costs to government	Benefits	Risks
Australian Production Fund See main submission for draft allocations	A fund administered by the Department and distributed to 'many doors' for the development and production of Australian content. These 'many doors' consist of a re-purposed Screen Australia and each of the 8 screen agencies. The fund is be made up of two smaller funds: • **Australian Media Fund (AMF)** – allocated back to those who paid levy as 'bonded' cash; bonded in the sense that it can only be used on acquisition, equity, minimum guarantees for eligible Australian content (80% of AFP). Allocation based on Levy participants performance with Australian content (e.g. CMF model) • **Screen Performance Fund (SPF)** – allocation to government screen agencies based on	Fund structure a) Uses federal structure to provide a highly competitive funding environment for Australian film producers as per David Gonski's 1997 'Many Doors' recommendation and as the Founding Fathers intended b) builds production capacity of states in a way that has not previously been possible c) utilises well established administrative capacity of states at no cost d) encourages innovation and quality content through both a competitive mechanism and performance-based allocation of funding resources	• Direct funding through multiple agencies • Common wealth-state funding arrangem ents (COAG) • Performa nce-based funding	There are no additional costs to government.	Screen Australia funded out of AFP. Screen Australia allocation would be channeled into 'cultural uplift' of Producer Offset, marketing offset, and cultural funding for the NFSA. Competition and performance-based allocation would yield innovation, greater quality content, and increased returns on agency investments in aggregate. Encourage greater state government investment in Australian screen content. Greater geographical equity in funding allocations Downward pressure on production budgets as production	Risk that relocation to lower cost centres is too sudden/ too severe, threatening current infrastructure. This risk is low due to most of the marketplace being in Sydney, but Screen Australia funding would also manage this. Commonwealth funding to States would come with the following caveats: • MUST be spent on development, production, marketing (not admin) which is to be allocated separate to State investments with separate reporting. • MUST be made available to any applicant, regardless of geographic location • 10% MUST be support emerging creators. • States MUST provide transparency and accountability, including provision of data

	commercial and culture performance of the agency in previous years. No requirements for local marketplace funding in financing plans as this would now be guaranteed.				relocates to lower cost centres (Sydney is production centre; but is expensive). Creates a 'pull' mechanism for Australian content along the marketing channel. Reduced need for pre-sales (fire sales).	(including performance) to Department for publication. • Administration paid out of State government allocations. • Funding can only be allocated to INDEPDENT AUSTRALIAN PRODUCERS.

Australian Production Fund Forecasts

Forecast	Seven	Nine	Ten	Foxtel	SVOD	Cinemas	Total revenues	10%	3%	5%	0.25%
2021	$ 1,247.3	$ 992.9	$ 598.8	$ 2,106.0	$ 1,991.0	$ 1,245.4	**$ 8,181.4**	$ 818.1	$ 245.4	$ 409.1	$ 20.5
2022	$ 1,241.5	$ 961.2	$ 593.7	$ 2,022.0	$ 2,309.0	$ 1,259.2	**$ 8,386.6**	$ 838.7	$ 251.6	$ 419.3	$ 21.0
2023	$ 1,235.7	$ 929.4	$ 588.6	$ 1,941.0	$ 2,680.0	$ 1,273.1	**$ 8,647.8**	$ 864.8	$ 259.4	$ 432.4	$ 21.6
2024	$ 1,229.8	$ 897.7	$ 583.5	$ 1,805.7	$ 2,978.1	$ 1,287.0	**$ 8,781.7**	$ 878.2	$ 263.5	$ 439.1	$ 22.0
2025	$ 1,224.0	$ 866.0	$ 578.4	$ 1,682.9	$ 3,279.0	$ 1,300.9	**$ 8,931.1**	$ 893.1	$ 267.9	$ 446.6	$ 22.3
Low estimates											
2021	$ 1,210.8	$ 923.0	$ 531.6	$ 1,875.7	$ 1,881.0	$ 1,116.2	**$ 7,538.3**	$ 753.8	$ 226.1	$ 376.9	$ 18.8
2022	$ 1,198.9	$ 891.3	$ 512.8	$ 1,692.4	$ 2,192.5	$ 1,085.4	**$ 7,573.3**	$ 757.3	$ 227.2	$ 378.7	$ 18.9
2023	$ 1,187.7	$ 859.5	$ 496.0	$ 1,520.0	$ 2,504.1	$ 1,063.8	**$ 7,631.1**	$ 763.1	$ 228.9	$ 381.6	$ 19.1
2024	$ 1,177.1	$ 827.8	$ 480.5	$ 1,354.1	$ 2,750.9	$ 1,047.4	**$ 7,637.6**	$ 763.8	$ 229.1	$ 381.9	$ 19.1
2025	$ 1,166.8	$ 796.0	$ 465.9	$ 1,192.8	$ 3,050.6	$ 1,034.3	**$ 7,706.5**	$ 770.6	$ 231.2	$ 385.3	$ 19.3
High estimates											
2021	$ 1,283.8	$ 1,062.8	$ 666.0	$ 2,387.8	$ 2,421.5	$ 1,374.5	**$ 9,196.5**	$ 919.6	$ 275.9	$ 459.8	$ 23.0
2022	$ 1,284.1	$ 1,031.1	$ 674.6	$ 2,333.0	$ 2,737.4	$ 1,433.1	**$ 9,493.2**	$ 949.3	$ 284.8	$ 474.7	$ 23.7
2023	$ 1,283.6	$ 999.3	$ 681.2	$ 2,267.3	$ 3,053.3	$ 1,482.4	**$ 9,767.1**	$ 976.7	$ 293.0	$ 488.4	$ 24.4
2024	$ 1,282.5	$ 967.6	$ 686.5	$ 2,195.1	$ 3,369.2	$ 1,526.6	**$ 10,027.5**	$ 1,002.8	$ 300.8	$ 501.4	$ 25.1
2025	$ 1,281.1	$ 935.9	$ 690.8	$ 2,118.3	$ 3,685.2	$ 1,567.4	**$ 10,278.6**	$ 1,027.9	$ 308.4	$ 513.9	$ 25.7

Source: based on projections using revenue trend data provided in the Options Paper and Screen Australia Online.

ATTACHMENT F – Screen Australia

	Description	Rationale	Lever	Costs to government	Benefits	Risks
Screen Australia	Commonwealth direct funding is specific to development, production and professional development (talent generation). Screen Australia (base funding – estimated to be $70 million, see 2018/19 Annual report 2.2B, pg. 123). Adjustments to Screen Australia legislation required (e.g. max. expenditure). No requirement for marketplace in budgets as this is now guaranteed through APF and levy. Only available to Australian Independent Producers only (not owned by Levy-payee or associated entity). Arm's length. Other functions spun off to other agencies.	Fund structure a) Supports 'many doors' by using federal structure to provide a highly competitive funding environment. b) encourages innovation and quality content through both a co-opetition mechanism between screen agencies c) Encourages innovation and quality content through a performance-based allocation of funding resources d) Increase agency focus, transparency and accountability.	• Direct funding through multiple agencies • Performance-based funding	There are no additional costs to government. Some Screen Australia functions will need to be transferred. • Strategic Policy and Insights function and corresponding assets to be transferred to ACMA ($3 million) • Cultural funding (festivals, industry events) be transferred to the National Film and Sound Archive ($5 million transferred) • Producer Offset to ACMA ($3 million) • Other functions ($1 million)	Screen Australia also funded out of AFP. Competition and performance-based allocation would yield innovation, greater quality content, and increased returns on agency investments in aggregate. Competition between agencies would assist producers in fairer terms of trade. Greater geographical equity in funding allocations. Downward pressure on production budgets as production relocates to lower-cost production centres.	Risk that new funding imbalances and production relocated to lower cost centres is too sudden/ too severe, threatening current infrastructure. Screen Australia would manage this through its allocation. Risk of excess compliance for producers across jurisdictions. Managed through COAG and Performance based allocations. Noting many agencies have limited financial reporting. •

ATTACHMENT G - Screen Offset (General)

	Description	Rationale	Lever	Costs to government	Benefits	Risks
Based Screen Offset	A flat refundable tax offset of 25% for film and television projects filmed in Australia. PDV undertaken in conjunction with location shooting is also eligible for 25%. Changes to the legislation would allow the Minister to increase this to 30% on certain projects if the exchange rate exceeds $0.80USD and at the Ministers discretion. The Location Incentive is repealed.	Fund structure a) Rationalises legislation by combining Location and PDV offsets. b) Lifts Australia's competitiveness as an off-shore production centre.	• Tax rebates	There will be some additional costs to government. How much is difficult to determine as there is such high variability in expenditures. Government would need to model this. Note: Australia could target larger budget productions by lifting the **eligible QAPE threshold for foreign films** (which has not been increased since 2001). This may help to offset some costs to Australian taxpayers and target benefits. There would need to be a lower QAPE threshold for Australian productions.	Maintains Australia's competitive position as global production centre. Provides some flexibility in approach to help manage external fluctuations in exchange rates. Protects infrastructure investment and Australian jobs in the industry	Eventually foreign production will become a zero-sum game, as other lower cost producing countries introduce more significant and competitive tax incentives. Government will need to model this. Currently there is an imbalance between inward investment and promotion of a local industry. Local productions provide similar employment, attraction of external investment, plus the ability to generate export revenue which supporting foreign production does not. There is significant variability in foreign production expenditures in Australia.

ATTACHMENT H - Up-lifts

	Description	Rationale	Lever	Costs to government	Benefits	Risks
Screen offsets	Producer offset is set at two levels based on degree of significant Australian content. 1. **Australian cultural content (features only)** – 50% Offset provides cultural uplift for Australian stories told by Australians about Australia. Copyright ownership, subject matter, setting of story and Place tests are critical elements of test. Recent examples include Ride like a Girl, Sweet Country UNCAPPED. 2. **Australian commercial content** – 40% for Australian stories told by Australians. Copyright ownership, Place tests, nationality of key creatives, production expenditure are critical elements. Examples include Mad Max: Fury Road, Knowing, the Great Gatsby. CAPPED (eligible expenditure of $150 million AUD. Platform neutral. **Minimum QAPE thresholds remain as current.**	a) Incentivises and prioritises national cinema (stories about Australia) which have been shown to promote Australian tourism overseas. b) Ensures large budget films fully financed by overseas entities such as	• Direct funding through multiple agencies • Commonwealth-state funding arrangements (COAG) • Performance-based funding	Screen Australia no longer tracks the core slate but between 2007/08 and 2015/16 the average budgets for the core slate of feature films was $118 million. The **cultural uplift** for Australian features would equate to around $12 million extra per year. There could theoretically be a doubling of producer offset for Australian TV production ($65 million for all TV drama in 2018/19 and $20 million for documentaries in 2017/18). However, since there would no longer be a requirement for local pre-sale or distribution guarantee to require the greenlight, government could target tax on Australian royalties (sales, minimum guarantees) to pay for increase. Tax could be ringfences (hypothecated) to Commonwealth direct funding for screen agencies.	Platform neutrality. Cultural uplift funding for important content. Simplified compliance and complexity. Currently foreign producers have significantly less compliance and complexity on the Location and PDV Offset than Australian Producers.	Marketplace capture – risk that benefits accrue to Australian broadcasters and US studios (gaming of system with Australian production entities). Legislation requiring all APF funding be commissioned (at arm's length) from Levy participants should go some way to ensure the marketplace does not capture all of the benefits of an increased offset for television.

ATTACHMENT I - Marketing rebate

	Description	Rationale	Lever	Costs to government	Benefits	Risks
Marketing Rebate	A 20% marketing offset payable to Australian producers on Australian feature certified as Australian Cultural Production (eligible for a 50% Producer Offset). Marketing expenses (prints and advertising) is capped at $4 million. Eligible expenses are limited to: • Production of digital/analogue prints • Advertising expenditure • Publicity materials (publicist) Presentation of invoice from Australian distributor along with copies of receipts and official audit statement of receipts will be required. Expenses for production of materials already covered as QAPE under Producer Offset is ineligible.	Fund structure a) Marketing expenditures has been shown to have a strong correlation with box office returns and downstream revenues. b) Incentivises a greater level of marketing expenditure c) Provides some potential for Australian producers to share in Australian distribution fees or negotiate better fees. d) Will help promote Australian cinemas.	• Tax rebate	An estimated $7 million per annum based on modeling	Enables Australian content to better compete with foreign films at the Australian cinema by reducing risks for Australian distributors on promoting Australian films. This raises profile of Australian films (and therefore value) for later releases (such as Download to Own and other broadcast/streaming). Gives Australian producers extra leverage in negotiation for reduced fees or a share income from distribution fees. Will provide additional cashflow to producers to fund development.	Marketplace capture – distributors are the winner because the rebate underwrites their investment in marketing, lowering their risk. Australian producers ultimately pay for marketing expenses as distributors recoup their expenses first from any revenues. Having the rebate paid to Producers upon receipt of audited P&A will avoid marketplace capture. Setting a minimum marketing spend of $350,000 equates to the estimated median P&A. expenditure over the last 20 years. Capping expenditure at $4 million will decrease cost-to-government and provide some cap to inflationary risks (rebates are inflationary). Incentive for producers and distributors to collude. Regulatory risk management. May introduce a performance criterion for eligibility (for example, where the box-office/P&A ratio is greater than 2, the producers are eligible for the rebate. That is, in order to be eligible for the 20% rebate, the film has to earn more than double its P&A expenditure at the box office).

ATTACHMENT J - Australian content marketplace

	Description	Rationale	Lever	Costs to government	Benefits	Risks
Australian content marketplace	Government funded and administered marketplace held by the Department and convened by the Minister (or delegate). Attendees: • Australian producers with certified and completed projects by ACMA (includes both non-AFP and AFP funded projects) • Australian exhibitors, distributors and broadcasters/streamers • Sales agents • Entertainment lawyers • Screen agencies who may invite other special guests (including emerging practitioners, guilds) • Regulators • Media	Fund structure a) Creates an open and transparent bidding market b) Fulfils the purpose of the 'bonded' cash performance allocations of the AFP c) Formerly connects buyers and sellers and facilitates introduction of emerging content producers to industry, broadening networks. Purpose: • To provide a place for buyers and sellers to meet and transact and competitively bid on sales for Australian productions Facilitate industry-wide Australian content planning through facilitated meetings, workshops.	Brokerage	$500k per annum (for two markets)	Ensures a formal platform to launch Australian films. Media announcements could be made at the end of the market, raising the media profile of Australian content and industry. Many established events to build the market, savings costs and avoiding unnecessary disruption to business. This includes: • 36 South (MIFF) • Australian Movie Convention • SPA Conference • AACTA awards Creates a competitive marketplace where quality reveals itself and allows producers and governments to capitalize on high quality. Incentivises quality production.	Deals are made outside of marketplace, making market redundant. The bonded cash of the AFP performance allocation creates an incentive for Australian producers to hold off on pre-selling, unless quality of production is low. Low quality productions may not get sold – however the threat of 10% levy based on hours of content broadcast/number of films exhibited ensures a broad adoption,