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**Inquiry into the Treasury Laws Amendment (2021 Measures No. 5) Bill 2021 by the Environment  
and Communications Legislation Committee  
Public consultation submission**

**Submission to the Environment and Communications Legislation Committee  
inquiry into the Treasury Laws Amendment (2021 Measures No. 5) Bill 2021, regarding  
Australian Screen Production Incentive Reforms**

We are Bridget Ikin and John Maynard, the directors of Felix Media Pty Ltd. We have both enjoyed extensive careers as producers of drama, documentaries and moving image art projects. We are recognised for our commitment to innovative work, our support of new talent and as champions of diverse voices and creative artists. Both of us have been awarded honorary degrees from the Australian Film and Television School for our services to the Australian film community.

Over many years we have contributed towards film policy settings in NZ and Australia. Bridget's experience includes heading SBS Independent, board member of the South Australian Film Corporation, the New Zealand Film Commission as well as a feature film Evaluation Manager at the Film Finance Corporation. John has also been a distributor for forty years of feature films in both New Zealand and Australia, a board member of the New Zealand Film Commission and has consulted for the Australian Film Commission, Independent Cinemas Australia and has been a member of several other boards. You can find our biographies here: <https://www.felixmedia.com.au/bridget-ikin> and <https://www.felixmedia.com.au/john-maynard>

We are writing to raise our concerns about the proposed reforms to the Australia Screen Production Incentives within the **Treasury Laws Amendment (2021 Measures No. 5) Bill 2021** and the negative impact they will have on the production of Australian films.

The discussion paper, *Supporting Australian Stories* was primarily set up to examine 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. However, the proposed regulations on which we are now about to comment are an arbitrary collection of amendments that seem to have arrived without evidence, or from any industry recommendation. As we know, the Government walked back from the reduction of the feature film offset that now remains at 40%, to what really is the minimal **Model 2** option outlined in the original discussion paper but has retained all of the other proposed regulation amendments.

In the *Memorandum of Understanding/Exposure Draft Explanatory Materials* the intent of the new regulations is to "make various threshold, eligibility and integrity amendments across the three screen tax offsets".

We have followed and read the industry submissions, which do not support any of the proposed amendments we comment on below. There is certainly no industry take up for their implementation, nor any support from Screen Australia or any State film organisations. Without any evidence - and certainly without any mature understanding of the potential effect on the screen culture of Australia - these proposed regulations are, if not perverse in their *intent*, certainly perverse in their *effect* to whole sectors, and individuals and, would be

detrimental to innovation, diversity, growth and opportunities for new talent. Shelving the current benefits creates the potential for immediate and continuing harm. We will provide some examples.

**1. The Producer Offset rate is 30 per cent across all types of eligible films that are not feature films released in cinemas.**

It is acknowledged that this was widely discussed, mainly supported and a general expectation from the industry.

**2. The minimum qualifying Australian production expenditure threshold for claiming the producer offset in relation to feature length films is \$1 million.**

A one-sentence justification from the Department states that this increase “*will encourage the creation of high-quality productions that are larger in scale*”. This statement is complete nonsense. First of all, the majority of films utilising the Producer Offset are already larger in scale, although not always high quality. If raised from \$500,000 to \$1m, what will actually happen is that a low budget pathway to support talent, encourage innovation and promote diversity will all but disappear. As it has never been cheaper to make films, thanks to digital cameras and post-production pathways, it beggars belief that contrary to all policy settings for productivity and innovation, the threshold might be doubled.

**2.1 Documentaries:** If the minimum QAPE threshold was doubled, it would be a disaster to the production, exhibition and broadcasting of documentaries. The reasons have been clearly laid out in the various Documentary Australia Foundation submissions to the Minister, the Department and to Treasury. Without any reservation, we endorse the Documentary Australia Foundation submissions.

Felix Media can offer an important example: Lynette Wallworth’s *Coral: Rekindling Venus*, a major innovative film for full-dome cinemas which would not have met the proposed QAPE requirements. *Coral*, supported by DFAT was launched in six continents to celebrate the Transit of Venus in 2013 and World Environment Day. Screenings followed in Sundance USA in twelve cities, at the World Economic Forum and at major North American and European cities <https://coralrekindlingvenus.com/venues/>.

**2.2 Drama:** Such an increase would be prejudicial to all low budget entry-level drama film-makers and have the most pronounced effect on independent start-up film companies, where lower budgets are often the beginning of careers as well as the crucible for innovation. Without access to the Producer Offset for budgets over \$500,000, we know from our long experience that women, LGBTIQ+, First Nations and immigrant writers, directors and producers would be disadvantaged. There is no doubt that doubling the threshold will also discourage the making of low budget screen stories exploring personal, dissenting or radical perspectives. The effect on our collective intellectual life and our diverse cultural make up in Australia is easy to imagine but impossible to accept. This new regulation is a policy shift at the expense of precious independent and diverse voices.

Our best example is *Jirga*, forged from 40 hours of material shot on a cheap camera by the writer/director Ben Gilmour in Afghanistan. *Jirga* won Australia’s richest film prize, was our entry into the best Foreign Language Film at the Academy Awards, won the AACTA best low budget film award, the NSW Premier’s Screen Writing award and was selected In Competition at the Sydney Film Festival. *Jirga* has been released in cinemas in Australia, NZ, the US and has sold into China and other territories. <https://www.jirgafilm.com>

To summarize, as the increase is related to threshold only - rather than integrity - raising the threshold defeats the benefits of the Offset as innovation and productivity can accrue from new technologies; and the possibilities of a rich and diverse film ecology are diminished.

**Expenditure on general business overheads can no longer be counted as qualifying Australian production expenditure towards any offset.**

QAPE on production company overheads was previously capped at 5% of the production budget and the reason for the cap was to *exclude general business overheads* and to make certification simple. Clearly there is an issue when a cap of 5% is applied to a \$30m budget (\$1.5m overhead QAPE) and a \$2m budget (\$100,000 overhead QAPE). The calculation of QAPE on business expenses directly related to the production and post-production of a film will mean more documentation and analysis for QAPE certification. A percentage cap on a sliding scale would be possible with a total dollar cap, or alternatively the overhead calculation as applied for eligible subsidy in Canada may be a useful model.

**Expenditure on goods and services provided by Australian residents outside Australia can no longer be counted towards a company's qualifying Australian production expenditure.**

Removing the "Gallipoli" clause means just that – no Gallipoli!

The number of documentaries and dramas partly made outside Australia will be drastically reduced if QAPE expenditure is excluded. It will also mean that Australian creatives who would work on these films will in many cases be replaced by low wage jurisdiction creatives. However, the real issue is the negative effect of turning the gaze inward; we live in a global culture, and stories which affect us in Australia inevitably often need to be filmed (in whole or part) offshore.

Two films that have been produced by Bridget and John would have been impossible to finance without offshore QAPE expenditure as part of the finance plan. *Sherpa* directed by Jen Peedom was filmed entirely in Nepal, with an Australian documentary crew; partly financed by Universal Films and was nominated for a BAFTA. *Sherpa* was screened on Discovery Channel in 160 countries and is one of the highest grossing theatrical documentaries in Australia <http://sherpafilm.com>.

*Balibo*, directed by Robert Connolly and filmed mainly in Timor Leste tells the true story of crimes that had been covered up after the invasion of Timor Leste by Indonesia. <http://www.balibo.com.au>

**Expenditure in relation to a film incurred in acquiring Australian copyright or licensing Australian copyright in a pre-existing work for use in the film can be counted as qualifying Australian production expenditure up to a cap equal to 30 per cent of the film's total production expenditure.**

Many important films are made entirely of archive; including revisionist histories, changing social issues and important environmental subjects. Lynette Wallworth's *Coral: Rekindling Venus*, for instance, was comprised of more than 90% licensed footage, with the majority from the archive on Australian underwater photographer David Hannan.

Here are three other examples recently made in Australia: Ian Darling's *The Final Quarter*, a feature length documentary, where Adam Goodes calls out racism, was made entirely from existing film and newspaper archive. Also entirely made from archive is Stranger Than Fiction's *Australia in Colour* - a four-part documentary series for SBS that explores

Australia's history freshly. Sari Braithwaite's *[CENSORED]* is made entirely from footage removed from films by Commonwealth film censors between 1958 and 1971 - an illuminating exploration of Australia's moral compass over these years.

The richness of our film and television archives is available to reinterpret and hold a re-evaluation mirror up to ourselves. Therefore, to limit the use to 30% makes no sense for eligibility or integrity. We will see less of ourselves, somehow believing that our need to re-examine our past is less necessary, and in that process, we will imperil our identity.

Bridget Ikin and John Maynard 10 August 2021

<https://www.felixmedia.com.au>