



## **Australia India Film Council Submission to the Joint Standing Committee on Treaties – Audiovisual Co-Production Agreement Between Australia and India**

1. Australia India Film Council (AIFC) welcomes the proposed Audiovisual Co-Production Agreement between the Government of Australia and the Government of the Republic of India (**Agreement**). AIFC also thanks the Committee for the consideration of an extension to the deadline of submissions.
2. AIFC submits that the Agreement in its current form is, on the whole, an excellent instrument to formalise a tangible means to encourage greater collaboration between the Australian and Indian film industries. However, AIFC does believe there is scope for some greater clarity within the Agreement and necessary initiatives that would require greater government support in order to maximise the utility of the Agreement.

### **Article 3.6**

3. Article 3.6 of the Agreement provides that the approval of a co-production does not bind either Party to permit the public exhibition of the resulting audiovisual work.
4. AIFC accepts that governments and regulatory bodies of each respective nation are not bound to permit the public exhibition of any and all work. However, AIFC observes that the Agreement in its current form does not provide any specified safeguards to protect artistic freedoms & freedom of expression.
5. Specifically, AIFC is concerned that the function of clause 3.6 and the lack of safeguards regarding the protection of creative freedoms may allow either Party to influence content and creative decisions of audiovisual co-productions.
6. In particular, AIFC is cognisant of the significant concerns & reports of political influence within the Indian film industry over the last decade. In particular, threats of criminal sanctions, financial consequences and censorship have become more commonplace within the film industry in India. Examples of such activity has been investigated and well summarised in an ABC report that can be found [here](#).

Whilst AIFC strongly supports greater collaboration between Australia and India, AIFC also strongly urges the Committee to consider safeguards in order to protect filmmakers from political interference in the production of audiovisual programs. The differences in navigating the Australian and Indian film industries is therefore an additional factor the Committee ought to consider and underlines the need to support programs to assist Australian filmmakers network and gather greater knowledge of the Indian film industry in order to realise the full potential of this Agreement (this point is elaborated further at paragraphs 15 to 20).





## Article 6 & 8

7. AIFC welcomes the entitlements and incentives contemplated by the Agreement. Such incentives will play a key role in seeing co-productions between Australia and India materialise. However, AIFC observes that such incentives will need to be regularly reviewed and analysed against the incentives provided by various other nations – in particular the United States of America and United Kingdom.
8. Whilst it is encouraging to see Australia on the cusp of securing the Agreement, such agreements have been in place in nations such as the United Kingdom for over a decade. As a result, filmmakers across UK enjoy a competitive advantage over Australian filmmakers given the head-start they have had in co-production.
9. Accordingly, Australia ought to firstly ensure that the incentives that can be provided to Indian filmmakers are competitive with those presented by the UK and US. In the event strong filmmaking nations such as the UK and US will continue to enjoy a competitive advantage in securing partnerships with Indian production houses. Therefore, in order for this Agreement to have any tangible benefit, Australia will need to regularly ensure that the incentives it provides are at the very least on par with our direct competitors.
10. Secondly, with nations such as the UK enjoying a 10 year head-start on a co-production treaty with India, UK filmmakers are likely to have already established strong relationships and networks across both respective nations. Contrastingly, most Australian filmmakers will be exploring opportunities to co-produce with India for the very first time following the ratification of this Agreement. Accordingly, it is vital that the Australian government supports initiatives and endeavours by organisations including the AIFC to facilitate greater educational and networking initiatives to better equip Australian filmmakers with navigating the Indian film industry. This is further elaborated on in paragraphs 15 to 20.

## Article 7

11. AIFC welcomes provision for the entry of performers and technical personnel as part of co-production. However, AIFC observes there are no clear provisions within the Agreement or through other existing instruments that ensure such visa applications are dealt with expeditiously or, at least, within a reasonable amount of time.
12. AIFC notes that difficulty in timely permits/visas for Indian performers and technical personnel can present an additional barrier to co-production and will be important to resolve in consultation with the Department of Home Affairs. Indeed, if performers/technical personnel from overseas experience significant difficulties for entry into Australia it can result in additional delays and costs to productions, further disincentivising future collaboration.



## Article 9

13. This Article provides that filming in countries outside of Australia and India as part of a co-production will be subject to the approval of the competent authorities. AIFC raises the following points the Committee may wish to clarify in the Agreement:

- a. It is unclear whether to obtain approval and maintain status as a co-production if co-producers must apply for the approval of both the governments of Australia and India or merely one of the competent authorities. If application is necessary to both regulatory bodies, it risks adding further bureaucratic hurdles to successful and sustainable collaboration;
- b. It is unclear whether there will be any expected timeframe within which the competent authority must make a decision regarding the approval of shooting in locations in foreign nations;
- c. It is unclear whether there will be any principles which will guide the exercise of the wide discretion available to the competent authorities under this Article.

## The Need for Complementary Initiatives in Support of the Agreement

14. As foreshadowed above, the Agreement is a vital step in encouraging great co-production and collaboration between the Australian and Indian film industries. However, with countries such as the US and UK having made significant inroads in the industry over the last decade, Australian filmmakers have far less experience, knowledge and fewer networks in India to understand how to navigate the Indian film industry and ensure co-productions are made between trusted and reputable entities.
15. Without initiatives to assist Australian filmmakers to understand the Agreement, improve their understanding of the Indian film industry and expand their networks, the Agreement will not be able to achieve its true potential. Indeed, it will likely only serve to benefit those filmmakers who have cultural ties with India and/or have lived experience working with the Indian film industry.
16. It is therefore vital for the Australian government to support initiatives and programs which serve to expand Australian knowledge of the Indian film industry through educational programs, exchanges and supporting relevant delegations from both nations.
17. AIFC is an organisation which consists of a Board of film professionals with significant experience and a proven record of developing successful collaborative productions with the Indian film industry. However, AIFC notes that the organisation has faced significant barriers to being able to execute initiatives that can support Australian filmmakers to benefit from AIFC's knowledge and from initiatives that can serve to expand their understanding of India and relevant networks in the industry.





18. AIFC notes that government grants through agencies such as Multicultural NSW often explicitly prohibit the funding of film related initiatives. Grants through programs such as the recent Maitri Cultural Grants scheme and initiatives through various screen bodies in Australia understandably prioritise the funding of actual film/arts projects as opposed to educational and professional development initiatives.
19. As a result, AIFC has often struggled to receive government funding to facilitate delegations between Australia and India as well as events which operate to both celebrate successful co-productions and host workshops to allow filmmakers to learn from those productions. Nonetheless, AIFC has been able to host successful events through its 'Dosti Series' but would welcome the opportunity to work more closely with government to facilitate such events on a national scale in order to ensure Australian filmmakers of all backgrounds from across the country can fully realise the goals and potential of the Agreement.

#### **Rules of Procedure Annex & Abridged Versions**

20. The Rules for Procedure link to Australia's co-production program guidelines under 5(b) of the Annex of the Agreement does not appear to be correct. That link directs the user to a page on the Screen Australia website where a message reads "Sorry we couldn't find the page you were looking for".
21. Given the complexity of the Agreement, AIFC also suggest the production of a simpler version or explainer materials for industry professionals so that they can better understand the opportunities presented by the Agreement.

#### **Australia India Film Council**

Submitted by Chief Operating Officer Mr. Khushaal Vyas on behalf of Chair, Mr. Anupam Sharma, Vice Chair, Ms. Julie Marlow, and its board.

14 August 2023

