

## Other issues in Australia's screen industry

### Introduction

- 4.1 A number of additional issues facing Australia's screen industry were raised in the inquiry and are addressed in this chapter. These include funding of the screen industry by Screen Australia, the digital games sector, Australia's current international co-production treaties, copyright, and workforce issues.

### Direct government funding

#### Background

- 4.2 The Federal Government provides direct funding to Australia's screen industry in the form of grants administered by Screen Australia.<sup>1</sup>
- 4.3 Screen Australia was established under the *Screen Australia Act 2008 (Cth)* and from 1 July 2008 took over the functions and appropriations of its predecessor agencies, the Australian Film Commission, the Film Finance Corporation Australia and Film Australia Limited.<sup>2</sup> Screen Australia states that it:

...offers funding and resources to support the development, production and marketing of Australian screen content, as well as for the development of Australian talent and screen production businesses. Project funding is generally provided to professional

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1 Screen Australia, *Funding and Support Overview*, <<https://www.screenaustralia.gov.au/funding-and-support>> viewed 19 September 2017.

2 Screen Australia, *About us*, <<https://www.screenaustralia.gov.au/about-us/who-we-are>> viewed 19 September 2017.

practitioners with some level of industry experience, depending on the program. For most production investment, a distributor or broadcaster usually needs to be on board as well.<sup>3</sup>

- 4.4 Screen Australia advised that it distributes between \$80 million and \$90 million per year in direct funding to the industry.<sup>4</sup> Screen Australia stated:

We fund screen stories through competitive selection processes and a mixture of grants and investments. We support all formats. We are not a film agency. We cover films and we do drama series, shorts and new ideas, whether they're shown on the big screen, the TV screen, your computer or your phone. We receive over a thousand applications a year and, of course, have to decline the majority of those.<sup>5</sup>

- 4.5 Screen Australia advised that it also supports the sector in other ways, including business development, story and talent development, administration of co-productions, and distribution and marketing support.<sup>6</sup>
- 4.6 Screen Australia funding is capped at \$2 million for a theatrical feature, generally accounting for no more than 65 per cent of the budget and inclusive of any producer offset amount, but can go higher under exceptional circumstances and at the Board's discretion.<sup>7</sup>
- 4.7 For non-feature productions, general drama and children's programs, to be shown on television or SVOD services, Screen Australia also has a cap of \$2 million or up to 40 per cent of cent of the budget, 45 per cent in the case of children's drama, again inclusive of any producer offset amount.<sup>8</sup>

## Analysis

- 4.8 There was some criticism during the inquiry of the funding approaches and guidelines used by Screen Australia. For example, there was concern from some stakeholders that Screen Australia's eligibility criteria are too restrictive for filmmakers. However, there was also support in many of the

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3 Screen Australia, *Funding and Support Overview*, <<https://www.screenaustralia.gov.au/funding-and-support>> viewed 19 September 2017.

4 Mr Mason, CEO, Screen Australia, *Committee Hansard*, Sydney, 19 July 2017, p. 1.

5 Mr Mason, CEO, Screen Australia, *Committee Hansard*, Sydney, 19 July 2017, p. 1.

6 Mr Mason, CEO, Screen Australia, *Committee Hansard*, Sydney, 19 July 2017, p. 1.

7 Screen Australia, *Funding and support, Production, Feature Production & Completion/ Post-Production*, <<https://www.screenaustralia.gov.au/funding-and-support/feature-films/production/feature-production>> viewed 20 September 2017.

8 Screen Australia, *Guidelines General Drama & Children's Programs*, July 2017, pp. 4, 6.

submissions for the work that Screen Australia does and its importance as an organisation.

- 4.9 BMEE submits that the majority of its screen industry members have expressed frustration with Screen Australia's eligibility requirements:

Largely, the process to obtain funding is perceived as highly competitive, onerous and potentially linked to the risk of the loss of creative control/intellectual property. Consultation presented a consistent theme that Screen Australia programs are not reflective of the changing nature of the film and television industry.<sup>9</sup>

- 4.10 BMEE further submits that its members who work in this industry are frustrated by Screen Australia's emphasis on conveying a particular message and not on the commercial viability of the project.<sup>10</sup>

- 4.11 Seven West Media questions the terms of trade used by Screen Australia which prohibit funding applications from broadcasters, arguing that this is not the intention of the *Screen Australia Act*. Seven West Media points out that the Screen Australia guidelines prohibit the funding of television drama developed by a broadcaster unless the chain of title resides with the producer.<sup>11</sup> Seven West Media states:

Broadcasters are the only Australian business excluded from eligibility. For example, a competing online platform would not be excluded from eligibility, including competing businesses that are owned by foreign multi-nationals, many of them foreign broadcast networks. Screen Australia has also launched a number of initiatives to fund content for platforms such as You Tube and Netflix, which do not pay their fair share of tax and therefore should not be eligible for taxpayer support.<sup>12</sup>

- 4.12 ASTRA submits that Screen Australia's licence fee requirements for drama of \$440 000 per hour are suitable for commercial free-to-air productions but are prohibitive for subscription television services that attract lower audiences.<sup>13</sup> ASTRA states:

The current \$440,000 per hour requirement is another instance in which funding eligibility reflects the mass-audience, advertiser-funded commercial FTA [free-to-air] productions, but does not reflect the differing business models across different platforms... Greater flexibility is needed in this area to incentivise ongoing

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9 BMEE, *Submission 31*, p. 4.

10 BMEE, *Submission 31*, p. 4.

11 Seven West Media, *Submission 128*, p. 10.

12 Seven West Media, *Submission 128*, p. 10.

13 Australian Subscription Television and Radio Association (ASTRA), *Submission 61*, pp. 14-15.

investment in new productions and to encourage innovation and the development of lower cost, more agile production models.<sup>14</sup>

- 4.13 The Victorian Film and Television Industry Working Party commented that this licence fee has not increased since it was established 10 years ago and is no longer sufficient.<sup>15</sup> The Working Party stated:

Screen Australia set that \$440,000 licence fee requirement in 2007. That is 10 years ago. It is \$100,000 for children's programs. That is 10 years old. In 1988 the licence fee for a miniseries was \$350,000. It's increased less than \$100,000 since 1988, and that's nearly 30 years. At the same time, production costs have gone up by at least 50 per cent.<sup>16</sup>

- 4.14 Screen Australia's importance to the industry and the value of its work was also acknowledged by contributors to the inquiry.

- 4.15 The ACT Screen Industry Association commented on the excellent research done by Screen Australia on the value and scope of the industry.<sup>17</sup>

- 4.16 Screen Producers Australia (SPA) advised that its members in general recognise and support the work of Screen Australia. SPA commented:

From time to time there may be disagreements around decisions that they [Screen Australia] might make or policies they may change and we have robust conversations with them about that. But, generally, I think our members, and indeed ourselves, are very supportive of the work of the agency and are encouraging of what they do and the role that they play and have in our industry.<sup>18</sup>

- 4.17 Create NSW commented that it is supportive of Screen Australia and that 'they do a very good job with what they have'.<sup>19</sup>

- 4.18 Australian Film & TV Bodies noted that Screen Australia has a key role in facilitating the production of great Australian cultural content as none of

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14 ASTRA, *Submission 61*, pp. 14-15.

15 Mr Ewan Burnett, Member, Victorian Film and Television Industry Working Party, *Committee Hansard*, Melbourne, 26 July 2017, pp. 26-27.

16 Mr Burnett, Victorian Film and Television Industry Working Party, *Committee Hansard*, Melbourne, 26 July 2017, p. 26.

17 Ms Monika Penders, CEO, ACT Screen Industry Association, *Committee Hansard*, Canberra, 16 June 2017, p. 39.

18 Mr Deaner, CEO, SPA, *Committee Hansard*, Sydney, 19 July 2017, p. 28.

19 Mr Michael Brealy, CEO, Create New South Wales, *Committee Hansard*, Sydney, 20 July 2017, p. 4.

the 94 films it has invested in since 2008 would have been financially viable without its support.<sup>20</sup>

## Conclusions

- 4.19 Direct funding of Australia's screen industry by the Commonwealth Government is administered by Screen Australia. Screen Australia was established under the *Screen Australia Act 2008* and from 1 July 2008 took over the functions and appropriations of its predecessor agencies.<sup>21</sup>
- 4.20 Screen Australia currently distributes between \$80 million and \$90 million per year in direct funding to the industry but also supports the sector through business development and other assistance.<sup>22</sup> Screen Australia funding is generally capped at \$2 million for each production.<sup>23</sup>
- 4.21 It is difficult to access direct support from Screen Australia due to the intense competition for this funding. The committee wishes to see more opportunities created for emerging talent outside of Australia's two major capital cities however and believes that some funds should be earmarked for productions that are filmed outside of metropolitan Sydney and Melbourne. This will also support regional jobs in the screen sector.

## Recommendation 9

- 4.22 **The committee recommends that 10 per cent of Screen Australia's funding be earmarked for productions outside of Australia's two major capitals. The rules governing this regional funding allocation should stipulate that the production:**
- **must conduct its principal photography in a town, small city or area that lies beyond metropolitan Sydney or Melbourne; and**
  - **does not need to meet significant Australian content rules but must satisfy the same QAPE threshold requirements as the producer offset and must employ a majority of Australians.**
- Screen Australia must also provide a regional breakdown in its annual report of the productions it has funded.**

20 Australian Film & TV Bodies, *Submission 90*, p. 10.

21 Screen Australia, *About us*, < <https://www.screenaustralia.gov.au/about-us/who-we-are> > viewed 19 September 2017.

22 Mr Mason, CEO, Screen Australia, *Committee Hansard*, Sydney, 19 July 2017, p. 1.

23 Screen Australia, *Funding and support, Production, Feature Production & Completion/ Post-Production*, < <https://www.screenaustralia.gov.au/funding-and-support/feature-films/production/feature-production> > viewed 20 September 2017.

## Digital games

### Background

- 4.23 Submissions to this inquiry from the digital games industry argue that this sector overlaps the film and television sectors in terms of skills and training and that it has significant growth potential in its own right.
- 4.24 The current industry in Australia is contracting however despite the high demand by Australians for new video games and the expanding global industry.
- 4.25 Screen Australia notes that the digital games industry contributed \$123 million and 1 053 jobs to the Australian economy in 2014-15.<sup>24</sup> In the following year, the *Film, Television and Digital Games Australia* survey results for 2015-16 released by the Australian Bureau of Statistics (ABS) indicate that digital game developers in Australia contributed \$111.1 million in income to the economy, or about 1 per cent of the total screen sector income (\$12.1 billion).<sup>25</sup>
- 4.26 The Academy of Interactive Entertainment (AIE) is a provider of training for the games and also visual effects (VFX) sectors and comments in its submission to this inquiry that the sales in the Australian interactive games industry were worth \$2.96 billion in 2016, up by 4 per cent over the previous year.<sup>26</sup> AIE further states:
- This compares to the global industry which in 2016 was estimated to be worth US\$99.6 billion and is expected to reach US\$118.6 billion by 2019. By comparison, in 2015 Australian films earned \$88.1 million, out of total box office takings of \$1.26 billion.<sup>27</sup>
- 4.27 The Interactive Games and Entertainment Association (IGEA) notes the findings of its recently completed study 'Digital Australia 2018':
- 97 per cent of homes with children have computer games;
  - 67 per cent of Australians play video games;
  - 46 per cent of video game players are female;
  - 34 years old is the average age of video game players;
  - 43 per cent of those aged 65 and over play video games;
  - 89 minutes is the average daily total of all game play; and
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24 Screen Australia, *Submission 143*, p. 6.

25 Screen Australia, *ABS Film, Television and Digital Games Survey results released*, 15 June 2017, <<https://www.screenaustralia.gov.au/sa/media-centre/news/2017/06-15-abs-survey-results>> viewed 28 September 2017.

26 Academy of Interactive Entertainment (AIE), *Submission 123*, p. 5.

27 AIE, *Submission 123*, pp. 5-6.

- 76 per cent say making video games in Australia benefits the Australian economy.<sup>28</sup>
- 4.28 AIE remarks however that although the market for video games has continued to expand in Australia, the production of video games by Australian developers has contracted and that ABS statistics indicate a marked decline in jobs in this sector from 1 431 in 2006-07 to 581 in 2011-12.<sup>29</sup>
- 4.29 The *Film, Television and Digital Games Survey* by the ABS for 2015-16 indicates a slight rise in the number of Australian digital game developers to 734.<sup>30</sup>
- 4.30 IGEA also comments that the global video games industry is performing well but that Australia's games development sector, although well regarded, is flagging:
- Australia is known for having a small but diverse games development sector, comprised mostly of independent studios... While [ABS] figures do show that there has been some growth in employment and income for Australian games development recently, there has in fact been a significant contraction in the industry when compared to earlier years.<sup>31</sup>
- 4.31 IGEA further submits that this reduction of the sector has resulted in closures and downsizing of businesses which now mainly comprise smaller, independent studios.<sup>32</sup> IGEA further states:
- There were several reasons behind these closures, including the 2007-8 global financial crisis, the appreciation of the Australian dollar and, crucially, the existence of beneficial funding and tax incentive schemes in other countries. It simply became too difficult and costly to develop video games in Australia and, unfortunately, these problems persist today, working to stifle growth.<sup>33</sup>

## Analysis

- 4.32 IGEA contends that the impediments to the growth of the digital games sector in Australia include:

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28 Interactive Games and Entertainment Association (IGEA), *Submission 146*, p. 6.

29 AIE, *Submission 123*, p. 6.

30 Australian Bureau of Statistics (ABS), *Film, Television and Digital Games, Australia, 2015-16*, Canberra, 15 June 2017.

31 IGEA, *Submission 146*, p. 6.

32 IGEA, *Submission 146*, p. 7.

33 IGEA, *Submission 146*, p. 7.

- the inability to access Australian and overseas capital for innovative game development;
  - non-competitive tax structures for interactive games development and production; and
  - limited marketing and other general business assistance for the promotion of interactive games in the global marketplace.<sup>34</sup>
- 4.33 The committee was advised that the games sector in Australia has huge potential for growth and would generate considerable economic returns if granted access to the same tax incentives as film and television and received direct funding from government.
- 4.34 AIE remarks in its submission that the disproportionate success of Australia in the VFX sector is due in part to the talent of the workforce but that the current tax regime that attracts overseas production work to Australia has played a big role.<sup>35</sup>
- 4.35 The ACT Screen Industry Association further states that it is important that Australian game developers are well positioned to capture a share of the growing global market.<sup>36</sup>
- 4.36 AIE comments also in this regard that the Asia-Pacific digital games market is experiencing huge growth and that Australia is in a unique position to take advantage of this due to its 'unique geographic and cultural position as a multicultural nation within the Asian market.'<sup>37</sup>
- 4.37 AIE notes in its submission that a key impediment to the development of this sector is a lack of capital.<sup>38</sup>
- 4.38 AIE cites the growth of the gaming sector in Canada which has access to tax credits and also loans through a dedicated government media fund:
- While the Canadian economy shares a number of similarities with Australia's, including a similar reliance on their abundant natural resources, Canada's gaming industry far outperforms Australia's. Canada has the third largest electronic gaming industry in the world, behind only the United States and Japan. The Entertainment Software Association of Canada reported in 2015 the Canadian electronic gaming industry comprised 472 studios

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34 IGEA, *Submission 146*, p. 8.

35 AIE, *Submission 123*, p. 5.

36 ACT Screen Industry Association, *Submission 65*, p. 3.

37 AIE, *Submission 123*, p. 6.

38 AIE, *Submission 123*, p. 8.



which employed 20,400 people and generated US\$2.25 billion in economic activity.<sup>39</sup>

- 4.39 Film Victoria advised the committee that it provides direct support to digital games and that this sector has enormous potential in Victoria with businesses starting to consolidate and become larger.<sup>40</sup>
- 4.40 Screen Australia states on its website that it was charged with administering a \$20 million *Interactive Games Fund* in November 2012 and released an options paper on 10 December 2012 for industry consultation. However the government withdrew this funding in May 2013.<sup>41</sup>
- 4.41 IGEA states that funding from the Federal Government will be crucial to the future growth and sustainability of the games sector.<sup>42</sup>
- 4.42 AIE notes in its submission that this sector is dominated by Victoria which accounts for 48 per cent of the industry and states that this is due in part to direct funding from the State Government.<sup>43</sup>
- 4.43 The committee was also advised that there is a considerable skills and training overlap between the digital games sector and the film and television industry.
- 4.44 Screen Queensland advocates direct funding for the games industry, commenting that the 'screen industry now includes gaming and a range of new and emerging hybrids between the former more static world of film and television.'<sup>44</sup>
- 4.45 Screen Queensland further remarks in its submission that:
- Audiences increasingly watch movies and television programs at a time and on a platform of their choosing. Traditionally what may have originated as a film concept may have evolved into a game. In a global digital screen industry, it is possible for creators to conceptualise their ideas across multiple platforms...<sup>45</sup>

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39 AIE, *Submission 123*, pp. 9-10.

40 Mr Robertson, Board President, Film Victoria, *Committee Hansard*, Melbourne, 26 July 2017, pp. 2, 6.

41 Screen Australia, *Review of Interactive Games and Multiplatform Funding*, <<https://www.screenaustralia.gov.au/sa/new-directions/past-reviews/interactive-funding>> viewed 29 September 2017.

42 IGEA, *Submission 146*, p. 13.

43 AIE, *Submission 123*, pp. 6, 7.

44 Screen Queensland, *Submission 136*, p. 2.

45 Screen Queensland, *Submission 136*, p. 2.

- 4.46 AIE also advised that the digital effects skills are very transferable between film and television production and video game development.<sup>46</sup> AIE stated:

To give an example, we use the same software packages... Programmers who work on video games also work on developing an application to do large-scale visual effects in terms of having large crowd scenes, such as in *Lord of the Rings*, so you need programmers. Game designers – less so. The producers of games could easily translate to producing of film, although that is a little bit more of a jump. But, on the programming side, it is very strong.<sup>47</sup>

## Conclusions

- 4.47 The digital games sector in Australia is a very small component of the overall domestic screen industry, representing about 1 per cent of the total screen sector income of \$12.1 billion in 2015-16.<sup>48</sup> There has also been a significant decline in the number of jobs in this sector in Australia with ABS statistics indicating a reduction from 1 431 in 2006-07 to 581 in 2011-12.<sup>49</sup>
- 4.48 This contraction contrasts with the increase in sales of video games in Australia by 4 per cent to \$2.96 billion in 2016<sup>50</sup>, and the growth of this industry globally which is estimated to be worth US\$99.6 billion in 2016 and US\$118.6 billion by 2019<sup>51</sup>.
- 4.49 Evidence to the inquiry notes that there are impediments to the growth of this sector in Australia including an inability to access capital investment.
- 4.50 The digital games sector in Australia cannot access the tax incentives provided to the film and television industry. In addition, Screen Australia no longer provides direct funding to video game developers, although funding is available in some states from the relevant screen agency (an example is Film Victoria).
- 4.51 Other advice to the committee points to the transferability of digital effects skills between film and television production and video game

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46 Mr John De Margheriti, CEO, Academy of Interactive Entertainment (AIE), *Committee Hansard*, Canberra, 16 June 2017, p. 47.

47 Mr De Margheriti, CEO, AIE, *Committee Hansard*, Canberra, 16 June 2017, p. 47.

48 Screen Australia, *ABS Film, Television and Digital Games Survey results released*, 15 June 2017, <<https://www.screenaustralia.gov.au/sa/media-centre/news/2017/06-15-abs-survey-results>> viewed 28 September 2017.

49 AIE, *Submission 123*, p. 6.

50 Academy of Interactive Entertainment (AIE), *Submission 123*, p. 5.

51 AIE, *Submission 123*, pp. 5-6.

development and the increasingly platform-neutral nature of screen narratives and creativity that leads to a crossover between film and games development.

- 4.52 There seems to be ample potential for the growth of Australia's digital gaming industry due to the popularity of video games both at home and abroad.
- 4.53 The committee therefore agrees that some direct funding should be available to the games sector from the Federal Government.

### Recommendation 10

- 4.54 **The committee recommends that the *Interactive Games Fund* be reinstated.**

## International co-productions

### Background

- 4.55 Screen Australia administers Australia's international co-production program with the aim of fostering collaborations with filmmakers from a range of countries. Screen Australia states:
- In allowing two or more international producers to come together to make a screen project, it provides them with the opportunities to access the resources required to produce projects that will be internationally competitive. The objective of the program is to foster projects that will be truly international in terms of storytelling, budget ranges and the audiences to which they appeal.<sup>52</sup>
- 4.56 Co-productions are governed by the specific agreement between the respective governments in the form of either a treaty or a memorandum of understanding (MOU) negotiated by the department.
- 4.57 Australia currently has co-production treaties in force with 12 countries (Table 4.1).

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52 Screen Australia, *Co-production Program Guidelines*, <<https://www.screenaustralia.gov.au/funding-and-support/co-production-program/guidelines>> viewed 22 September 2017.

- 4.58 Notably, as a co-production is considered to be a national project of each participating country, the Australian component can access tax offsets and Screen Australia funding, and contribute to content quotas.<sup>53</sup>
- 4.59 The department outlined the value of the productions completed to date under this program:
- To date, 175 official co-production titles, with total budgets of \$1.6 billion, have either been completed or have commenced production, as at 30 April of this year.<sup>54</sup>

## Analysis

- 4.60 The committee was interested in the impact and value of co-productions to Australia's screen industry and whether the current framework for these international agreements could be improved.
- 4.61 The committee questioned the department on whether the output from Australia's current agreements could be benchmarked against comparable co-production arrangements between other countries.
- 4.62 The department responded that this is not the way it would make such a comparison:
- I think that bald numbers like that are a blunt instrument, and that is not the way we would look at them or benchmark them... It is up to the producers who wish to work with the other producers as to whether they take up the opportunities that are provided by the co-production agreements. For example, with China we know that there are a lot of unofficial, small-c co-productions happening. Part of it is to facilitate easier working. Not everything will necessarily come under a formal co-production...<sup>55</sup>
- 4.63 The committee also questioned Screen Australia about the apparent lack of activity under Australia's co-production treaties. Screen Australia responded that there are peaks and troughs in this respect but that a principle issue with these agreements is that they are very complicated.<sup>56</sup> Screen Australia stated:

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53 Screen Australia, *Co-production Program Guidelines*, <<https://www.screenaustralia.gov.au/funding-and-support/co-production-program/guidelines/first-principles/why-make-a-co-pro>> viewed 22 September 2017.

54 Mrs Basser, Department of Communications and the Arts, *Committee Hansard*, Canberra, 16 June 2017, p. 5.

55 Mrs Lyn Allan, Assistant Secretary, Creative Industries Branch, Department of Communications and the Arts, *Committee Hansard*, Canberra, 16 June 2017, p. 5.

56 Mr Mason, CEO, Screen Australia, *Committee Hansard*, Sydney, 19 July 2017, p. 10.

Something some submissions have not quite understood is that we normally operate under very strict rules on co-production treaties because they are normally part of a trade treaty and there are rules around how they can work.<sup>57</sup>

4.64 Screen Australia also remarked that one of the issues with co-productions with a country such as China is finding a project that both audiences will want to watch, which is what the co-production treaties are for.<sup>58</sup> Screen Australia commented:

As soon as you are eligible to be a co-production for a feature film, you're eligible for the taxpayer 40 per cent producer rebate. So we have to make sure that it works for both parties as well... a lot of Chinese productions want to shoot here. The location offset at 16½ per cent isn't competitive, so they'll look at how they can facilitate the 40 per cent. The buck stops with us as to whether there is a significant Australian content in that regard and often there isn't.<sup>59</sup>

4.65 Screen Australia further noted that the language barrier is also a significant issue for co-productions with non-English speaking countries.<sup>60</sup>

4.66 The department advises however that 14 co-productions are in the pipeline under the Australia-China agreement which will be backed by investments of \$400 million.<sup>61</sup> The department further remarks that only three features have been made since 2008 under Canada's agreement with China.<sup>62</sup>

4.67 There was ample support in the inquiry for an expansion of Australia's co-production partners.

4.68 SBS argues that there should be a renewed focus on negotiating co-production treaties as Australia is lagging behind other countries and screen content has never been more internationally positioned. SBS comments that its producers are looking to finance a greater proportion of their budgets internationally due to funding pressure.<sup>63</sup>

4.69 SBS supports more co-production agreements to foster greater sharing of skills and resources and informed the committee that whereas its content

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57 Mr Mason, CEO, Screen Australia, *Committee Hansard*, Sydney, 19 July 2017, p. 10.

58 Ms Fiona Cameron, CEO, Screen Australia, *Committee Hansard*, Sydney, 19 July 2017, p. 10.

59 Ms Cameron, Screen Australia, *Committee Hansard*, Sydney, 19 July 2017, p. 10.

60 Ms Cameron, Screen Australia, *Committee Hansard*, Sydney, 19 July 2017, p. 10.

61 Department of Communications and the Arts, *Submission 145* (responses to questions on notice), p. 1.

62 Department of Communications and the Arts, *Submission 145* (responses to questions on notice), p. 1.

63 SBS, *Submission 133*, p. 5.

had historically been regarded as quite parochial, and did not generate much overseas interest, the themes in many of its current programs have ‘enormous global resonance’.<sup>64</sup>

4.70 SBS also points out that the actual number of Australia’s co-production treaties, 12 in total, does not compare very favourably with many of the countries that it has partnered (Table 4.1).

Table 4.1 Number of co-production agreements in Australia’s partner countries

| Country        | Number of Co-Production Partner Countries |
|----------------|---|
| Australia      | 12 (listed below in the left column)      |
| Canada         | 54  |
| China          | 14  |
| France         | 50+                                       |
| Germany        | 22  |
| Ireland        | 5+Europe                                  |
| Israel         | 16  |
| Italy          | 34  |
| Korea          | 6   |
| New Zealand    | 15  |
| Singapore      | 11  |
| South Africa   | 8   |
| United Kingdom | 9+Europe                                  |

Source SBS, *Submission 133.1 (responses to questions on notice)*, p. [1]; data originally sourced from Screen Australia.

4.71 Screen Queensland states in its submission that the Queensland Government endorses co-production treaties as a key source of finance for countries outside of the United States and that Australia has too few treaty partners.<sup>65</sup> Screen Queensland comments:

Co-productions enable countries to work together to meet their cultural objectives in the development and production of content.

...

The limited number of treaty partners impacts Queensland and Australian producers by limiting their ability to raise funds and partner with other countries to create content.<sup>66</sup>

64 Mr Marshall Heald, Director, Television and Online Content, SBS, *Committee Hansard*, Canberra, 16 June 2017, pp. 30, 31.

65 Screen Queensland, *Submission 136*, p. 6.

66 Screen Queensland, *Submission 136*, p. 6.

## Conclusions

- 4.72 Australia's international co-production program is administered by Screen Australia and is governed by a specific agreement between the respective governments in the form of either a treaty or a memorandum of understanding (MOU), negotiated by the department.<sup>67</sup>
- 4.73 Australia currently has co-production treaties in force with the United Kingdom, Canada, Italy, Ireland, Israel, Germany, Korea, South Africa, Singapore and China, and MOUs with France and New Zealand.<sup>68</sup>
- 4.74 A co-production under these agreements is considered to be a national project of each participating country. The Australian component can therefore access tax offsets and Screen Australia funding, and also contribute to content quotas.<sup>69</sup>
- 4.75 The department informed the committee that 175 co-production titles have been completed or commenced under this program to date, with budgets totalling \$1.6 billion.<sup>70</sup>
- 4.76 International co-productions are clearly an important source of finance and training, and opportunities generally, for Australia's screen sector. They also serve an important role in making cultural connections both domestically and internationally. The committee is therefore very supportive of Australia's co-production program and believes that it should continue to be fostered and enhanced.
- 4.77 These collaborations are not without challenges, particularly in terms of developing content that will find an audience in both countries and language barriers, but the committee also observes that these obstacles are clearly not insurmountable. This is evidenced by the co-productions that have already occurred and are in the pipeline with China.
- 4.78 The committee concludes that additional co-production treaties would be beneficial to the industry and would not be detrimental to the future production of Australian stories and content.

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67 Screen Australia, *Co-production Program Guidelines*, <<https://www.screenaustralia.gov.au/funding-and-support/co-production-program/guidelines>> viewed 22 September 2017.

68 Screen Australia, *Funding and Support, Co-production Program*, <<https://www.screenaustralia.gov.au/funding-and-support/co-production-program>> viewed 22 September 2017.

69 Screen Australia, *Co-production Program Guidelines*, <<https://www.screenaustralia.gov.au/funding-and-support/co-production-program/guidelines/first-principles/why-make-a-co-pro>> viewed 22 September 2017.

70 Mrs Basser, Department of Communications and the Arts, *Committee Hansard*, Canberra, 16 June 2017, p. 5.

- 4.79 Co-production partnerships with additional Asian countries would therefore be valuable. Australia's treaty with China appears to be paying dividends in terms of output.

### Recommendation 11

- 4.80 **The committee recommends that the Australian Government expands the current co-production program by negotiating agreements with additional Asian countries.**

## Foreign actor visas

### Background

- 4.81 Issues were raised in the inquiry regarding the current requirement to consult the MEAA before issuing a visa for a foreign actor to appear in an Australian production.
- 4.82 The guidelines for the entry of foreign actors into Australia to work in film and television are administered by the Ministry for the Arts.<sup>71</sup> This is also referred to as the 'Foreign Actor Certification Scheme'. A visa cannot be granted to a foreign actor unless authorised through a certificate issued by the Minister for the Arts.
- 4.83 There are separate foreign actor guidelines for government and non-government subsidised productions. Under each category, however, the migration regulations stipulate that the sponsor of a foreign actor must consult with the MEAA and provide details of the proposal.<sup>72</sup> The guidelines state:

MEAA has the option to respond with a letter of opinion to the sponsor, with a copy provided to the Department [Department of Communications and the Arts], in relation to the application within 14 calendar days. The 14 day period commences from the date upon which the sponsor advises MEAA of their intent to apply for a certificate.<sup>73</sup>

71 Department of Communications and the Arts, *Guidelines on the entry into Australia of foreign actors for the purpose of employment in film and television productions*, Canberra, July 2017.

72 Department of Communications and the Arts, *Guidelines on the entry into Australia of foreign actors for the purpose of employment in film and television productions*, Canberra, July 2017, pp. 4-6.

73 Department of Communications and the Arts, *Guidelines on the entry into Australia of foreign actors for the purpose of employment in film and television productions*, Canberra, July 2017, p. 6.



- 4.84 For government subsidised productions, the Minister for the Arts must first be satisfied when certifying a visa for a foreign actor that:
- the casting of leading and major supporting roles accurately reflects the Australian characters portrayed;
  - at least 50 per cent of performers in leading roles and 75 per cent of performers in major supporting roles are Australian; and
  - where applicable, an Australian actor has been cast to play a 'traditional Australian character'.<sup>74</sup>
- 4.85 Certain budgetary conditions must also be met to allow for a foreign actor to be cast including a minimum of 60 per cent foreign investment for a feature film, telemovie or mini-series. This overseas investment requirement drops to 30 per cent if the productions are of sufficient scale, which in the case of a feature film is \$2.5 million and above.<sup>75</sup>
- 4.86 When no Australian actor can be cast who satisfies the ethnic or other special requirements of a specific role, a foreign actor may also be allowed.<sup>76</sup>
- 4.87 If the film or television production is not subsidised by government, the guidelines state that a foreign actor certificate may be issued 'where reasonable opportunities have been provided to citizens or residents of Australia to participate in all levels of the production.'<sup>77</sup>
- 4.88 The final decision on certification is based on the department's assessment of whether the applicant has complied with the guidelines.<sup>78</sup>
- 4.89 If the certificate is issued, the foreign actor can then obtain a Temporary Activity Visa (subclass 408) which will be valid for up to 2 years.<sup>79</sup>

## Analysis

- 4.90 Mr Roy Billing has questioned the need for MEAA involvement in the process to grant a certificate to a foreign actor submitting that it is

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74 Department of Communications and the Arts, *Guidelines on the entry into Australia of foreign actors for the purpose of employment in film and television productions*, Canberra, July 2017, p. 3.

75 Department of Communications and the Arts, *Guidelines on the entry into Australia of foreign actors for the purpose of employment in film and television productions*, Canberra, July 2017, pp. 3-4.

76 Department of Communications and the Arts, *Guidelines on the entry into Australia of foreign actors for the purpose of employment in film and television productions*, Canberra, July 2017, p. 4.

77 Department of Communications and the Arts, *Guidelines on the entry into Australia of foreign actors for the purpose of employment in film and television productions*, Canberra, July 2017, p. 4.

78 Department of Communications and the Arts, *Guidelines on the entry into Australia of foreign actors for the purpose of employment in film and television productions*, Canberra, July 2017, p. 7.

79 Department of Immigration and Border Protection, *Temporary Activity visa (subclass 408)*, <<https://www.border.gov.au/Trav/Visa-1/408-#tab-content-0>> viewed 16 October 2017.

unwieldy, time-consuming and hinders private investment.<sup>80</sup> Mr Billing commented:

There's wide concern in the industry about this compulsory process. I don't think it's needed, because Immigration can handle it the same as they do with every other industry. I know the union's trying to protect jobs for its members, but it boils down to a matter of finance... if we're going to have bigger budgets and more films, we need more private investment. Private investors are very wary of this union involvement.<sup>81</sup>

- 4.91 SPA argues that the certification process should be replaced with a more flexible system for bringing in high profile actors for the benefit of the industry.<sup>82</sup> SPA states:

Greater flexibility and speed in decision-making (including by removing the requirement for union consultation and ministerial certification) in bringing in high profile, internationally recognised actors will increase the number of Australian productions, budgets and employment opportunities for actors and crew.<sup>83</sup>

- 4.92 The MEAA responded directly to Mr Billing's claims that it hinders private investment in film, stating that in 2013-14 it opposed none of the 199 applications for foreign actors to work in a non-government subsidised production and that it has only made two objections to any application in the past four years.<sup>84</sup>

## Conclusions

- 4.93 The guidelines for the entry of foreign actors into Australia are administered by the Ministry for the Arts, referred to as the 'Foreign Actor Certification Scheme'.<sup>85</sup> A visa cannot be granted without this certificate. The migration regulations stipulate also that the sponsor of a foreign actor must also consult with the MEAA as the relevant Australian actors union before receiving certification.
- 4.94 The MEAA cannot veto the certification of a foreign actor, it can only raise an objection. The final decision rests with the Minister for the Arts.

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80 Mr Roy Billing, *Submission 8*, p. 1.

81 Mr Roy Billing, *Committee Hansard*, Canberra, 9 August 2017, p. 1.

82 SPA, *Submission 86*, p. 26.

83 SPA, *Submission 86*, p. 26.

84 MEAA, *Supplementary Submission 125.1*, pp. 7, 8.

85 Department of Communications and the Arts, *Guidelines on the entry into Australia of foreign actors for the purpose of employment in film and television productions*, Canberra, July 2017.

- 4.95 The committee acknowledges that private investment is vital to Australia's screen sector and would be concerned about any government-run process that acted as a disincentive for such investment because it was inefficient or too time-consuming.
- 4.96 The MEAA has made very few objections to foreign actor certificates in recent years and the committee acknowledges that it is not against the use of foreign actors in Australian productions.
- 4.97 Given that the union is satisfied with almost all of the applications it reviews, it strikes the committee that its involvement in this process is unnecessary red tape. The department should be able to adequately assess compliance with the foreign actor guidelines without the need to wait for an MEAA opinion that is almost always positive and is only advisory.

## Recommendation 12

- 4.98 **The committee recommends that the Australian Government amend the Foreign Actor Certification Scheme to remove the obligation for union consultation.**

## Mental health

### Analysis

- 4.99 Entertainment Assist is a national charity that raises awareness of mental health issues in the entertainment industry. Entertainment Assist advised that the health and welfare of workers in the entertainment industry is worse than the general population with:
- suicide attempts more than double;
  - levels of moderate to severe anxiety symptoms 10 times higher;
  - levels of depression symptoms five times higher; and
  - alcohol consumption twice as high and rates of other drug use range from seven to 12 times as high.<sup>86</sup>
- 4.100 Entertainment Assist comments that the causes of these poor outcomes lie in current industry conditions including the extreme competition for opportunities, high incidence of irregular working hours, and unpredictable incomes.<sup>87</sup>

86 Entertainment Assist, *Submission 23*, p. 3.

87 Entertainment Assist, *Submission 23*, p. 3.

4.101 Entertainment Assist further advised that the common denominator for these high rates of poor mental health is ‘passion’, stating:

... the industry is full of very creative people. Whether you are on stage, in front of a camera or wearing a black T-shirt in the background, that passion is exactly the same and that creativity is the same. You also have creative people who, through their creativity, are naturally sensitive. So you have creative, sensitive, passionate people working in one of the most cutthroat industries there is. We have supply that is way more than demand. There are challenges with job insecurity, isolation, touring, sleep problems – the list goes on and on and on. The industry itself is a factor and has enormous impact on the health and wellbeing of people.<sup>88</sup>

## Conclusions

4.102 The mental health statistics provided to the committee for the entertainment industry are concerning and should be investigated further.

4.103 It is clear that many of Australia’s entertainment workers are employed on a contract basis. The committee thus believes that the Minister for Small Business could consult with small businesses in Australia’s entertainment industry to consult on ways to address some of the mental health and other occupational health and safety concerns that have been raised in this inquiry.

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### Recommendation 13

4.104 **The committee recommends that the Minister for Small Business discuss mental health and other occupational health and safety issues with small businesses in Australia’s entertainment industry and consult on ways to address these concerns into the future.**

**Luke Howarth MP**  
**Chair**  
**6 December 2017**

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<sup>88</sup> Ms Susan Cooper, General Manager, Entertainment Assist, *Committee Hansard*, Melbourne, 26 July 2017, p. 11.