

IP Awareness Foundation submission to the Legal and Constitutional Affairs Committee Inquiry into the Copyright Amendment (Online Infringement) Bill 2015

16 April 2015

Introduction

The **Intellectual Property Awareness Foundation (IPAF)** is a not-for-profit industry initiative that promotes the value of creativity by raising awareness, understanding and appreciation of copyright and the impact of piracy on the film and television industries, through research, consumer awareness campaigns and educational programs and resources for Australian schools.

IPAF is funded by a wide number of Australian film, TV and home entertainment organisations and associations, united in opposition to for-profit theft of creative works, jeopardising the rights of all creative individuals, putting jobs at risk, and undermining new business models and distribution platforms.

IPAF undertakes 3 key ongoing activities:

- ◆ Creates **consumer campaigns** promoting the importance of paying for film and TV content and reminding consumers about the thousands of Australians who depend on the creative economy for their livelihood.
- ◆ Undertakes independent annual **research** into the online attitudes and behaviour of Australians in order to inform the debate about film/TV theft and to raise awareness of the issue and the facts.
- ◆ Develops and distributes **education resources** and lesson plans to primary and secondary schools to stimulate classroom discussion about copyright and promote the value of good digital citizenship online. IPAF's education and awareness campaigns rely on messaging aimed to motivate a change in attitudes and behaviour to reduce public demand for illegal copies of film and television programs.

IPAF has developed a reputation as the leading creative community association in Australia, dedicated to raising awareness about the value of respecting creative intellectual property. IPAF research and educational initiatives based on independent research, have garnered an international reputation in the United Kingdom, Belgium, Germany, Canada and the United States. Formed in 2005, the organisation has committed nearly AUD\$5 million to raise awareness of the role of copyright and how the choices consumers make contribute to the future of the Australian entertainment industry and its research and activities are referenced in discussion of these issues.



CONSUMER CAMPAIGNS¹

IPAF has engaged consumers in a series of [consumer messages](#) underpinning the importance of copyright and the impact film and television infringement has on the Australian creative industries. The campaigns have grown out of independent research into the attitudes and behaviours of Australians.

“Thanks for playing your part” is the 2015 IPAF campaign. The 30 second spot is an upbeat reminder of the many people who work in front of and behind the scenes in the film industry. Filmed on the set of the recent Australian/Indian co-production “UnIndian” – a feature film starring Brett Lee in his first acting role – a range of crew members and actors explain how production work is the means by which they earn their living and how audiences can play their part in supporting the creative industry by accessing content legitimately. This campaign builds on the earlier campaigns and messages.

EDUCATION PROGRAMS

Copyright can be a minefield for educators. Given the increasing direction of students towards online resources and the rapid adoption of ‘BYOD’ (Bring your own device) policies in schools, educators recognise the imperative to teach young people about the principles of fairness and good citizenship in the digital landscape. However, the legalities surrounding copyright are enormously complex, particularly for education which falls within a number of exceptions.

In IPAF’s [2013 qualitative research](#), 12-17 year old Australians demonstrated their increasing disregard for the value of copyright and said they don’t understand how piracy affects the film and TV industries.

*“I think less movies would be made. I’m not quite sure though. I think the movie industry should make sure everyone knows what happens when piracy is involved – like, if people lose jobs etc.”
14-15 year old*

*“I wouldn’t want to waste my money on something I wasn’t going to love.”
14-15 year old*

*A lot of families are struggling financially to even take the kids to the movies so I think good on the people who know how to watch free movies or TV shows and I believe stars get paid way too much so do not see why we should have to pay for it.
12-13 year old*

To address this, IPAF has created a suite of free online curriculum-linked [teaching resources](#) for primary and secondary schools: some explain how films and TV programs are produced, some stimulate classroom discussion about copyright, while others promote the value of good digital citizenship.

These resources, created in conjunction with education consultants and film industry professionals, have clear curriculum links, engaging audio/visual material and a range of suggested lesson plans.

¹ IP Awareness Foundation Consumer Campaigns:
2007 - WHAT ARE YOU REALLY BURNING?
2010 - ACCIDENTAL PIRATE
2011 - EXCUSES
2012 - THANK YOU
2015 - THANKS FOR PLAYING YOUR PART

Making Movies [Teaching Resource](#)

A comprehensive guide for secondary students to learn about how films are made – from concept to cinema. Includes booklets, PowerPoint lessons, web links and video clips.

Launched July 2014 and downloaded **2,966+** times (as at Apr 2015).

“...a valuable insight into the numerous jobs the industry supports...and why it’s critical to support these jobs by paying for content rather than defaulting to piracy!”

- Zareh Nalbandian, Founder/CEO Animal Logic

Designed to help secondary students:

- Develop an understanding of the stages of a film production
- Appreciate the complex and collaborative process of filmmaking
- Explore some of the contemporary issues faced by the film industry
- Learn some of the skills required to make their own films

Persuasive Language [Teaching Resource](#)

To assist secondary students to prepare for the NAPLAN writing task, the use of persuasive language is scrutinised in the context of the contemporary issue of online piracy of movies/TV programs.

Launched February 2014 and downloaded **4,297+** times (as at Apr 2015).

“Persuasive Language is an excellently made resource. It discusses and explains persuasive techniques then suggests activities around the issue of online piracy”

- Australian Teacher Librarian Network

Designed to

- help refine students’ understanding of how persuasive language works
- explore issues such as the impact of rapidly changing technology on businesses and copyright and intellectual property in the digital landscape

Digital Citizenship, Copyright And Cybersafety [Teaching Resource](#)

To assist primary and secondary students to learn about copyright and encourage creativity through a basic understanding of filmmaking.

Launched March 2014 and downloaded **930+** times (as at Apr 2015).

“A great way to get kids engaged in the idea of piracy, which is very much a part of our focus on digital citizenship.”

- Primary School Principal, Sydney’s North Shore

Designed to help students to

- develop an understanding of **good digital citizenship** and the value of creative content
- learn about **copyright** and the impact of content piracy
- learn about **cybersafety** risks associated with infringing websites
- learn basic **filmmaking** terminology and participate in the 2015 My Story My Content Short Film Competition.

My Story My Content [short film competition](#)

IPAF has partnered with Australian Teachers of Media (ATOM) for several years on various initiatives including the My Story My Content short film competition. Now in its third year, the competition attracts hundreds of entries from all over Australia. Winners are awarded prizes at the ATOM awards ceremony in October each year and the top ten films in each category are screened on Aurora TV. The competition is designed to help students better understand the value of Intellectual Property by creating their own intellectual property in the form of a short film.

RESEARCH

IP Awareness has conducted 6 waves of [research](#) since 2008 to understand the changing attitudes and behaviours of Australian in relation to film and TV piracy.

- ◆ September 2008 Adults aged 18-64, qualitative and quantitative
- ◆ October 2009 Adults aged 18-64, qualitative and quantitative
- ◆ February 2011 Adults aged 18-64, qualitative and quantitative
- ◆ March 2012 Adults aged 18-64, quantitative
- ◆ June 2013 Adults aged 18-64, quantitative²
Teens aged 12-17 qualitative³ and quantitative⁴
- ◆ June 2014 Adults aged 18-64, quantitative⁵
Teens aged 12-17, quantitative⁶

All research has been conducted by independent research company Sycamore, in partnership with Newspolls. Quantitative studies have been via an online omnibus with anonymous participation, national coverage and up-weighted to ABS data on all standard demographics.

This body of comprehensive research has provided the opportunity to analyse behaviour and track attitudinal shifts.

KEY RESEARCH FINDINGS

Growth in penetration and frequency

Over the 6 waves of IPAF research, there has been a decrease in the more ‘traditional’ forms of piracy (buying or burning pirated DVDs) and a considerable increase in the numbers involved in online piracy

In 2008 just **20%** of all adults admitted to ever downloading a film or TV program. In 2014, **29%** of the population were classified as ‘active’ online pirates – a significant increase in the proportion of pirates in the population and an increase in frequency of piracy across all active groups.

Year	Ever pirated	Have ever downloaded movie / TV show from internet ⁷
2008	55% *	20%
2009	53% *	26%
2011	50% *	22%

² Sycamore Research in partnership with Newspoll – online omnibus. Participants: 1,229 adults aged 18-64. Nationally representative. Results post weighted to ABS data on all standard demographics. Participation anonymous.

³ Sycamore Research - Online qualitative research: fully moderated diary, forum & feedback sections, May 2013. 27 Respondents aged 12-17, M/F, all active pirates. 12 parents of children participating in study, 2 parents without children in the study, pirates and non-pirates. Participation anonymous.

⁴ Sycamore Research in partnership with Newspoll -Online quantitative study, June 2013. 606 respondents aged 12-17. National, up-weighted to be representative of total 12-17 yo population. Participation anonymous.

⁵ Sycamore Research in partnership with Newspoll – June 2014. 1189 respondents aged 18-64. Nationally representative. Results post weighted to ABS data on all standard demographics. Participation anonymous.

⁶ Sycamore Research in partnership with Newspoll – June 2014. 611 respondents aged 12-17. Nationally representative. Results post weighted to ABS data on all standard demographics. Participation anonymous.

⁷ THIS IS AN INDICATIVE MEASURE ONLY based on a question that was most consistent across all waves i.e. ever downloaded a pirated film or TV show from the Internet

2012	37% **	28%
2013	33% **	25%
2014	40% **	32%

*Range of online and offline piracy. **Online only piracy –expanded definitions from 2014

The power of free

The key driving factor for pirating is that it is ‘free’. In 2008 this was widely mentioned and in 2012, 76% agreed that this was the key reason they pirate.

In 3 waves of IPAF research we provided a hypothetical scenario in which respondents had the option to pay to access legally or pirate for free, suggesting that the content could be accessed simultaneously with the US release.

Less than a third of frequent pirates opted for legal content with over 66% in 2014 choosing the free/ illegal option over paying for content - an increase of 12% year on year.

This confirms that, particularly amongst frequent pirates, it is very difficult to compete with free and they remain committed to piracy.

“Just a quick question, why would you pay for it off iTunes if you could get it online for free with the same quality?????”

14-15 year old

Internet as facilitator

Online piracy has rapidly become the acceptable face of piracy. Early online behaviour was limited by inadequate technical know-how – of those who did not pirate. In 2008 ‘I can’t be bothered to find out how to do it’ was the second most cited reason for non-piracy.

In 2008 mass storage devices were seen as the domain of the hardcore techie – now with cloud options and faster streaming, storage of content is no longer a limiting factor.

“I said to the kids, let’s go and get a DVD but the kids said no let’s download a few movies so we went onto Pirate Bay...it only takes around 10mins to download and save onto USB, plug in and off you go”

Parent

Availability and familiarity with sources has also facilitated greater involvement and frequency. In 2009, Limewire, The Pirate Bay and Torrents were openly discussed. By 2012 The Pirate Bay was named the dominant source for online content.

Social acceptability – “everybody does it”

The perception that piracy is the social norm has been articulated in the IPAF research studies since 2008. However successive IPAF research has demonstrated that piracy is not the dominant social behaviour. However, the perception that it is has been articulated in qualitative research focus groups. This attitude appears to legitimise the behaviour of pirates and encourage non-pirates to participate.

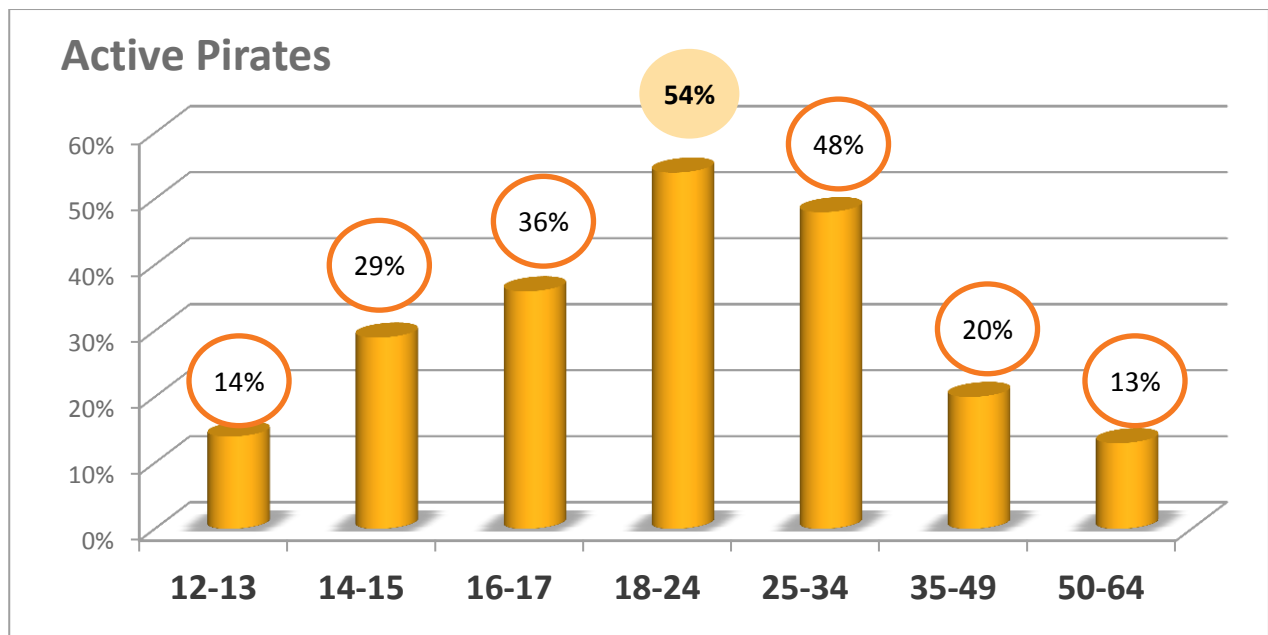
“Why should I be the sucker that has to pay for what everyone else is getting for free.”

12-13 year old

“Piracy when you think about it, is wrong and unacceptable, however it is so easy to do, with no real consequences on those pirating the content, so it has therefore become common practice.”

16-17 year old

Quantitative research reveals that the demographic where piracy is the norm is amongst 18-24 year olds: in 2008, 43% admitted to ever personally being involved in the pirating of films or TV programs⁸. In 2014, 54% of 18-24 year olds were active online pirates.



Perceptions of legality

The 2013 research showed that of the many justifications given by pirates for their activity, one is that there are no measures in place to stop them and no consequences for their actions. This lack of intervention reinforces the belief that it's not really important or not actually a problem.

"I'd assume (that if) the movie companies and the government would be trying to minimise piracy, they'd shut down websites dedicated to illegally downloading"
16-17 year old

Through successive research reports, there has been a consistent clarity that piracy is not 'legal' and that this activity may have an impact on the creative industry.

"Piracy is downloading a movie for free without paying the cost, not making the owners any money."
16-17 year old

"The main impact is on all those who are involved in the making of movies / TV shows and it can really be a detriment to them as they may not be able to generate enough revenue to either break even on their movie nor have enough revenue and ratings to be renewed for another season"
Adult

⁸ Including physical piracy such as buying or copying DVD's.

However online piracy has created a convenient ‘grey area’, with younger participants being more likely to claim it is legal (often seen as ‘sharing’).

<p><i>“I don’t think it’s piracy to stream a free to air TV show because it’s free anyway”</i> 12-13 year old</p>	<p><i>“If you aren’t chased up for it and if the websites are still running (police could cancel them) then no it isn’t piracy”</i> 14-15 year old</p>	<p><i>“I’ve not felt I’ll get in serious trouble in any shape or form”</i> Adult</p>
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One of the largest shifts over the 6 waves of adult research has been the perception of piracy as *stealing or theft*. While **72%** of adults in 2008 agreed that piracy is theft, this slipped to **64%** agreement in 2014. Teens and adults justify their behaviour by believing it is a victimless activity.

“I only watch it for myself and my family so I don’t feel bad”
12-13 year old

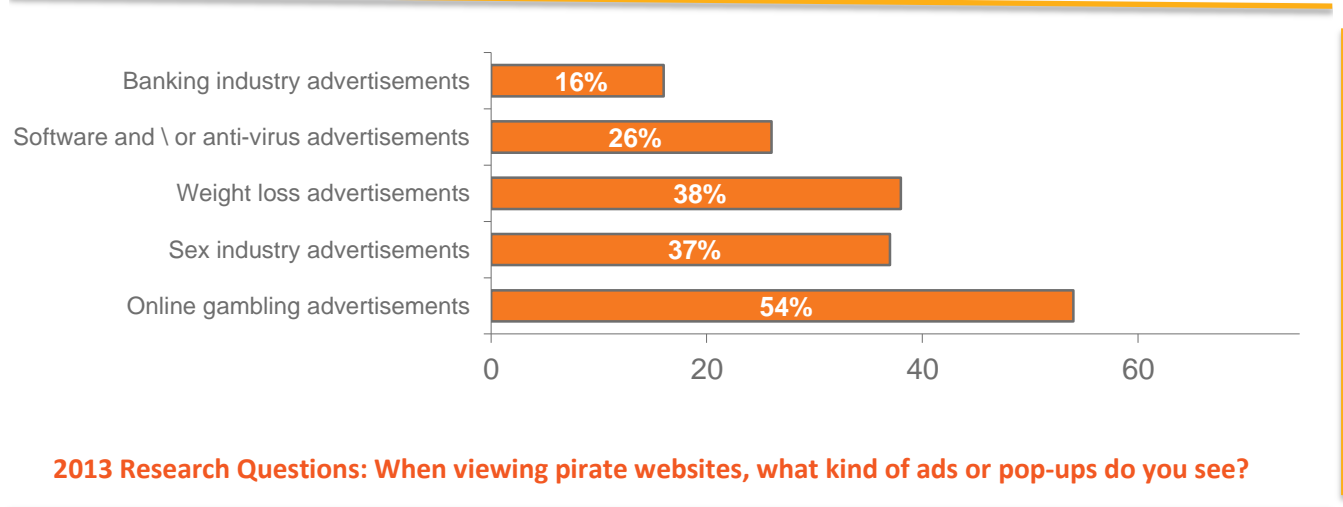
Availability of content

Consistently over several years of research, the majority of Australian adults and teens recognize that there is more content available. In the 2014 IPAF research, **72%** of 18-64 and **67%** of 12-18 agreed that there is an increasing number of options for people to legally obtain and watch TV series and films. This percentage is highest amongst non-pirates and older Australians (35-64 yo).

“Malvertising” proliferates on infringing sites

“There’s more porn on the free sites and you get pop ups with junk ads”
12-13 year old

In the 2013 and 2014 IPAF research, the majority of 12-17 year olds who use illegal websites to access pirated content recall viewing gambling advertisements and pop ups, and over a third recall sex industry advertisements. This supports recent academic research⁹ that found piracy websites are increasingly dependent on high risk advertisements as their primary means of profit.



⁹ [Research Report](#): A systematic approach to measuring advertising transparency online: an Australian case study” Dr. Paul A. Watters, University of Ballarat 2013

The 2013 [research](#) from the University of Ballarat found the most profitable advertising on piracy websites comes from the sex industry, gambling and malware ads. This very lucrative advertising provides the financial incentive for overseas criminals to operate these websites and generate enormous wealth.

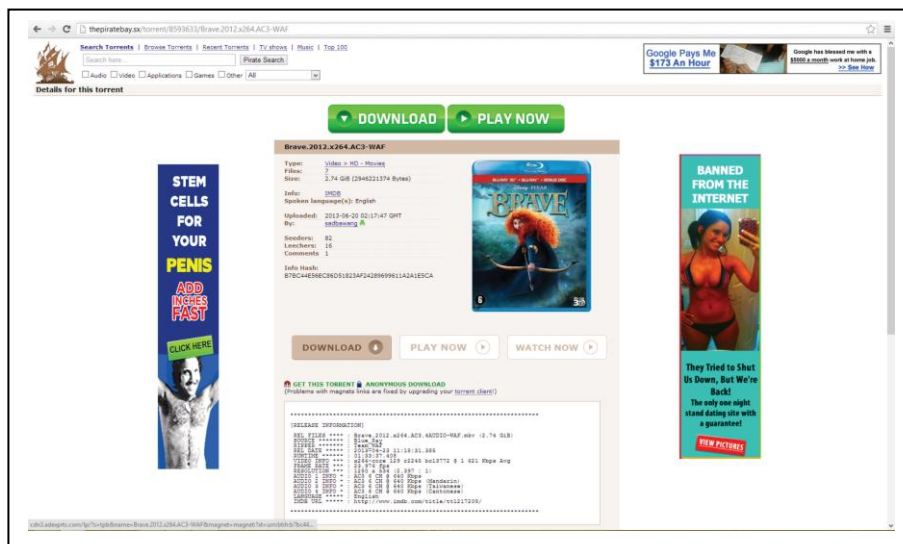
Only 1% of advertisements on pirate sites are “Mainstream” ads - placed by legitimate businesses that operate within the formal economy.

The remaining 99% are “High Risk” ads to the consumer including:

- ◆ Sex industry - pornography, fake dating sites
- ◆ Online gambling
- ◆ Malware - fake anti-virus
- ◆ Scams - premium rate SMS, fake jobs, fake prizes, investments etc

“The sexual ads can be so awkward! Like when they pop up I try and shut it down really quick.”
14-14 year old

Screen shot of The Pirate Bay website showing search results for the G-rated Disney film “Brave”



Australians aged 12-17 face real risks when accessing piracy sites whose profits are increasingly dependent upon sex industry and unregulated gambling advertisements. Parents are not necessarily aware that children who access illegal sites to download unauthorised films and TV shows may be exposed to explicit pornographic advertisements, unregulated gambling sites, scams and viruses.

“By accepting advertising from these dubious sources..(piracy website)owners are showing that their snouts are well and truly in the sort of money trough no respectable or ethical business would go near in a million years...Parents who hitherto may not have bothered much about their children’s engagement with piracy need to know about this aspect...Right now I’m afraid largely they don’t.”

John Carr, Executive Board member of the UK Council on Child Internet Safety, the British Government’s principal advisory body for child online safety and security.

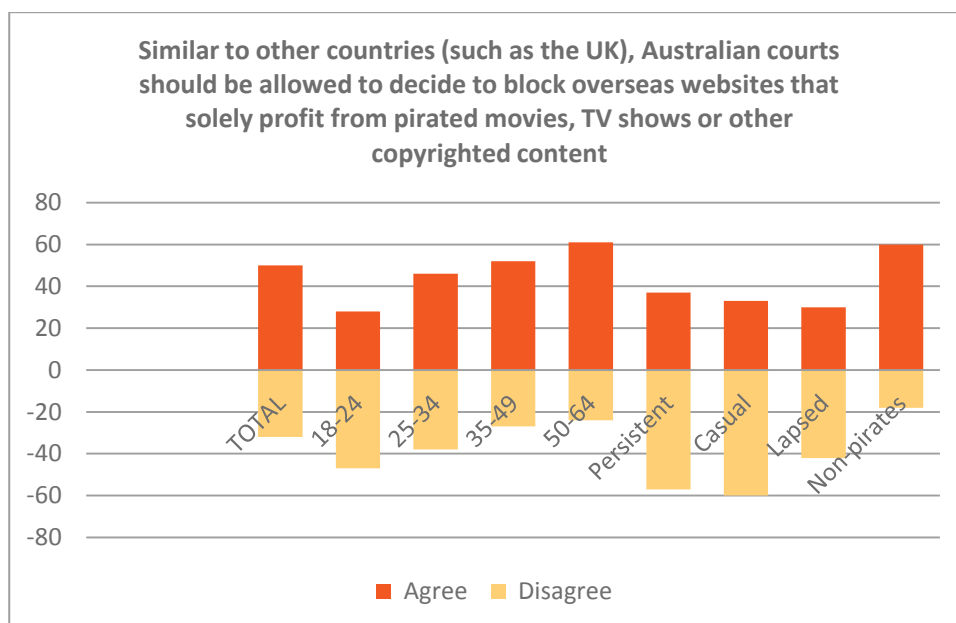
Migrating consumers to legal content

The IPAF research has explored attitudes to measures that support the migration of consumers to legitimate sources of content. In the June 2014 study, **52%** of 18-64 yo's agree that the internet requires more regulation to prevent individuals from downloading pirated content.

Amongst 12-17 yo's, **43%** agree with increased internet regulation to prevent piracy, while only **23%** disagree. As with adults, those who do not participate in this activity (the majority of teens) are more likely to agree with this proposal.

Greater Regulation

The most recent 2 waves of Adult research explore responses to internet regulation and “injunctive relief” related legislation. Both waves showed a majority agreement for greater regulation with **50%** of adults agreeing that, similar to other countries (such as the UK), Australian courts should support judicial site blocking of overseas websites that solely profit from pirated films, TV programs or other copyrighted content. Agreement with this statement is of course lower for the more active groups (**37%** of persistent pirates agree).



Lori Flekser
Executive Director



IP Awareness

Supporting Australian Creative Communities