



6 June, 2018

Attn: Mr Mark Fitt
Committee Secretary
Senate Economics Legislation Committee
PO Box 6100,
Parliament House,
Canberra ACT 2600

Dear Committee,

**Re: Inquiry into Treasury Laws Amendment (Tax Integrity and Other Measures No. 2) Bill 2018
[Provisions] – Schedule 3**

I am writing to express concern regarding the proposal to strengthen the integrity of the film producer offset which forms schedule 3 of the proposed Treasury Laws amendment Bill 2018.

Porchlight Films is an independent Film and television production company based in Sydney. We are a wholly independent and privately-owned business established in 1997. We make premium cinema and television drama and we work with local and international partners to bring the best of Australian talent to a worldwide audience.

Highlights from our twenty plus years of production include the feature films *Mullet (2001)*, starring Ben Mendelsohn; *Little Fish (2008)*, starring Cate Blanchett; *Animal Kingdom (2010)* which resulted in a best supporting actor Oscar nomination for Jackie Weaver; and *Jasper Jones (2017)* starring Toni Collette. For television we produced *The Kettering Incident (2016)* starring Elizabeth Debicki which has sold into over 20 territories internationally and which Screen Australia recently announced as the television program showing the most net returns to investors in 2017. We are currently in pre-production on the feature film *True History of the Kelly Gang* based on the Peter Carey novel and starring Russel Crowe.

Our company's success is built upon developing and backing unique Australian talent, in particular, writing, directing, cinematography and on-screen talent. Many of the talented Australians we work with now have major international careers. For example, our film *Animal Kingdom* was the debut feature film from Australian writer/director David Michôd who has since directed *War Machine* starring Brad Pitt for Netflix and is currently directing *The King* which is a co-production between Porchlight Films and Brad Pitt's company Plan B for Netflix. To make an Australian financed film with David Michôd could be limited by these changes to the legislation, particularly if the story were to take place outside of Australia.

The cinematographer Adam Arkapaw also had his first break on *Animal Kingdom* and is now a much sought-after cinematographer with credits including *Assassin's Creed* and the television series *True Detective*. Our ability to employ Adam Arkapaw on any Australian production which included offshore filming would be severely limited by this change to the legislation as Adam currently resides in the US.

Many of our most talented Australian citizens now work predominantly overseas and many of them are consequently residents of the UK or the US where the opportunities for work are both more numerous and more lucrative. In fact, this drain of talent to larger, better-funded English-language film sectors is already a huge problem for Australian production companies. To make these changes to the legislation would further limit Australian producers' ability to compete internationally.

Australia's pool of premium on-screen talent is also largely taken up by US studio films. The most recognisable Australian talent reside outside of Australia – think Hugh Jackman, Nicole Kidman, Cate Blanchett, Liam Hemsworth, Margot Robbie, Rose Byrne, Ben Mendelsohn, Toni Collette, Elizabeth Debicki and many others.

At Porchlight Films we are adapting to the disruptions in our industry. In order to sustain and grow our business we embrace the global nature of screen production today. In financing our film and television projects we work with partners in the US and UK to attract additional investment and work creatively to produce projects that have unique Australian elements and broader international appeal. The ability to attract top tier talent is absolutely essential in financing premium projects. Whilst our budget level cannot compete with the budgets available in the US and UK, through the mix of government investment and tax rebates we can pull together projects that have the potential to compete internationally. The ability to claim expenditure on non-resident Australian citizens as qualifying Australian production expenditure (QAPE) is, and should remain, a pillar of the film producer offset legislation as the entire health of our industry depends on this. In eroding this pillar, Australia risks becoming a mere training ground that feeds the larger US and British industries but is unable to benefit from the talent of our own citizens.

Australian film and television projects should not be limited to shooting only within the confines of Australia. Some stories naturally require filming to take place in offshore locations and, whilst it is acceptable that offshore expenditure on goods and services is not 'QAPE-able', the expenditure related to non-resident Australians, particularly those being paid through a service company, should logically remain part of the QAPE.

It is especially unclear how such regulations would apply to official co-productions. Porchlight has been involved in several co-productions where Australian talent is essential to the financing structure and it would be ludicrous to rely on non-resident Australian talent to achieve the requisite points for a co-production but not be able to count the payment to that talent as qualifying Australian expenditure. Co-productions, such as our films *Lore* and *Dead Europe* would be difficult to produce under these changes. Attracting highly skilled and talented Australian citizens to these projects is often the key them happening at all.

Furthermore, we are greatly concerned that the government could consider these changes given the following circumstances:

- There seems to be a complete lack of consultation on the detail of this legislation and no thorough investigation as to the impact it will have on the Australian industry. It is unclear to us exactly how the current regulations present an issue. What is the problem that this regulation will fix?

- The retrospective application of the policy to a 1 July 2017 start date could interfere with projects already in production and undermine the integrity and value of contracts already entered into.
- Creating Australian-owned IP should be the priority of the legislative levers that the government applies to our industry. Australian creative industries and Australian talent would be unfairly disadvantaged by this legislative change, as it will curb our ability to raise finance for Australian stories that reach beyond our geographical borders thereby limiting our scope for competing in an international marketplace. This change would actively discourage the inclusion of internationally-renowned Australian talent to Australian projects that shoot off-shore and creates a strong disincentive for including foreign locations in Australian produced-content.
- The government has just given \$140m to foreign productions while at the same time placing more and more roadblocks for Australian productions and cutting \$84m from the ABC. Again, it seems that the creation of Australian IP is not valued by the government whereas the support of foreign-made content is given additional support.

I am happy to provide further information if required and trust that the committee will seriously consider the ongoing ramifications of these changes to our industry.

Yours sincerely,



Anita Sheehan
Managing Director