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**SUBMISSION**  
**BY**  
**MEDIA ENTERTAINMENT AND ARTS ALLIANCE**  
**TO THE**  
**JOINT STANDING COMMITTEE ON TREATIES**  
  
**CALL FOR PUBLIC COMMENT**  
**ON**  
**SINGAPORE-AUSTRALIA FREE TRADE AGREEMENT**

**APRIL 2003**

**The Media Entertainment and Arts Alliance**

The Media Entertainment and Arts Alliance (Alliance) is the industrial and professional organisation representing the people who work in Australia's media and entertainment industries. Its membership includes journalists, artists, photographers, performers, symphony orchestra musicians and film, television and performing arts technicians.

The Alliance welcomes the opportunity to comment on the Singapore Australia Free Trade Agreement (SAFTA).

The Alliance will confine its comments to our area of expertise, namely the cultural industries.

Whilst the Alliance considers positive listing agreements – such as the General Agreement on Trade in Services (GATS) – are the preferable model for negotiating bilateral agreements, SAFTA has been negotiated as a negative listing agreement. That being said, the Alliance welcomes the cultural reservation incorporated in SAFTA.

The reservation will serve to enable the current Federal Government, future Federal Governments and state, territory and local governments to maintain and introduce any measures, now and in the future, to give effect to their social and cultural policy objectives.

As has been argued in many submissions in recent years – including in four submissions made this year in respect of the GATS, the negotiations for a free trade agreement (FTA) with the United States of America and the Government's White Paper on Trade and Foreign Policy, *Advancing the National Interest*<sup>1</sup> – the Alliance believes it is in the national interest for cultural industries to be differentiated from other industries and excluded from the purvey of trade agreements. The reasons why cultural industries, broadcasting and the media must be differentiated from other trade in goods and services is articulated at length in those submissions and not reiterated here. However, those submissions are available online at [www.alliance.org.au](http://www.alliance.org.au) or can be made available separately if required.

The Alliance notes that the Government's ability to regulate foreign ownership of the media has also been protected in SAFTA. The media rules in Australia – those relating to cross media ownership and to foreign investment – have been crucial planks in ensuring Australia has a vibrant media, one of the key components underpinning a strong democracy.

The decision to exclude content from the commitments made in respect of e-commerce is far-sighted and supported by the Alliance. As we enter a century that is likely to see technological changes even greater than those that occurred during the 20<sup>th</sup> century, it is essential that Australia is able to regulate in manners that today cannot be conceived but may become vital at some point in the future.

As Mark Twain said, "forecasting can be difficult, especially when it concerns the future". The reservations taken out in respect of foreign investment, the cultural industries, broadcasting and e-commerce will ensure that Australia in years to come will not look back in disappointment about decisions that needed to be made without the benefit of hindsight. Future proofing trade agreements in these key areas is the only appropriate approach.

The examples of trade agreements where other nations have made commitments they have subsequently come to regret are numerous.

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<sup>1</sup> April 2003, Submission to the Senate Foreign Affairs, Defence and Trade References Committee – response to the call for public comment on Australia's Foreign and Trade Policy White Paper *Advancing the National Interest*  
March 2003, Submission to Senate Foreign Affairs, Defence and Trade References Committee – response to call for public comment on issues for Australian in the negotiation of the General Agreement on Trade in Services (GATS) in the Doha Development Round of the World Trade Organisation and in the negotiation of a free trade agreement with the United States of America

February 2003, Submission to the Office of Trade Negotiations, DFAT, response to call for public comments on the *Discussion Paper on the General Agreement on Trade in Services (GATS)*.

January 2003, Submission to DFAT Inquiry into a Free Trade Agreement between Australia and the United States of America

August 2002, Submission to DFAT – response to call for public comment in the lead up to the development of the White Paper, *Advancing the National Interest, Australia's Foreign and Trade Policy*

May 2002, Submission to DFAT in respect of the WTO Doha Round of Trade Negotiations,

August 2001, Submission to DFAT in respect of Australia's Relationship with the WTO,

March 2001, Submission to Joint Standing Committee on Treaties Inquiry into Australia's Relationship with the WTO.

All these submissions are available online at [www.alliance.org.au](http://www.alliance.org.au) or can be provided electronically if required.

New Zealand made commitments in the GATS during the Uruguay Round, a decision that government now rues. Prime Minister and Minister for Culture Helen Clark recently reflected: "We have unilaterally disarmed ourselves on trade but very few others have been so foolish. We're now left with perfectly legitimate calls for local content and people saying 'You can't do that because of GATS'. This seems a bit ridiculous so we're just working out the best way to handle it."<sup>2</sup> New Zealand has yet to find an answer.

When Canada negotiated a free trade agreement with the United States in the late 1980s, it negotiated a reservation for audiovisual industries that was constrained by standstill provisions. That negotiation was subsequently grandfathered in the North America Free Trade Agreement (NAFTA). Unfortunately for Canada, delivery platforms have dramatically changed since the late 1980s and the 20<sup>th</sup> century ended with digital production and delivery poised to transform the film and television industries.

It is consequently reassuring that Australia has ensured it will not find itself in a similar position in years to come.

As Australia enters into the negotiations for another negative listing FTA, namely with the United States of America, SAFTA will stand as an appropriate model, one the Alliance believes must be mirrored in the FTA with the United States and all future negative listing trade agreements.

The Alliance also appreciates the extensive consultation that was undertaken by the Department of Foreign Affairs and Trade during the negotiations for SAFTA with the cultural industries. The drafting of SAFTA has taken account of the concerns of the industry and appropriately reflects the Federal Government's social and cultural policy objectives. The Alliance welcomes the consideration given to the national interest in the drafting of SAFTA and commends the Government on negotiating an agreement that embeds its social and cultural objectives in the context of trade.

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<sup>2</sup> As quoted in *Serving Whose Interests? A Guide to NZ's Commitments under the WTO General Agreement on Trade in Services*, Dr Jane Kelsey, produced on behalf of Action, Research and Education Network of Aotearoa (ARENA), January 2003, page 40