

10 August 2021

**Committee Secretary
Senate Standing Committees on Environment and Communications
PO Box 6100
Parliament House
Canberra ACT 2600**

Dear Secretary,

Treasury Laws Amendment (2021 Measures No. 5) Bill 2021

Australasian Performing Right Association and Australasian Mechanical Copyright Owners Society (APRA AMCOS) and the Australian Guild of Screen Composers (AGSC) welcome the opportunity to submit to the Committee's inquiry into the Treasury Laws Amendment (2021 Measures No. 5) Bill 2021.

The amendments to the Bill contain measures that will have unintended consequences on the production of homegrown documentaries and could all but eliminate the production of music and other documentaries with arts, historical and political stories which rely on archival and copyright material for storytelling. This will not only dramatically cut the number of documentaries supported but will hit the hard won earnings of local screen composers and songwriters.

Much-loved and acclaimed documentaries like *Working Class Boy*, (the Jimmy Barnes story) (2018), *Love on the Spectrum* (2019-), *Mystify: Michael Hutchence* (2019), *Gurrumul* (2017), *Backtrack Boys* (2018) and *Firestarter: The Story of Bangarra* would be placed under significant challenges to be produced if key amendments to Schedule 1 are approved.

These amendments as they stand are a blunt instrument that will see local stories and local composers and songwriters falling victim to the changes. Carve-outs protecting local documentaries and use of copyright material must be included in the amendments if the local sector is to remain supported by the measures.

APRA AMCOS and the AGSC welcome the retention of the 40% rate of Producer Offset for feature film and we strongly support the increase in the rate of Producer Offset for non-feature films including television content to 30%.

However, there will be significant cultural and economic impacts arising from the majority of the remaining changes in Schedule 1. With the Australian Screen Industry in a seriously disrupted and reduced state, we believe that now is not the time to be making changes that will impact in investment in production, which the proposed amendments are likely to do.

The adverse and unnecessary changes include:

1. Raising of the QAPE expenditure threshold for features and the PDV sector to \$1 million.
2. A cap on eligible copyright expenditure.
3. Removal of the 'Gallipoli clause' that allows for Australian elements shot offshore to be included as qualifying expenditure.
4. The extension of an 'above the line cap' of 20% on homegrown documentaries.
5. Removal of the ability to count general business overheads as qualifying Australian production expenditure towards any offset.
6. A limit to expenditure claims for re-versioning of a film.

These proposed amendments will affect many documentary and small production businesses which allow a diversity of stories to be told and a strong core of small businesses to operate within the screen industry, by reducing the ability to claim significant costs incurred to produce those stories.

APRA AMCOS and the AGSC have been actively in dialogue with Government regarding the negative impacts of the changes and has urged for solutions that remove the unintended and damaging consequences of the amendments. This makes it impossible for APRA AMCOS and the AGSC to support the majority of amendments in the Bill.

We urge the Committee to recommend that the amendments to the Bill include:

- Keep the Qualifying Australian Production Expenditure (QAPE) threshold to \$500K for feature length films. Raising it will have an unintended negative impact on documentaries and low-budget fiction films. Only 42% of documentary films that received Screen Australia funding had budgets of over \$1million, according to Documentary Australia Foundation's analysis. Screen Australia research indicates that since 2007, over 60% of single documentaries made by independent production companies was produced for less than \$500K per hour (in 2019 dollars) and over 70% of documentary series follow this pattern.¹

In line with the suggestion from our colleagues at the Australian Writers Guild (AWG), there could be a further requirement on qualifying projects to have a bonafide distribution agreement in place.

- Keep the QAPE threshold to \$500K for Post Digital and Visual Effects (PDV). Again, while Australia is a leading supplier of post production services, the work is often spread across a number of small businesses who would potentially miss out on the work should the threshold be increased and content simply not be made. This also will allow the protection of Australian IP in this area, which we have become known for internationally. Keeping the QAPE threshold at \$500K will ensure the continued support for smaller homegrown projects, protection of local Intellectual Property and encourage investors into productions that have realistic budgets.

¹ <https://www.screenaustralia.gov.au/fact-finders/production-trends/documentary-production/budget-ranges>

- Retention of a ‘Gallipoli’ clause, that allows for Australian elements shot offshore to be included in qualifying expenditure. This is an important consideration for films telling Australian stories that include international themes and storylines, such as *Balibo*, *Gurrumul* and the film *Gallipoli* which the clause is named after, with scenes shot in Turkey that were crucial to the telling of this story that forms part of Australia’s national heritage.
- Amended cap on copyright expenditure of 50% instead of the suggested 30% cap which will, in particular, impact the production of music documentaries celebrating great Australian music, as well as a huge number of documentaries telling Australian stories that include archival and copyright-subjected material and content.
- Retain the current arrangements for ‘Above the Line’ cap for documentaries where ‘Above the Line’ costs form a significant part of the budget as producers and directors do much of the actual production.
- Retain the ability to count general business overheads and qualifying Australian production expenditure towards any offset.

The Australian screen industry is underpinned by a large core of small to medium sized businesses which have been hugely impacted by the current pandemic, the shutdown to production and loss of jobs. These recommendations above would go some way to ensuring the survival and future growth of the sector during times when production and post production is at a low, particularly during the past 18 months, across so many small screen businesses.

We refer the Committee to the relevant joint submission made by APRA AMCOS and the AGSC in relation to the Media Reforms Green Paper in 2021 that highlight the above points.

Australia is more than just a film set. With the proliferation of international productions since the outbreak of COVID-19, and a gradual return to local production, our screen sector has the potential to capitalise on the benefits of not just being a safe, beautiful and diverse location but also as a highly-skilled and creative workforce with the opportunity to build highly valuable intellectual property (IP) from screen production.

COVID-19 has highlighted and accelerated the importance of the digital economy in Australia and globally. For Australia to become a leading and competitive digital economy, it is critical we have high-quality regulatory practices and standards that are fit for purpose and allow for cross-border mobility of digitalised services and associated data, with appropriate protections.

The issue of protection of Australian Intellectual Property (IP) has not been considered in any of the current Screen Industry legislation amendment changes. We strongly believe that if the Government is funding screen companies in the form of incentives, rebates and offsets, then it is imperative that we keep as much of this funding in the Australian economy through the protection of Australian-generated and owned Intellectual Property. This extends to screen composers as well as writers and directors.

Recent trends show that Australia is letting go of critical IP opportunities to other nations when major screen co-productions are established. This is particularly the case with screen music and screen composition, **which returned \$100 million to the Australian economy through the APRA AMCOS royalty distribution process in 2019/2020.**

We now need to turn our attention to the longer term value of supporting our world-class screen composers so that the entire screen eco-system can benefit.

In recent years, many big Australian films receiving tax-payer supported offsets have used offshore screen composers (the likes of *Mad Max IV*, *The Dry*, *Penguin Bloom*, *The Great Gatsby*, *Mary Magdalen*, *Lion*, *The King* and many more), losing valuable IP.

Australia succeeds best when the screen industry tells our stories, not just through our voice and our images, but with the beating heart of an Australian soundscape created by Australian screen composers and musicians. A soundscape that is diverse, global and exceptional.

The majority of these amendments will undermine this potential future success of the local industry.

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AUSTRALIAN GUILD OF SCREEN COMPOSERS – ABOUT

The Australian Guild of Screen Composers (AGSC) are a community of professional screen composers who are dedicated to supporting emerging and established Australian screen composers in film, television, gaming or related industries. The AGSC has been established since 1981 and membership over the past 4 decades has included composers of such iconic and uniquely Australian films that include: *Crocodile Dundee*, *Muriel's Wedding*, *Strictly Ballroom*, *Shine*, *Animal Kingdom*, *Australia*, *Red Dog*, *Phar Lap*, *2040* and *The Australian Dream*; and television shows such as *McLeod's Daughters*, *Picnic at Hanging Rock*, *Rake*, *The Secret Life of Us*, *Offspring*, *The Code*, *Bluey*, *Doctor Doctor*, *Wentworth*, *The Gloaming*, *Bloom*, *Underbelly*, *Miss Fisher's Murder Mysteries*, *Stateless*, *Home and Away*, *Brazen Hussies*, *Playing with Sharks* and so many more.

Our role is to advocate for, support, and increase recognition of Australian screen composers. We embrace inclusivity and diversity in our industry and welcome the new perspectives and potential it can bring to the art and craft of our practice. The AGSC has an active membership working in all facets of the screen industry, contributing a unique Australian voice to many of our much-loved and viewed screen productions, seen locally and internationally.

The AGSC has partnered with other organisations such as APRA AMCOS, as well as advocated, lobbied and acted to increase opportunities for screen composers. We work alongside our screen compatriots in directing, producing, editing, design, casting, post-production areas such

as digital and visual effects and others, to ensure that there is a viable and sustainable screen industry for us all to exist in.

APRA AMCOS – ABOUT

APRA AMCOS has been representing Australian songwriters, composers and publishers since 1926. With over 108,000 members across Australia and New Zealand, our membership includes the very best and brightest of established and emerging musical talent at home and around the globe. We administer rights on their behalf, supporting screen composers, songwriters and publishers in an industry that is a flagship of Australian culture and creativity, generating billions of dollars each year for the Australian economy.

We are affiliated with similar collective management organisations around the world. So when Australian and New Zealand songs and compositions are played overseas, Australian and New Zealand composers and writers get paid. We also help music customers in Australia and New Zealand access music from the rest of the world.

We work in partnership with government to support the development and career paths within Australian music through the cornerstones of live music, digital distribution, local venues, education and the global stage.

APRA AMCOS has successfully initiated and led industry and government co--investment strategies, developing highly regarded capacity building programs, most notably: Aboriginal and Torres Strait Islander Music Office, SongMakers, Live Music Office, SongHubs and Sounds Australia.