



**Australian Writers' Guild
Australian Writers' Guild Authorship Collecting Society**

NSW Government

'The Art of Tax Reform' consultation

20 August 2025

The Australian Writers' Guild acknowledges we live and work on Aboriginal land. We pay our respects to Elders past and present. We thank them for their custodianship of land and waterways, stories, and song, and pay our respects to the oldest storytelling civilisation in the world.

WHO WE ARE

The Australian Writers' Guild (**AWG**) represents Australia's performance writers: playwrights, screenwriters for film and television, showrunners, podcasters, comedians, game narrative designers, dramaturgs, librettists, and audio writers. We represent 2,500 performance writers in Australia. Established by writers for writers, the AWG is a democratic organisation run by its members, who each year elect a National Executive Council and State Branch Committees. Our members work together to represent their fellow writers across the industry in a number of committees such as the Theatre, Television and Games committees to negotiate for fair pay and conditions, advocate to government, and serve members' professional needs.

The Australian Writers' Guild Authorship Collecting Society (**AWGACS**) is a not-for-profit collecting society for screenplay authors. With more than 2,000 members and 32 partnerships with overseas collective management organisations, AWGACS has collected more than \$25 million in secondary royalties and distributed the monies owed to screenwriters from Australia, New Zealand and around the world. AWGACS continuously advocates for the rights of authors to ensure they are fairly remunerated for the secondary exploitation of their works.

Executive summary

We are gratified to see the NSW Government's commitment to addressing the sustainability of the creative industries through the 'Art of Tax Reform' consultation. As the professional organisation representing writers working in screen, theatre and games and interactive media we look forward to contributing to the development of more inclusive pathways for emerging practitioners and new ways to support experienced practitioners as they continue to produce world-class work.

We believe that the challenges faced by Australia's creative sector are not, at their core, tax problems. Rather, they are the product of decades of systemic underinvestment and deregulation, exacerbated by the COVID-19 pandemic. Without direct investment and regulation, tax reform alone will not be enough to reverse the contraction in the sector.

There is an urgent need to support the professional development of emerging creatives, particularly from First Nations and minority backgrounds; improve working conditions through the enforcement of industry-agreed and legal minima by the government funding agencies, and action on the growing impact of artificial intelligence on our sector.

Nonetheless, any work to ensure creative workers are able to practice their craft and tell the distinctly Australian stories we all love is welcome.

Claire Pullen
Group CEO

1. Principles for reform – an industry in contraction

Tax reform alone cannot reverse the contraction of Australia's creative economy. The cultural sector's ongoing struggles stem from the cumulative effect of:

- **Funding cuts to the ABC and SBS:** Our public broadcasters have historically commissioned landmark work that has pushed the envelope in terms of the kinds of stories being told and the diversity of Australians represented through those stories. This vital role must be continued and supported. We strongly support increased funding to the ABC and SBS to ensure they can continue to commission new Australian scripted drama, documentary and, in particular, children's content.
- **Funding cuts to the Australia Council (now Creative Australia):** In order to achieve more pathways for playwrights and the production of Australian stories on our stages, Creative Australia must be adequately funded and the funding of small and mid-sized theatre must be prioritised. All funds that are distributed by Creative Australia should come with a clear mandate for minimum requirements in the development and staging of new Australian work and minimum conditions on employment.
- **The suspension and relaxation of local content quotas on commercial television by the Morrison Government:** In April 2020, the Morrison Government suspended Australian content obligations on commercial television (which require minimum amounts of Australian drama, documentary and children's content.) This suspension stayed in place for months, causing great uncertainty in the sector. Local quotas were permanently cut under a revised 'points system' which predictably resulted in the commercial networks halving their investment in local drama: from \$107m in 2018/19 to \$54m in 2020/21. By reducing the number of hours of drama on television, the Morrison government reduced employment for thousands of Australians in the screen sector and worsened the pandemic-created under-employment and unemployment crisis, weakened the career trajectories of content creators and limited opportunities for emerging writers from all backgrounds to develop their craft.
- **The lack of action on regulation of the streaming-video-on-demand (SVOD) platforms:** In spite of widespread industry support for the proposition, the government has failed to introduce a local content quota on the SVOD platforms like Netflix, Amazon, and Disney+.
- **Incentives for production that incentivise offshore intellectual property ownership, not ownership by Australians.** Both State and Federal governments and generous incentives for production in Australia that do not prioritise Australian copyright holder (writers, directors, composers) engagement

on projects, and increase funding further down the line away from creative development.

While tax reform can be part of the solution, it is important that government prioritises support for individual artists over organisations or corporations, and encourages work across disciplines or forms. Most writers work as sole traders or freelancers, moving between short-term contracts and creative roles. Few benefit from corporate tax concessions. An example of how until now support for the sector has played out was JobKeeper. Theatre companies were paid, but playwrights were not.

Any tax offsets enjoyed by screen and theatre producers should come with an expectation that they are producing Australian content – Australian intellectual property, written, directed and crewed by Australians – for Australian audiences. Tax relief should not be paid to US studios to produce Hollywood blockbusters, and they shouldn't subsidise the stage production of a foreign play over a new Australian work. Targeted tax relief – and public money invested in the arts – should be directed to Australian artists with mixed or intermittent incomes; creatives that engage in mentorship, training, or commissioning emerging practitioners, and creators working in high-risk development phases of new screen products.

2. Opportunities for tax reform

The opportunities for work in screen are shrinking and script departments are getting smaller and smaller. There are therefore far fewer opportunities for emerging screenwriters to gain a foothold in the small local industry. It is an intensely competitive industry, with few entry points.

We need to rebuild the old 'apprenticeship' model of to ensure that the next generation of NSW writing talent has a chance to develop their skills. The new generation of writers need guidance and training. Writers in the middle of or late in their careers are capable of delivering solid mentorship programs but must be given adequate time and paid fair remuneration to do so. These artists should also not be tied to a studio, a production company or theatre company to do so; there is an overabundance of gatekeepers in the industry already. Funding and tax incentives should be directed to the individual creator.

We propose the introduction of tax incentives (in combination, ideally, with direct financial incentives) for experienced creative workers that engage emerging practitioners as 'apprentices'. Where an experienced playwright or screenwriter is commissioned to deliver a new play or feature film screenplay or television script they may engage a

suitable early- to mid-career practitioner as an apprentice. The apprentice would learn skills on the job and benefit from shared contacts and reputation transference, among other things. Programs like ScriptedInk's Writer's Internship Placement Program are good models for what a funded internship program might look like. Scripted Ink. is a not for profit organisation that aims to shape, build and invest in the Australian screen industry by creating new pathways for script development. Scripted Ink. supports writers to participate in a paid internship program at Studiocanal, taking on duties like reading scripts, writing coverage, notetaking, and assisting and learning from Studiocanal staff.

We support making arts prizes, fellowships, and government grants tax-free, similar to the treatment of the Prime Minister's Literary Awards. These funds often cover both past work and future projects that may span months or years. Taxing them reduces the resources available for artists to create and unfairly treats irregular funding as if it were stable income.

We also support clearer, plain-language resources on income averaging for authors and artists. Division 405 of the *Income Tax Assessment Act* allows artists to be taxed on their average taxable income, rather than their annual taxable income. It recognises that, creative workers often receive income irregularly, with some years boosted by a theatrical production, the release of a film or series, or a particularly large commission that would push them into a higher tax bracket. While income averaging can smooth this out, the current rules are confusing and can be complex to navigate. The Australian Tax Office should provide straightforward guidance so artists can access this support.

We advocate the creation of two tax free thresholds for creative workers. Creative workers in Australia have "portfolio careers", referring to a mixture of different jobs usually without any minimum employment standards. Patterns of work across the cultural and creative sector vary, with a large number of creative practitioners undertaking short-term contracts as employees or independent contractors or performing ad hoc and seasonal work. Many creative workers must take on a second job or multiple jobs to make ends meet. Reducing the tax free threshold for multiple jobs within the creative sector would go far in making a career in the arts sustainable.

3. Alternatives to tax

A. Direct funding of professional development pathways

NSW Government has the opportunity to grow the sector through increased funding for First Nations-specific initiatives and initiatives aimed at artists from minority backgrounds, particularly funding for grassroots projects involving emerging writers, state and federal

funding for mid-career writers, and more accessible funding for creatives who live on country or in regions outside the city.

We believe that where First Nations stories are being told on our screens and stages, First Nations creatives must be front and centre in the project's development and production. Production companies looking to produce First Nations content must genuinely engage with the story holders and communities who have given permission to share their cultural knowledge or stories. State and federal funding agencies must emphasise the training and professional development of First Nations creatives as writers, series creators and producers whenever First Nations-specific funding is granted.

However, while increased funding for projects led by artists from minority backgrounds is essential, it is just as important to fund the pathways which will foster emerging talents. This means creating a system that incentivises the development of creatives from diverse backgrounds, not merely tokenistic attachments to generate funding. Every level of talent needs to be invested in to wrap support around emerging diverse creatives. Excellence in craft is developed over time, and direct investment is needed both to support emerging practitioners and the mentors who share their time and expertise.

Recommendations:

- Increase funding directed towards the training and professional development of emerging writers and the experienced practitioners that would be employed in a mentorship capacity.
- Emphasise the training and professional development of First Nations creatives as writers, series creators and producers whenever First Nations-specific funding is granted.
- Ensure that the mentors working with the emerging artists, and sharing their time and expertise, have adequate time to do so and are remunerated fairly.

B. Enforcement of industry agreed minima, payment of superannuation

Writing work is insecure. Writers work on a commission basis and have little job security. The hours are irregular and there is often an expectation of engaging in unpaid work. They rarely enjoy minimum employment standards considered the community norm (such as the NES or superannuation) for their work. Many creatives, including writers for screen and stage, are classified as independent contractors rather than employees and, as such, are not protected by the safety net of minimum conditions that apply to employees.

Artists are workers and ensuring adequate remuneration is critical to allowing artists and creatives to have the enduring practice to create great work over a lifetime.

The Australian government's national cultural policy, *Revive*, stated that:

*“Funding bodies should continue to affirm the principle that artists should be paid for their work, including through recognition of Awards, mandated rates of pay and codes of practice such as the Live Performance Award 2020, the Broadcasting, Recorded Entertainment and Cinemas Award 2020, Australian Society of Authors rates of pay, **Australian Writers’ Guild benchmarks**, and the National Association for the Visual Arts Code of Practice.”*

There are four industrial agreements that AWG negotiates on behalf of its members working within television and theatre and these agreements have been in use, in various forms, for decades. Three of these agreements govern television writing and are negotiated between AWG and Screen Producers Australia (**SPA**). These are the Series and Serials Agreement (**SASA**), first introduced in 1985, and later the Miniseries and Telemovies Agreement (**MATA**) and the Children’s Television Agreement (**CTA**). Minimum conditions for playwrights have existed since 1979 when a committee led by AWG members spearheaded negotiations with Australian theatre companies. The result was the Minimum Basic Stage Agreement which over the years has been refined and renegotiated into the Theatre Industry Agreement (**TIA**).

With a few exceptions, Australian production companies and theatre companies comply with the minimum rates set by the AWG but there are still employers who do not comply and there are workers who are still vulnerable to exploitation (especially those between gigs and those just starting their careers in the industry).

There is currently no recourse for an Australian writer when a production company or theatre company undercuts an industry agreement. While the SASA, MATA and CTA are well-accepted standards, Australian producers do not have any **legal obligation** to use these agreements. SPA does not oblige its members to comply with their own agreements so workers are left with two options: either they take legal action against the production company (with assistance from the AWG) or the production company’s conduct is reported to the applicable government funding agency (Screen Australia or Screen NSW) which notionally has the power to withdraw funding from a producer in breach of industry minima.

Legal action is costly and inefficient and may give rise to further complications for the average screen practitioner. In an industry as small as Australia’s screen sector, a writer may be blacklisted and unable to find work if they enter into a legal dispute against a

production company over their rights and entitlements. The costs of either action are also likely to exceed any underpayments retrieved.

Screen NSW's Terms of Trade oblige recipients of funding to treat creatives fairly and reasonably by complying with "relevant award minimum rates or any relevant industrial minimums agreed between guilds". In practice, it does not engage in any enforcement action against non-compliant production companies. This should not be understood as a criticism of our agencies; rather, that they are not equipped to ensure their own terms are being followed to the level required to ensure artists are paid.

Yet, the ability to withhold or prevent a bad actor from accessing funding is useful enforcement tool which is not available in many workplaces. Given the high degree of government engagement in the sector, it is appropriate (and also consistent with worker commitments in *Revive* and *Creative Communities*). If a production company or theatre company fails to comply with or breaches an industry minimum agreement, then the funding agency should withdraw their funding, require the creative worker be made good, and the organisation be penalised (perhaps through ineligibility for funding for a period of time). Government may choose to outsource enforcement duties to relevant industry organisations. The AWG is prepared to take on this duty so long as Government is prepared to cover the reasonable costs.

Relatedly, the non-payment of superannuation by Australian production companies is widespread. We advise our members that they are [entitled to be paid superannuation for writing scripts](#) but, in practice, many production companies still refuse to pay it. Writers are often reluctant to make individual complaints to the ATO (and the recoupment of unpaid super through the ATO is itself an onerous process) or directly confront the production company and risk losing work. Litigation appears for now to be the only solution as previously highlighted in [The Guardian](#). A positive statement regarding writers' entitlement to superannuation from the NSW Government and/or the funding agencies would be immensely helpful in this regard- and superannuation is, of course, a taxation matter.

C. The impact of AI

The NSW Government must address the issue of Artificial Intelligence (**AI**) as it relates to the creative industry. As it is no doubt aware, Generative AI has been adopted in the creative sector used, for example, by art departments to quickly generate visual content that would ordinarily be a task given to an entry-level practitioner. Automated Decision Making (ADM) and Large Language Model (LLM) technology is used in the development of video games. Games companies like Ubisoft and Square Enix are hiring smaller writing

teams, in some cases dramatically smaller, and reducing the number of voice actors employed as a direct (and desired) result of AI use. These trends foreshadow how the creative industries will be affected by unregulated generative AI.

Generative AI is trained on or *copies* existing artistic work in order to create its outputs. There is little transparency as to which creators' work is used to train these LLMs without their consent.

Screen NSW's Terms of Trade states at clause 1.2 that:

Screen NSW also expects all recipients of funding support to act fairly and reasonably in relation to third parties involved in the funded project. Fairness and reasonableness include:

- *paying at least award minimum rates or, where applicable, any minimum agreed between the relevant guilds, for all work performed by third parties on their project, including Key Creatives, cast and crew;*
- *respecting the rights of all relevant persons, whether those rights be copyright or other intellectual property rights, moral rights or Indigenous Cultural and Intellectual Property rights.*

Again, the majority of businesses that employ Australian creatives are at least partially reliant on state and federal government funding and tax concessions. It is a key enforcement tool not available in many workplaces.

Clause 1.2 of Screen NSW's terms of trade clearly intend to ensure that funding recipients must respect the intellectual property rights of third parties and ensure that creative workers are fairly remunerated for the exploitation of their intellectual property.

Any funding recipient that uses AI as a replacement (in whole or in part) for work that has traditionally been done by a creative worker necessarily contradicts these terms of trade.

Recommendations:

- **Requiring artist and creative minima be paid as a part of any contract or grant.** No government money should be given in grants where there is not a

guarantee that the creative workers engaged are paid an appropriate minima, and there was fair dealing on the terms of any contract. Recipients of grants, whether they be theatre companies, screen producers, game studios or other bodies should be required to warrant they contract under established industry minima and that they comply with all relevant employer obligations including the payment of superannuation where applicable. Where an agency becomes aware that an artist or creative worker has been treated unfairly or underpaid, the person or entity in receipt of government funds should lose them and be ineligible to apply for further funding.

- **No state funding for AI projects:** State and territory funding agencies must not fund any creative projects that use AI technology as a replacement (in whole or in part) for work that has traditionally been done by a creative worker at least until the copyright concerns raised in this submission are addressed by the federal government.
- **Active disclosure:** Any person or company applying for Screen NSW funding must, throughout the grants process, have obligations to actively disclose any use of AI technology.
- **Levies on AI suppliers:** AI suppliers must be forced to remunerate creators for copyright infringement and the use of their works to train their models.