



Research Report:

Incentivising Australian Screen Diversity: Proposal for a Diversity Tax Offset, Grant, or Minimum Industry Standards

Olivia Khoo, John Bevacqua, Carolyn Cage, Maura Edmond,
Andrew Moshirnia and Tamara Wilkinson

SUGGESTED CITATION:

Khoo, O., Bevacqua, J., Cage, C., Edmond, M., Moshirnia, A., Wilkinson, T. (2024) Incentivising Australian Screen Diversity: Proposal for a Diversity Tax Offset, Grant, or Minimum Industry Standards, Monash University

REPORT AUTHORS:

This report derives from a project conducted by researchers in the Faculties of Arts, Law, and Business and Economics at Monash University: A/Prof Olivia Khoo, Prof John Bevacqua, Dr Maura Edmond, A/Prof Andrew Moshirnia, and Dr Tamara Wilkinson, with researchers Carolyn Cage and Benjamin Shapero.

ACKNOWLEDGEMENTS:

This project was funded by the Faculty of Arts, Monash University. We would like to thank Holly Brimble, Tracey Corbin-Matchett, John Godfrey, Matthew Hancock, Melanie Hoyes, Chris Irvine, Craig Rossiter, and Pearl Tan for their input. Thanks also to Jasmin Tulk of Jasmin Tulk Graphic Design. We especially wish to thank Michelle Cheng for her invaluable assistance from this project's inception.

Acknowledgement of Traditional Owners

We acknowledge the Wurundjeri Woi Wurrung and Bunurong Boon Warrung Peoples of the Kulin Nations as Traditional Owners of the lands on which the researchers conducted this work. We pay respects to their culture, and to Elders past and present.



Executive Summary

This report outlines different models of incentivising diversity across Australia’s screen industries. Each of the screen diversity incentives we propose will encourage the screen sector to employ more people who identify as women, culturally and linguistically diverse (CALD), First Nations Australians, LGBTIQ+, and people with a disability, and in doing so improve the representation of all Australians in the sector.

The report is informed by an analysis of existing screen diversity policy mechanisms and initiatives from the US, the UK, and Europe. It identifies potential mechanisms for Australian Federal legislative and regulatory framework changes. These could be complemented or extended by diversity initiatives, grants, and minimum standards overseen by State and Territory funding agencies and production companies, although the focus of this report is on recommending Federal initiatives. The four key proposals we put forward in this report are:

1. Diversity criteria adopted as minimum standards
2. A capped grant for productions meeting certain diversity criteria
3. Diversity criteria added to the existing Offsets scheme
4. A new Diversity Tax Offset

Each of these four options incorporates incentives for Australian productions that meet diversity targets for off-screen and on-screen staff as a measure to drive diversity, equity and inclusion (DEI) across the film and screen sector. They are modelled on current international exemplars: US media diversity production tax incentives (in California, New Jersey and Illinois), a UK policy proposal to introduce a 5% media diversity tax incentive on top of existing production offsets, gender diversity top-up funding in France and a UK requirement for minimum screen diversity standards.

To model these four options, we employ a definition of ‘diversity’ that includes the following under-represented groups: women, culturally and linguistically diverse (CALD) groups, First Nations Australians, LGBTIQ+, and people with a disability.

Contents

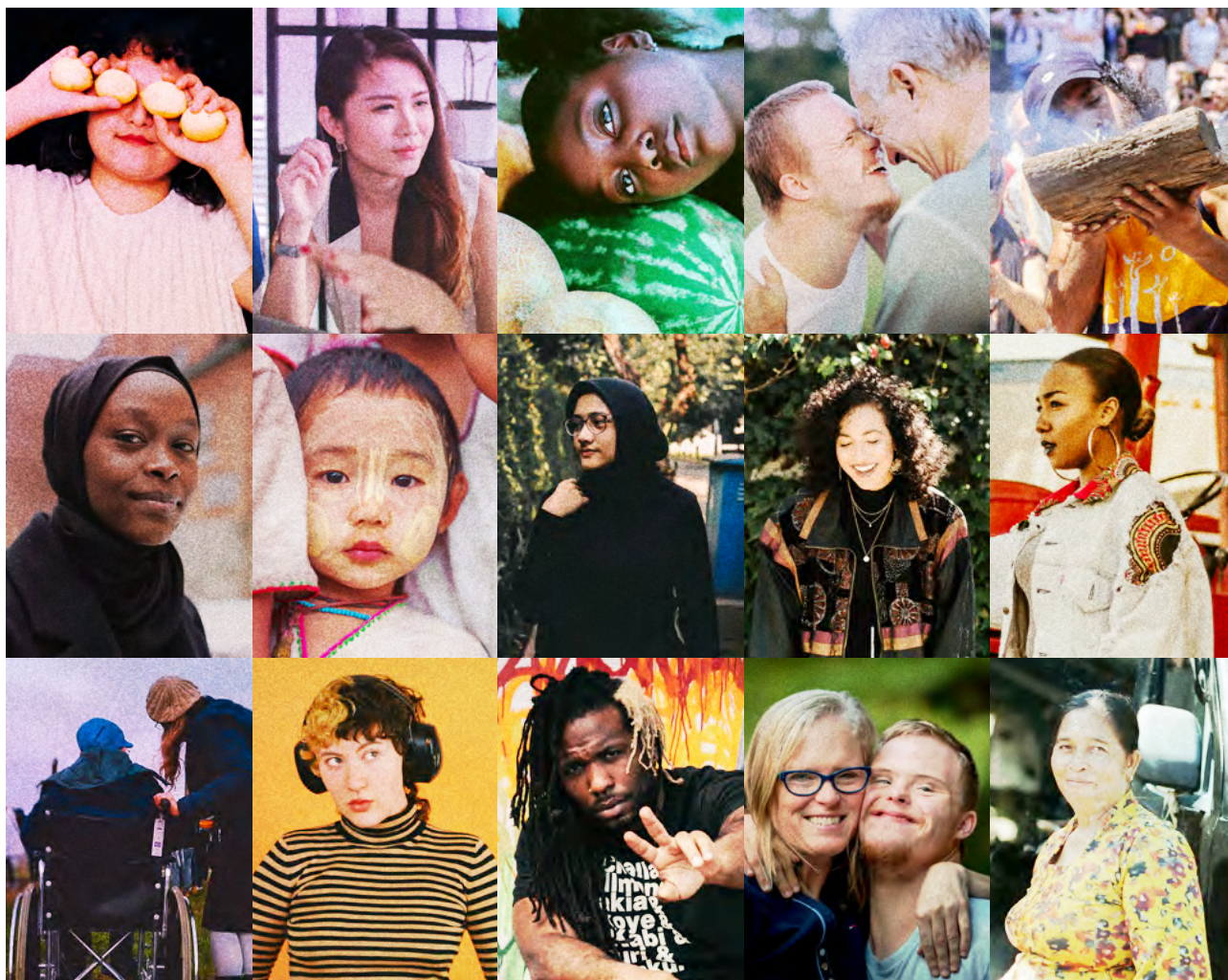
Introduction	5
Why screen diversity matters	6
Key terms – D.E.I. ‘diversity’, ‘equity’ and ‘inclusion’	6
Defining ‘diversity’	6
What do we know so far?	7
Women	7
CALD	7
First Nations Australians	7
LGBTIQ+	8
Disability	8
Research Questions	8
Diversity initiatives in the Australian screen industry – An overview	9
Federal and State Agencies	10
Public Broadcasters	11
Commercial Broadcasters and Streaming Services	11
Continuing Challenges and Problems	12
International comparisons – key examples of screen diversity initiatives from the UK, Europe and the US	13
1. Minimum Standards - BFI Diversity Standards (UK)	14
2. Top-Up Grants - CNC gender bonus (France)	14
3. Tax Incentives - Diversity Workforce Tax Incentives (US)	15
3.1 Component: Diversity Hiring Plans as Part of Overall Incentive Application Process	15
3.2 Uplift: Diversity Hiring Triggering Bonuses Beyond Incentive	15
3.3. Reduction: Diversity Failures Triggering Reduction of Incentive	15
3. 4. Geographic Diversity: Increasing Credits for Economically Depressed Areas	15
Current Australian tax incentive schemes – background and relevance	17
Proposed Diversity Incentives	19
1. Minimum Standard Diversity Criteria Prerequisite for Accessing Federal Government Financial Support	19
2. A capped grant for productions meeting certain diversity criteria	21
3. Diversity criteria added to the Existing Offset Scheme	22
4. A Diversity Tax Offset	23
References	25

Introduction

Lack of diversity in the Australian screen industry is a longstanding concern. Screen workers, industry bodies, government agencies and researchers have all called for greater representation and inclusivity both on- and off-screen. To date, there have been many diversity initiatives run by screen agencies and broadcasters, and dozens of research reports on 'screen diversity'. Despite these efforts, diversity persists as a problem for the Australian screen industry.

Inequalities and structural barriers within the Australian screen industry have been documented at length in recent industry reports about on-screen drama representation (Screen Australia 2016; 2023), gender and screen production (Screen Australia 2015), screen composition (Strong and Cannizzo 2017), cinematography

(Australian Cinematographers Society 2022), general cast and crew in film and television (SDIN 2022) and screen education (Dooley et al 2020), as well as in closely related fields such as news and current affairs (Media Diversity Australia 2022) and advertising (Shequal 2020). Scholarly research has also examined systemic inequalities in the Australian screen industry relating to gender (French 2014, Luckman et al 2020), and cultural and linguistic diversity (May 2002). This research reveals 'inequality regimes' (Acker 2006) that make it difficult for marginalised groups to establish and sustain careers in the screen industries, leading to talent drain, 'pipeline' problems and pay gaps, all of which affect the variety and quality of the Australian stories shared locally and internationally.



Why screen diversity matters

Diversity both on and off screen brings numerous benefits to the film and television industries including representation and authentic storytelling, economic viability and audience engagement, as well as talent development and industry growth.

- *Enhancing social inclusion.* Film and television are key sites for sharing, shaping, and understanding our world. Greater diversity of representation challenges societal norms and fosters social change. It empowers underrepresented communities and ensures Australian audiences can access a richer and more comprehensive story of the nation and its place in the world (SDIN's [The Everyone Project Report](#) 2022).
- *Addressing workforce skills shortage.* Diverse crew and cast incentives drive training and employment in the sector. They help increase the supply of television and film professionals from a range of under-represented backgrounds ([Ausfilm Workforce Capacity Working Group](#)).
- *Encouraging international streaming services to Australia.* Diverse crew and cast incentives attract international streamers (who prioritise and have existing diversity requirements) to Australia and encourage them to spend money on training to upskill diverse crew.
- *Responding to diverse audiences.* Australian audiences are now primarily consuming media content on subscription video-on-demand (SVOD) streaming platforms (DITRDCA 2022). Greater on- and off-screen diversity addresses changing tastes and shifting trends in viewership of contemporary Australian audiences.

Key terms—D.E.I. 'diversity', 'equity' and 'inclusion'

Defining 'diversity'

'Diversity' is a complex and at times contested term. While there is no fixed definition, cultural or social diversity generally refers to groups or communities that have historically faced limited representation or have been excluded from various sectors of society, including areas such as education, employment, and media representation. Additionally, it encompasses communities with a shared experience of marginalisation stemming from circumstances beyond their control.

There is ongoing debate about what terms should be used when referring to differences among individuals and communities. Some have suggested that the term 'diversity' is 'othering', lacks specificity, or has become overused to the point where it serves more function to the institutions that deploy it than the communities of people it references.

Diversity Arts Australia, for example, argues that: 'Many authors and creative practitioners acknowledge that the terms used to describe diversity are often limited and problematic, as they have been constituted by discourses that homogenise and elide economic, political and cultural diversities' ([Shifting the Balance Report](#) 2019).

In discussions around diversity, the term 'inclusion' is often used concurrently. Inclusion emphasises the importance of creating environments and systems that actively embrace and value individuals from all backgrounds, as well as 'getting the mix of people in an organisation to work together to improve performance and wellbeing' ([Diversity Council Australia](#) 2023).

In recent years, there has been growing recognition of the term 'equity' when talking about diversity. 'Equity' recognises that we do not all start from the same place and that we must acknowledge and make adjustments to imbalances. Some have argued that 'equity' should take priority over 'diversity' and 'inclusion' ([Towards Equity](#) 2020).

In recent Australian screen initiatives, there is a noticeable shift towards using the term 'historically underrepresented' communities/groups rather than 'diversity' (see Screenwest's [New Kids on the Block](#) program 2023).

This report will continue to use the terms 'diversity', 'equity' and 'inclusion', remaining mindful of these debates and concerns.

To model the incentives proposed in this report, our definition of 'diversity' is aligned with how the term is used most often by the Australian screen industry. There are five key communities and groups that are typically included in 'diversity' initiatives from the Australian screen sector¹:

- Women
- Culturally and linguistically diverse (CALD) groups
- First Nations Australians
- LGBTIQ+
- Disability

These categories are not discrete but can intersect. Intersectionality is a concept that recognises that people may experience overlapping forms of discrimination based on their specific attributes (such as gender, disability, ethnicity, sexual orientation, and religion), which may compound discrimination or disadvantage experienced. Socio-economic, geographical and other demographic factors such as age can also further compound disadvantage and discrimination.

What do we know so far?

Our understanding of diversity in the screen industry is limited by gaps in research; the insights provided here are based on available reports.

Women

The status of women in the Australian screen industry is well-researched and documented, with reports dating back to the mid-1970s. Studies produced in the 1970s-1990s identified major barriers to women's participation in the sector, and underrepresentation in senior roles, creative leadership roles and technical roles. When Screen Australia revisited the issue again in 2015's [Gender Matters](#) report, they observed minimal (if any) improvement in levels of women's participation in the industry since the 1970s, particularly in the prestige realm of feature film production.

In the most recent study on the status of women in the screen sector, [A Wider Lens](#) (2022), which examined the workforce of Australian film and television camera departments, we see much of the same 'regimes of inequality' (Acker 2006) that have dogged the sector for decades. Men dominate the workforce overall (80%) and progress more consistently into technical or creative leadership roles (an effect that is more pronounced the greater the production budget), which contributes to a serious gender pay gap.

A Wider Lens also looked at why women left the camera profession, with the top reasons being social/household impacts of their work, mental health impacts of their work, discrimination, toxic workplace culture and bullying, and experiences of sexism and sexual harassment. Again, this is consistent with earlier studies dating back to the 1970s, with women's 'second shift' and caring responsibilities, experiences of sexism and harassment, and pessimism about their career opportunities cited as primary reasons for leaving the sector.

CALD

When it comes to CALD screen industry professionals, people from European and Anglo-Celtic backgrounds are over-represented, while people from Asian backgrounds are under-represented when compared to population benchmarks (SDIN 2022).

Screen practitioners interviewed for [Seeing Ourselves 2](#) (Screen Australia 2023) identify challenges including persistent stereotypes, tokenism, and gaps in representation in storytelling, suggesting that producers and directors have all the power over the end product of cultural elements in a story. Additionally, they noted that when representation is rare, these characters take on the burden of representing a community that rarely sees itself on screen and can come under extra scrutiny regarding inauthentic portrayal or perpetuating stereotypes.

First Nations

Following many decades of pioneering policy and advocacy, First Nations screen production is now a critically important part of the Australian screen sector, achieving widespread popular and critical recognition. Although there is a strong and growing level of First Nations on-screen representation in Australian television dramas, First Nations main characters are typically concentrated in fewer titles than characters from other groups, and they are less 'diverse' than other characters with few queer or disabled characters, and a bias towards socio-economic disadvantage in terms of representation (Seeing Ourselves 2 2023), in keeping with wider deficit discourses (Fforde 2013).

Screen Australia's [The Next 25 Years](#) strategy (2019) notes that First Nations people continue to face a number of challenges in the screen industry. These include a fragmented approach to funding and strategy across government and private agencies, lack of First Nations representatives (both as employees and in leadership positions), and unclear and unsustainable talent pathways.

1. These five 'diverse' groups are used by Screen Australia's [Seeing Ourselves](#) reports (2023), SBS's [Equity and Inclusion Guidelines](#) (2022), ABC's [Diversity, Inclusion and Belonging Plan](#) (2021), South Australian Film Corporation (SAFC)'s [Diversity and Inclusion Strategy](#) (2022), and the Screen Diversity and Inclusion Network (SDIN)'s [The Everyone Project](#) (2022).

LGBTIQ+

LGBTIQ+ refers to people who identify as lesbian, gay, bisexual, transgender, intersex and queer. The + represents others not explicitly mentioned, including asexual, pansexual, and agender. The overall rate of LGBTIQ+ representation in Australian television drama has increased in recent years. However, according to the latest [Seeing Ourselves 2](#) report (2023), it is still significantly below the population benchmark. Almost seven out of ten titles had no LGBTIQ+ main characters, and almost half of the titles that featured LGBTIQ+ main characters featured just one. There is also a severe lack of representation in children's titles compared to dramas.

Disability

In 2018 there were 4.4 million Australians with a disability, or 17.7% of the population (ABS 2018), however according to The Everyone Counts report, people with disabilities are vastly under-represented compared to population benchmarks, both on-screen (8.9%) and behind the camera (5.3%) (SDIN 2022). There is also a lack of breadth when it comes to disability portrayal.

According to [Disability Justice Lens](#) (2023), the first in-depth research into the experiences of and attitudes towards people with disability in the Australian screen industry, disabled practitioners face many challenges. These include being stereotyped, negative attitudes from employers, and a widespread lack of understanding about accessibility in the industry, such as inflexible working conditions and physical access requirements.

Research Questions

How can we continue to advance screen diversity in Australia through targeted Federal financial incentives and/or minimum industry standards?

1. What actions have been taken by government, public and commercial broadcasters, and streaming services to develop screen diversity programs in Australia? With what impact or success?
2. What are key international examples of screen diversity tax incentives, grants and/or schemes that have been initiated in other jurisdictions (e.g. the UK and the US)? And how can these inform Australian approaches to screen diversity initiatives?
4. What are the legal/policy framework considerations and options for advancing diversity through Federal financial incentives and/or minimum industry standards?

Diversity initiatives in the Australian screen industry – An overview



Diversity initiatives in the Australian screen industry – An overview

We are seeing more diversity initiatives and policies in the Australian screen industry, and a growing commitment to addressing matters of inequality and underrepresentation. However, important limitations to the existing suite of responses remain, as do ongoing barriers that limit the effectiveness of these schemes. Short-term, ad hoc and non-binding ‘commitments’ or ‘guidelines’ still dominate responses from the sector. This is compounded by a lack of diversity at the most senior levels of leadership. More robust reporting and data is also needed to meaningfully track change over the longer term.

Federal and State Agencies

Screen Australia, the Federal Government agency charged with supporting Australian screen development, production and promotion, has been developing initiatives to address diversity, inclusion and equity in the sector for nearly fifty years, since the Australian Film Commission (now Screen Australia) was first established. These have included the Women’s Film Fund (1976–1992), numerous programs developed as part of its [First Nations Department](#) (launched 1993), [Gender Matters](#) (launched 2015), and The [Emerging Writers’ Incubator](#) (launched 2021).

Of particular note is Screen Australia’s First Nations Department, which has played a crucial role in supporting and fostering Aboriginal and Torres Strait Islander storytelling and filmmakers. At the time of its inception in 1993 there had been only a handful of First Nations-authored screen titles produced in Australia, of any genre or length. The Department’s long term commitment to both funding and training initiatives has resulted in the production of critically and commercially successful First Nations films and television shows, contributing to greater representation and recognition of Indigenous voices and perspectives in the industry. To date, the Department has provided over \$35 million in funding for development, production and talent escalation (Screen Australia 2019).

In 2015, Screen Australia addressed the under-utilisation of female talent in key creative roles when they announced their [Gender Matters](#) KPIs, which included \$5 million funding, a task force, and a five-point plan.

The plan included:

- The word ‘gender’ being added to the Assessment Criteria on all Screen Australia funding guidelines (not just Gender Matters funding);
- \$1.867 million in funding for the development of 45 female-led dramas that satisfied the ‘three tick test’ (having at least three of the following: female director, female writer, female protagonist, female producer); and
- Projects funded by Screen Australia in 2016/17 with a budget of over \$500,000 were required to include a paid attachment for a woman as part of the production budget. Screen Australia would contribute up to \$20,000 per attachment, up to \$1 million total.

By the end of 2018/19, 56% of projects receiving production funding from Screen Australia had at least half of the key creative roles occupied by women, based on a three year average. This exceeded the Gender Matters KPI of 50%. While the targets continue to exceed 50%, the trend across the three years is down: 57% in 2019/20, 55% in 2020/21, and 52% in 2021/22 (Screen Australia 2022). Furthermore, women participate more actively in TV/ Video on Demand drama and documentary production than in other areas of production.

Screen Australia also runs an [Access Coordinator Training Program](#) in partnership with the New Zealand Film Commission and State screen agencies. This initiative is designed to train and support individuals from the Deaf/Disabled and/or Neurodivergent (DDN) communities in this crew position to improve the inclusion of DDN talent in the screen industries.

Each State agency in Australia has had its own set of diversity initiatives and policies. This section outlines both past and present initiatives run by the State agencies.

Screen NSW has diversity initiatives aimed at supporting underrepresented groups in the industry, including their Screenability program, supporting filmmakers with disability, and the [Emerging Filmmakers Fund](#), requiring the inclusion of a female director and priority to be given to teams which include people from underrepresented groups.

VicScreen’s focus on diversity and inclusion has included the [Brilliant Careers Leadership forum](#) fostering skills to encourage female leadership in the Australian screen industry, and their [Originate](#) initiative, a partnership with Screen Australia, SBS and Arenamedia, inaugurated in 2021 to champion the work of writers and directors from underrepresented backgrounds. VicScreen has also developed [Industry Development Guidelines](#) which requires applicants to demonstrate diversity and inclusion in their applications.

Screen Queensland's initiatives include [SQ Mob](#), [Aboriginal and Torres Strait Islander Program](#), which oversees First Nations screen production, screen culture festivals and career development programs, and [RIDE Shorts Program](#) for filmmakers from underrepresented backgrounds to secure funding to create a nonfiction short film.

Screenwest's [Diversity and Inclusion Roadmap](#) sets targets for increasing the representation of under-represented groups in the industry, and includes their [Diversity and Inclusion Fund](#).

South Australian Film Corporation (SAFC) has developed a [Diversity and Inclusion Strategy](#) (2022-2032) that sets out quantifiable 10-year targets for the representation of diversity both on and off screen in the South Australian screen sector that reflect the state's population.

Screen Territory (NT) launched [CENTRALISED](#) in 2019 with the SAFC, aiming to boost First Nations screen creatives in the Northern Territory and South Australia with specialised funding, support and development opportunities. The initiative also includes the Documentary Australia First Nations Fellowship.

Screen Canberra has partnered with [Bus Stop Films](#), a not-for-profit organisation using filmmaking to raise the profile of people living with disabilities, to support the delivery of Bus Stop Films' [Accessible Film Studies Program](#), taught by industry professionals, with the assistance of disability support workers.

Public Broadcasters

Under their respective charters, Australia's public broadcasters have requirements to serve, reflect and promote the cultural diversity of the Australian community.

In 2023, the ABC released their [Diversity, Inclusion and Belonging](#) (2023-2026) plan that seeks to ensure more diverse faces, voices, cultures and stories are being reflected and represented on Australian screens. The guidelines support and reflect the ABC's Elevate Reconciliation Action Plan (RAP) 2019-23.

In 2022, SBS released their [Commissioning Equity & Inclusion Guidelines](#), outlining their investment in providing pathways for under-represented creatives in the sector. Included in their [content initiatives](#) is their Talent Escalator, which is a nation-wide program focused on creating opportunities for creatives from historically under-represented communities within the television production sector and The Emerging Writers' Incubator, a nationwide initiative announced in 2021 to support the development of under-represented screenwriting talent in Australia.

Commercial Broadcasters and Streaming Services

The Australian screen industry has been historically dominated by networks that prioritise capturing a large, mainstream audience to ensure commercial success. As a result, promoting diversity in both the content aired and within the workforce has often been seen as a secondary concern. Nevertheless, there is growing acknowledgement by the commercial broadcasters and streaming services that making content that appeals to diverse audiences makes good commercial sense. The streaming services have led the way in showing how successful diversity can be as a business strategy.

Netflix ran an Australian program called [Grow Creative](#), funded by the Netflix Fund for Creative Equity, to support and prioritise diversity in front of and behind the camera. This included the First Nations [Production Ready Bootcamp](#) and Netflix [Indigenous Scholarship Fund](#) in partnership with AFTRS, which provided \$515,000 for a range of initiatives to elevate First Nations screen and broadcasting creatives.

Foxtel supports two [Screen NSW initiatives](#) which aim to grow diversity within the Australian screen sector: She Shoots, a program developed to address the gender disparity in commercial unscripted television camera and sound departments, and ScreenAbility, a program developed to create opportunities for people with disabilities in technical and creative areas of screen production.

Seven West Media, Network Nine and Network 10 are members of the Screen Diversity and Inclusion Network (SDIN), together with Federal and State screen agencies, ASTRA (Australian Subscription Television and Radio Association), Free TV, and SPA (Screen Producers Australia). Other members of the SDIN include the Australian Film, Television and Radio School (AFTRS), the Australian Writers' Guild, the Australian Directors' Guild, Australian Screen Editors, and the Casting Guild of Australia. All SDIN members commit to a [Charter of Inclusion](#) to 'actively reflect the diversity of Australian society at every level of our workforce' both on and off screen, and to seek out and develop talent from diverse backgrounds at every level'. While the charter involves a statement of commitment, it does not involve any binding agreements or quotas. Individual commercial and free-to-air broadcasters have introduced their own initiatives, such as Network 10's [First Facts: First Nations Factual Showcase](#). Announced in February 2023 in partnership with Screen Australia's First Nations Department, First Facts supports First Nations documentary filmmakers to produce short documentaries to screen on 10 Play and Network 10's social media channels.

Continuing Challenges and Problems

The short-term, ad hoc and non-binding nature of many of these schemes and commitments limits the effectiveness of achieving change. Without being enshrined in legislation, diversity requirements are not enforceable on an industry-wide basis and are prone to change based on policy priorities.

The lack of durability of existing schemes means that they cannot go far enough in tackling the issue of diversity in the Australian screen industry. Improving screen diversity requires sustained effort and reflection over the long term. As has been widely observed in relation to gender, for example, a lack of sustained attention results in minimal improvement and, in some cases, even worsening the status of women in key roles within the screen industry over the last 40 years. Durability of diversity initiatives is key to ensuring that goodwill and short-term progress translates into meaningful, long-term improvement.

There also continues to be a lack of data and/or funding into research for data making it difficult to set benchmarks or concrete goals for the future. This is compounded by legal and privacy concerns on collecting and storing [sensitive information](#). Voluntary surveys do not accurately capture data, or skew data based on who is likely to put their hand up to do the surveys, and should not be seen as representative of the whole sector, as the preliminary data from The [Everyone Counts Report](#) makes clear.²

Recommendations in [A Wider Lens](#) (2022) include the design and implementation of a comprehensive industry data strategy for the systematic collection, analysis, reporting and sharing of diversity data, and that diversity data collection, monitoring and reporting should be a mandatory condition of both direct and indirect public funding for industry projects and organisations.

Other inclusivity barriers relate to specific gender-related issues like childcare and time out of the workforce as noted in AFTRS' [Inclusive Pathways Framework](#) for Screen Storytelling Talent report (2016). The consultations for this report identified some elements for success that would be key to improving the diversity of the sector from a practitioner perspective: education and practical training, credits, and organisational targets and diversity plans.

In [Disability and Screen Work in Australia](#) (2023), respondents suggested easier access to reasonable adjustments, clear lines of communication and responsibility in workplaces, targeted funding for creatives with disability and greater understanding of disability issues.

In addition to the challenges and barriers that screen practitioners face both on and off screen, commissioners and broadcasters also face challenges when it comes to diversity. [Seeing Ourselves](#) (2016) notes that commissioners and broadcasters are not willing to take risks with underrepresented writers and actors who have not yet proven their bankability, and the perception that audiences and the market have a low tolerance for diversity. [Seeing Ourselves 2](#) (2023) included in-depth, semi-structured interviews with 28 screen industry practitioners, providing their views on current challenges in terms of delivering authentic and diverse representations of Australia through scripted TV drama. The overarching themes included centring lived experience and genuine collaboration in telling authentic stories, the importance of self-education and professional training to improve workplace culture, and increasing cultural safety and accessibility across the screen industry.

Addressing these barriers requires sustained commitment, collaboration, and continuous evaluation to address ongoing challenges and ensure progress. A multi-faceted approach involving industry organisations, government bodies, production companies, and individual professionals is necessary not only in implementing initiatives but also in fostering a cultural shift within the industry to ensure long-lasting change. The Federal financial incentives and minimum diversity standards we propose at the end of this report are designed to be implemented in a manner that will aid in addressing these continuing challenges and problems including durability, the need for reliable quantifiable data, allied structural socio-economic issues such as childcare, and concerns about the financial viability of addressing diversity.

2. As noted in The Everyone Counts report, 'Caution should be used in generalising these first release findings to the industry or using them to draw conclusions or set benchmarks. ... As more screen projects and their cast and crew join The Everyone Project, the data quality will improve and the picture of diversity in the Australian screen industry will come into sharper focus.'



International comparisons
– key examples of screen
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UK, Europe and the US.

International comparisons - key examples of screen diversity initiatives from the UK, Europe and the US.

Countries and jurisdictions around the world have introduced their own incentives, standards and requirements to improve diversity in the screen and media sectors. As in Australia, these have included many ad hoc and short-term schemes designed to boost participation from underrepresented groups. However, there also exist more substantive efforts to incentivise diversity, including monitoring and reporting requirements, 'diversity' bonus funding, 'diversity' tax offsets, and minimum 'diversity standards' for meeting funding eligibility requirements. We highlight several of these now, in order to consider what else Australia might do to support greater screen diversity.

1. Minimum Standards – BFI Diversity Standards (UK)

The British Film Institute (BFI), the UK's leading organisation for film and moving image, has introduced Diversity Standards as a contractual requirement for all recipients of BFI funding. First introduced in 2016, the Standards are intended to support industry-wide change and have since been adopted by Film4, BBC Films, BAFTA, BIFA (British Independent Film Awards) and Paramount (UK). This means that while the Standards are voluntary, in effect they are now a requirement to be eligible for the majority of UK public screen funding and awards. The Standards exist alongside other DEI monitoring and reporting requirements for television broadcasters.³

The BFI Diversity Standards focus on protected characteristics as set out in the UK's Equality Act 2010, which encompass age, disability, gender reassignment, marital status, pregnancy, race, religion, sex and sexual orientation. They also extend to people from socio-economically disadvantaged backgrounds, from regions outside London and the South East, and those with caring responsibilities.

The BFI Diversity Standards are described as 'flexible' because they allow organisations to choose to address different dimensions of diversity (audience, workforce, representation). Depending on the projects seeking funding, the Standards can be achieved via meeting one or more of the following standards:

- Standard A – on-screen representation
- Standard B – creative leadership and project teams
- Standard C – industry access and opportunities
- Standard D – audience development.

Criteria for meeting the standards vary between project type and project stage, with production funding needing to meet Standard C and one other. Standard C is focused on creating pathways for people from underrepresented groups, via paid internships, apprenticeships, specialist advisory roles and other training and work-experience opportunities. Screen Scotland has undertaken a two-year pilot trial (continuing until April 2024) making the Standards a requirement for all of its funding applications. Screen Scotland's trial implementation of the BFI Standards has identified additional underrepresented groups that affect the Scottish screen sector that are not part of the protected characteristics listed in The Equalities Act 2010, including people from refugee and migrant backgrounds, from underrepresented geographic areas of Scotland, Gaelic speakers and experience of being in the care system.

The BFI Diversity Standards offers a model of minimum standards for diversity which set expectations across the entire screen industries, and not just in relation to production and development, but also challenging hierarchies in terms of whose work and careers are elevated and celebrated through festivals and awards. The standards give flexibility to applicants to awards and funding to address different dimensions of diversity - such as through creating career pathways and paid professional opportunities, which are known to be key areas of concern for some underrepresented groups.

2. Top Up Grants – CNC gender bonus (France)

France's national funding and film culture organisation - *Le Centre national du cinéma et de l'image animée* (CNC) - has introduced several measures to promote diversity and gender equality in the French film and television industries. In 2019, the CNC introduced a 15% support bonus for films which had at least four women in one of eight key positions (directing, production manager, director of photography, sound manager, costume designer, set designer, editor and director).⁴

The bonus has now been further developed and incorporated into the [General Financial Aid Regulations](#) for funding via the CNC, with projects rated according to a point system (for example two points for a female director, one point for a female screenwriter and so on). Projects that achieve set minimum points are eligible to receive an additional direct allocation equal to 25% of the total amount invested by delegated production companies. The minimum points required vary across feature film, documentary and animation, in response to the different equity and workforce issues that have historically affected the different forms.

3. As a condition of their licences, broadcasters in the UK are also subject to monitoring by Ofcom, the UK's communications regulator. Ofcom promotes equity, diversity and inclusion in broadcasting as a key priority. It collects information on the make-up of workforces and equal opportunity arrangements in relation to sex, race and disability (mandatory reporting) and further protected characteristics as set out in the Equality Act 2010 (voluntary reporting), producing annual reports that track whether the workforces at the broadcasters reflect the diversity of the UK working population more generally.

4. <https://www.cineuropa.org/en/dossier/newsdetail/3372/360701/>

The CNC also ran the Diversity Image Fund in 2012-2016, which was a scheme devoted to funding projects that represented the experience of French migrants, women, and disadvantaged populations in France. In 2016, this funding was reformed and incorporated into the CNC's [General Financial Aid Regulations](#). Selective financial aid - 'Images of Diversity Aids' - is awarded to support the development, production and distribution of major cinematic or audio-visual work which contributes to a more faithful representation of the diversity of French society, in particular French migrants, to supporting new voices and talent from priority neighbourhoods in urban areas, and to fighting discrimination against these populations. Unlike the gender equality top-up funding, Images of Diversity Aid is provided not on the basis of points awarded to personnel attached to the project, but on the basis of 'artistic merit' as determined by the grant committee.

There are also DEI requirements for French television industries and broadcasters, which are overseen by the national regulator for the audiovisual sector, the Conseil supérieur de l'audiovisuel (CSA).⁵

The CNC gender bonus offers a 'top-up' model of incentivising diversity. This model rewards efforts to achieve greater gender equality with additional funding, but without otherwise changing the existing funding and regulatory systems for screen production and representation. A points based top-up grant can be adapted to address workforce diversity more generally, beyond gender, and to target specific aspects of diversity (for example, to address areas of greatest need, which may change over time).

3. Tax Incentives – Diversity Workforce Tax Incentives (US)

Film tax incentives are widespread in the United States, existing in a large majority of states.⁶ These are not without controversy, typically involving discussions of effectiveness and return on investment.⁷ However, it is recognised in several of the major filming markets (California, Illinois, New York, New Jersey) that incentives can function as a means to increase diversity in the entertainment industry, typically centred on the hiring of women and minorities. There are four approaches for directly or indirectly addressing diversity through tax incentives across major US filming markets: Diversity as Part of Overall Incentive Application Process, Diversity

Hiring Bonuses, Award Reductions for Lack of Good-Faith Hiring, and Hiring from Economically Depressed areas. These approaches are not mutually exclusive and states may employ multiple approaches; a state might employ both a diversity requirement as an overall application process and a geographically targeted approach. A brief overview of these approaches is instructive.

3.1 Component: Diversity Hiring Plans as Part of Overall Incentive Application Process

A state may require diversity as a component of an application for an existing film tax credit program. For example, New York's Film Tax Credit Program⁸ and Illinois' Film Production Service Tax Credit⁹ require applicants to file a diversity hiring plan comprising specific strategies and goals relating to hiring a diverse workforce. Productions that do not show good faith efforts to meet these goals may be denied the credit.

3.2 Uplift: Diversity Hiring Triggering Bonuses Beyond Incentive

A state may provide an additional incentive that goes beyond an existing film tax credit program. For example, New Jersey's Film & Digital Media Tax Credit offers a 2% or 4% diversity uplift for productions on top of a 30-35% tax credit.¹⁰ Similarly, California's Soundstage Filming Tax Credit Program offers a 4% Diversity Goals Uplift for a good-faith effort to achieve goals stated in the submitted Diversity Workplan.¹¹

3.3. Reduction: Diversity Failures Triggering Reduction of Incentive

A state may reduce the tax incentive award for productions that do not make a good-faith effort to meet diversity goals or fail to submit diversity workplans. Beginning in 2025, California's Film and Television Tax Credit Program 4.0 will reduce a production's allocated credit by 4% in the absence of good-faith efforts or an omitted diversity workplan.¹² This marks a shift from an uplift approach in Program 3.0 and the Soundstage Filming Tax Credit Program.

3.4. Geographic Diversity: Increasing Credits for Economically Depressed Areas

A state may increase tax incentives for hiring individuals who live in economically depressed areas of the state. For example, Illinois' Film Production Service Tax Credit provides a 30% tax credit for Illinois wages, but this is increased to 45% for individuals living in economically depressed/disadvantaged areas.¹³

5. French broadcasters are required to meet commitments to the fair representation of women in programming; the employment of women in the sector; training and representation of people with a disability; and representation of the diversity of French society (but not to employment). In France, the 2007 Data Protection Act forbids the processing of data of a personal nature directly or indirectly relating to racial, ethnic or religious origins, making it difficult to carry out studies relevant to assessing and monitoring levels of diversity within screen sectors.

6. Jackson Brainerd and Andrea Jimenez, Film Tax Incentives back in the Spotlight, National Conference of State Legislators (May 5, 2022), <https://www.ncsl.org/fiscal/film-tax-incentives-back-in-the-spotlight>.

7. States differ as to how entertainment growth should be calculated, whether the proper measure of ROI should be fiscal ROI or economic ROI, and whether growth of the entertainment sector cannibalises other sectors within the state.

8. New York State Film Tax Credit Guidelines, <https://esd.ny.gov/sites/default/files/Film-Credit-Guidelines-wAppendix-05052023.pdf>

9. Illinois Film Tax Credit Diversity Documents, <https://dceo.illinois.gov/whyillinois/film/filmtaxcredit/diversitydocuments.html>

10. NJ Motion Picture & Television Commission Incentives Credit, <https://www.nj.gov/state/njfilm/incentives-credit.shtml>

11. California Soundstage Filming Tax Credit Program, https://cdn.film.ca.gov/wp-content/uploads/2022/10/Soundstage_Program_Guidelines.pdf

12. SB-132 Income taxes: tax credits: motion pictures: occupational safety: California Film Commission, <https://legiscan.com/CA/text/SB132/id/2833531>

13. 35 ILCS 16/ Film Production Services Tax Credit Act of 2008, <https://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=2972&ChapterID=8>



Current Australian tax incentive schemes – background and relevance

Current Australian tax incentive schemes – background and relevance

The Australian screen industry has a rich history of government support and tax incentives aimed at fostering local film and television production. The current scheme, known as the Australian Screen Production Incentive (ASPI) scheme supports screen production through tax incentives for film, television and other screen production in Australia.

Administered under Division 376 of the Income Tax Assessment Act 1997, the main elements of the Australian Screen Production Incentive include:

- The Producer Offset, which entitles production companies to a 40% tax offset on eligible feature films and 30% on other eligible formats for productions with significant Australian content¹⁴;
- The Location Offset, a 16.5% tax offset that supports the production of large-budget film and television projects filmed in Australia¹⁵; and
- The Post, Digital and Visual Effects (PDV) Offset, a 30% tax offset supporting work on post, digital and visual effects production in Australia, regardless of where the filming occurs¹⁶.

It is beyond the scope of this report to examine each of these in detail, but a basic understanding of them and their genesis is important for a number of reasons. These include the fact that these existing offsets, the Producer Offset in particular, indirectly address elements of diversity through incentivising Australian content rules. Further, the existence of these incentives indicates the entrenched and accepted nature of tax incentives as a legislative vehicle used in Australia for addressing various socio-economic policy imperatives targeted at the screen industry. The interaction of these existing financial incentives will also be central to the integration and success of any new diversity incentive measure – including all of those proposed in this report.

Over many decades, these incentives have played a pivotal role in shaping the landscape of the industry. The current Australian Screen Production Incentive was introduced in July 2007. Prior to this, the Australian Government provided indirect funding support through

the Income Tax Amendment Act 1936 (Division 10BA and 10B). The 10BA Tax Incentive Scheme was introduced in 1981 to encourage private investment in culturally relevant, high-quality Australian film and television productions. To be eligible, programs needed to be made wholly or substantially in Australia or be an official co-production, and have ‘significant Australian content’.¹⁷ Investors could receive tax deductions of up to 150% of capital expenditure on eligible projects. This scheme led to the emergence of respected Australian filmmakers and critically acclaimed films, both domestically and internationally.

The Significant Australian Content (SAC) test is retained in the current Producer Offset: Screen Australia must be satisfied that the project has a significant level of Australian content, referred to as ‘meeting the SAC test’.¹⁸

[Section 376-70\(1\)](#) of the Income Tax Assessment Act 1997 (ITAA) specifies that, in determining whether a project has significant Australian content, Screen Australia must have regard to the following:

- the subject matter of the film
- the place where the film was made
- the nationalities and places of residence of the persons who took part in the making of the film
- the details of the production expenditure incurred in respect of the film, and
- any other matters that we consider to be relevant.¹⁹

Screen Australia notes that ‘while it is necessary to have many Australian elements to pass the SAC test, the test is applied case by case and in a holistic manner, rather than rigidly.’²⁰

There has been ongoing debate with film and cultural industry circles regarding the ambiguity of the eligibility criteria on what constitutes ‘significant Australian content’ and the fact that is left up to Screen Australia’s discretion.²¹

Modern Australia is culturally diverse, which adds to the complexity of defining ‘significant Australian content’ or what a qualifying ‘Australian film’ should be. This complexity may in part explain the persisting challenges and shortfalls in comprehensively addressing diversity in the Australian screen industry as canvassed earlier in this report. These considerations add to the case for targeted new diversity incentives.

14. Income Tax Assessment Act 1997, ss 376-55, 376-60.

15. Income Tax Assessment Act 1997, ss 376-10, 376-15.

16. Income Tax Assessment Act 1997, ss 376-35, 376-40.

17. [Division 10BA | Australian Taxation Office](#)

18. Income Tax Assessment Act 1997, ss 376-65(2)(a)(i), 376-70. See also [Significant Australian content - Eligibility - Guidelines - Producer Offset - Funding and Support - Screen Australia](#)

19. <https://www.screenaustralia.gov.au/funding-and-support/producer-offset/guidelines/eligibility/significant-australian-content>

20. [Doing Business with Australia](#)

21. See Bruno (2018) <https://iamtaylorbruno.wordpress.com/2018/08/23/australia-and-co-productions-looking-to-the-future/>; James (2023) https://eprints.qut.edu.au/242133/1/Robin_James_Thesis.pdf.



Proposed
Diversity Incentives

Proposed Diversity Incentives

In order to increase the workforce diversity of the Australian screen industry, four proposals are put forward: (1) adopting diversity criteria as a minimum standard; (2) providing a capped grant for productions that meet diversity criteria; (3) adding diversity criteria to the existing producer tax offset; and (4) providing a media diversity tax offset. While model (1) (minimum standards) could be adopted in addition to models (2), (3) and (4), the latter three models should be treated as discrete alternatives to avoid productions being able to 'double up' on funding. Some arguments for and against each model are proposed below, with a view to opening industry discussion on the best pathway forward.

1. Minimum Standard Diversity Criteria Prerequisite for Accessing Federal Government Financial Support

The Australian Government could encourage increased diversity through the creation of minimum standards for workforce diversity in the screen industries. This could be mandated as a requirement to be eligible for any Federal Government funding made available for screen production and development via Screen Australia. As has been done with the UK BFI Diversity Standards, State-based screen funding agencies, major Australian industry awards, festivals, streamers, broadcasters and other screen sector organisations could also be encouraged to adopt the standards as best practice. This approach is administratively simple, as it would involve leveraging the existing Screen Australia funding framework. However, it is undoubtedly more of a 'stick' than a 'carrot', in that minimum standards do not provide a positive incentive for complying with diversity requirements, but rather a negative consequence if they fail to do so. An unintended consequence of a minimum standard requirement is that some productions that are otherwise deserving of funding may miss out if they are unable to meet the diversity standards.

Australian Screen Diversity Standards would seek to support workforce representation as related to the protected groups as defined in Australia's *Racial Discrimination Act 1975*, *Sex Discrimination Act 1984*, *Disability Discrimination Act 1992* and the *Age Discrimination Act 2004*:

- race
- sex
- disability
- age.

Which extend to considerations such as:

- language
- religion
- political or other opinion
- ethnicity, national or social origin
- marital status, pregnancy or maternity
- sexual orientation

However, this would not be an exhaustive list and the criteria could be developed to consider other important areas to address in screen diversity, such as:

- Regional and remote areas
- Socioeconomic backgrounds
- Caring responsibilities

This flexible and non-exhaustive approach has the significant advantage of being able to address the intersectionality and broader socio-economic issues and complexities associated with adequately addressing diversity as discussed earlier in this report. This also allows for a distinctly Australian approach to diversity to be developed and implemented, notwithstanding the proposed starting foundation built upon the UK BFI Diversity Standards model.

We propose that minimum Diversity Standards would be set, variously, across casting, above the line (or equivalent) leadership roles in production, in secondary leadership or mid-level crew roles (or equivalent) in production, in overall project team workforce, and in opportunities created for paid training and professional experience:

- Casting: minimum screen diversity standards for casting would require applicants for Government funding for production to cast and hire diverse talent to improve portrayal and representation. A casting plan should include considerations such as casting for authentic representation, and to challenge stereotypes and underrepresentation, as well as the overall prominence and storyline attached to different roles.
- Creative leadership: minimum screen diversity standards would require applicants for Government funding for production or development to ensure that there is diversity in department leads and

‘above the line’ (or equivalent) roles in production. Following the current BFI Diversity Standards, we propose that at least three of the heads of department and/or creative leadership are from under-represented group/s.

- Secondary leadership: minimum screen diversity standards would require applicants for Government funding for production to ensure there is diversity in secondary key roles or ‘below the line’ production roles (e.g. technical positions, mid-level crew). Following the current BFI Diversity Standards, we propose, at least six secondary key roles are filled by someone from an under-represented group/s. Consideration should be given to tropes and stereotypes within broader workforce hiring patterns, such as the underrepresentation of women in technical roles.
- Overall project team: minimum screen diversity standards would require applicants for Government funding for production to demonstrate diversity across the entire production team against set targets, as determined by population benchmarks and existing industry data on where the need for improvement is greatest.
- Professional opportunity: minimum screen diversity standards would require applicants for Government funding for production to offer paid professional employment opportunities (which may include work-based training, apprenticeships, internships, traineeships, mentoring, and shadowing) for individuals from under-represented groups.

There is scope for the standards to require applicants meet all or some of the above Diversity Standards, to be adjusted to suit different stages of development and to address different priorities for screen diversity and inclusion.

In this model, meeting minimum Diversity Standards is a prerequisite for eligibility for Government funding for screen production and development and would be assessed via applications for funding submitted by project teams to Screen Australia (and other agencies should they adopt the standards). This allows flexibility for the criteria to evolve in response to shifting industry needs, data evidencing relative effectiveness of the initial measures, and new challenges for diversity in the sector.

2. A capped grant for productions meeting certain diversity criteria

Another way that the Australian Government might encourage increased screen diversity is by providing a capped grant for productions that meet certain prescribed diversity criteria, such as those broadly outlined above in the Diversity Standards model. In other words, the same standards as described above would apply, but rather than applying as minimum standards, they would apply as qualifying conditions for a grant. This incentive model may be more expensive to provide than the Diversity Standards model, but the greater accessibility and generosity might make it more effective in incentivising increased screen diversity. The grant amount could be equal to a fixed percentage (e.g., 20%) of a production's 'qualifying Australian production expenditure' (per Australia's current Screen Production Incentive), which has the benefit of linking the amount of the grant to the scale of the production. However, a cap on the amount of grant funding allocated per production would be necessary in order to control the costs of providing the grant. A cap on the aggregate amount of grant funding available would also be necessary for government budgetary certainty. In this way, a grant might be capable of containing costs while effectively fostering greater screen diversity.

Insofar as the latter is concerned, grants can be a particularly effective method for encouraging entities to change their behaviour because they provide a direct financial benefit with no expectation of repayment to the government. While grants perform a similar incentive function to tax offsets, they have a number of advantages over tax offsets. First, unlike tax offsets, which are provided through the tax system, grants are paid directly to recipients. This is administratively simpler because it avoids creating complex exceptions to the principle of equal treatment of all taxpayers. Second, grants are generally simpler to introduce and to subsequently modify than tax offsets, as they do not require legislative amendment; instead, grant funds are allocated through the budgetary process, and are generally administered according to grant guidelines. Third, grants can be cheaper and easier to cap as they are awarded on a 'discretionary' basis, meaning that the administering body can select specific grant awardees. In contrast, tax offsets are generally awarded on an 'as of right' basis to any applicants who satisfy the relevant eligibility criteria (see Barkoczy et al 2016). The discretionary basis on which grants are awarded allows the administering body to responsively adjust the targeting of the grant to ensure it is going to appropriate recipients and is having the intended effects on behaviour. This may be a particularly attractive feature in situations where there is a fluidity

or uncertainty underpinning the policy driver and how behaviour might be influenced, such as in the case of the push for greater screen diversity.

Nevertheless, grants have one major disadvantage in comparison with tax offsets, which is that grant application processes are generally burdensome and competitive for applicants, with no guarantee of a grant being awarded at the end of the process. This may discourage small or marginal productions from applying for grants as they may not have the necessary time or resources to engage in the process. Grants also impose an administrative burden on the body implementing the grant, which is required to assess a potentially large number of highly detailed applications. However, a tangential benefit of the grant application process is that in preparing their grant applications, productions may turn their minds more towards their workforce diversity even if they are ultimately unsuccessful in obtaining the grant. This may create incremental change over time towards more inclusive hiring practices, irrespective of the initial success in being awarded the grant. In contrast, 'as of right' mechanisms such as tax offsets may be relatively less effective in this respect.

It is proposed that a grant for screen diversity be implemented by Screen Australia, as the Government's key funding body for the screen production industry. Under the Screen Australia Act 2008 (Cth), Screen Australia already possesses the power to provide financial assistance to projects that further its functions.²² Furthermore, in light of Screen Australia's existing expertise in financing and administering various projects with grant funding and promoting media diversity (evidenced by their First Nations Department) it is the appropriate administering body for the grant.

In order to receive the grant, applicants (productions) would need to demonstrate that they meet the relevant Diversity Standards. Some flexibility in interpreting and applying these standards can be maintained through Screen Australia being able to assess grant applications on a discretionary basis. As noted above, this flexibility may be especially useful in allowing modification as the understanding of diversity and the industry's response to diversity incentives evolves. However, the standards should explicitly be expressed as minimum standards. For instance, while First Nations Australians are currently over-represented in Australian television dramas against the population benchmark according to Screen Australia, this should be seen as a positive step, rather than a negative one. Increased representation above the standards should therefore give a production a more competitive chance at securing a grant. It is also recommended that productions be required to meet Screen Australia's standard funding eligibility requirements (e.g., the project must have [significant Australian content](#), the applicant must be an [eligible entity](#) and must have been responsible for the making

22. Screen Australia Act 2008 (Cth) s 6.

of the project, the project must be of an eligible [format](#) and duration, etc).²³ It is suggested that from a policy perspective, there is no issue with productions receiving both a grant and the existing Film Tax Offsets through Screen Australia, as both incentives serve different purposes.

As it is proposed that this model be delivered by Screen Australia, the model would ideally offer a more enduring and robust diversity incentive than the many smaller, ad hoc program funds for 'diverse' projects that currently exist at the various state film agencies. While the grant is intended to be non-binding and an optional extra source of funding, in screen sectors such as Australia where screen production funding for local production is limited and competitive, a grant overseen by Screen Australia would likely function as a defacto minimum standard, since nearly all but the most commercial productions would likely want and need to access these additional funds. It is recognised that this would create both a significant cost and administrative burden for Screen Australia that would need to be weighed against the benefits derived from the likely relative efficacy of the grant in fostering increased screen diversity.

3. Diversity criteria added to the Existing Offset Scheme

Another option for increasing diversity in Australian productions is to add diversity criteria into the existing Australian Screen Production Incentive, either as a minimum standard for productions to qualify for one of the Australian Screen Production Incentive offsets (see model 1 above) or as a qualifying condition for a 'top-up' tax offset. Under the first option, the Diversity Standards could be incorporated as part of the Screen Australia funding eligibility requirements mentioned above.²⁴ This would be administratively simple and would require no additional funding. In fact, it would potentially reduce the cost to the government of providing the Australian Screen Production Incentive offsets, as productions that do not meet the Diversity Standards would no longer be eligible for tax offsets.

The second option, a top-up tax offset, instead provides a positive incentive to meet diversity requirements and would have an associated cost to the government. The top-up tax offset could provide an additional refundable tax offset in addition to any one of the existing Producer, Location, or Post, Digital and Visual Effects Offsets claimed by a production. The offset could be provided with reference to qualifying Australian production expenditure (consistent with the existing offsets) at a rate that is determined by the Minister and Treasury to be reasonable and sustainable. For example, if the

top-up diversity offset was applied at a rate of 5% and an applicant also qualified for the Producer Offset of a feature film to be exhibited to the public in cinemas (with a rate of 40%), the applicant would be entitled to an aggregate 45% tax offset. The top-up diversity tax offset would therefore act as an uplift incentive for productions to also meet the diversity requirements. As a reference for potential tax offset rates, New Jersey's top-up tax offset is provided at a rate of 2% or 4% on top of a 35% offset, with the latter rate being relatively consistent with the level of support currently provided by Australia's film tax offsets. The lower the rate of the top-up tax offset, the less of an additional cost it would represent to the government, but the less of a financial incentive it would also provide to productions to meet the Diversity Standards.

The major issue with this second option is that minimum expenditure thresholds apply to the existing tax offsets (e.g., an applicant is not eligible for the producer offset if the expenditure on their film is below \$500,000).²⁵ This means that smaller productions that are not applying for the various tax offsets would also have no incentive or requirement to meet the Diversity Standards. To remedy the issue, the top-up tax offset could also be made available exclusively so that smaller producers could benefit even if they do not qualify for other offsets.

With either option, it is suggested that the requirement for productions to meet the Diversity Standards be included in the Income Tax Assessment Act 1997 (as with the other conditions productions must meet) but that provision be made for the content of standards to be modified, supplemented or removed by the Regulations. Including the Diversity Standards requirement in the legislation would create consistency, clarity and stability for productions engaging with the incentive, while the ability to modify the content of the standards on an ongoing basis through the Regulations would maintain flexibility in the standards that may be necessary as diversity requirements change. This would ensure a degree of flexibility similar to that flagged earlier as a key benefit of the grant model. In a similar vein, it is recommended that either of the options adopted above be subject to defined sunset clauses (with the possibility of renewal) to provide a natural point of evaluation for their continued relevance and necessity in the future.

A major benefit of both the options canvassed above is that they leverage the existing Australian Screen Production Incentive tax offsets framework while providing a clear incentive for all applicants to consider diversity without needing to trade off otherwise competing objectives such as local content. Both options recognise the multi-faceted nature of diversity and the need for diversity to be considered in all aspects of the industry because the suite of existing tax offsets already collectively targets both on-screen and off-screen production elements. Hence, allowing for the diversity

23. Income Tax Assessment Act 1997 (Cth) ss 376-55, 376-65.

24. See Income Tax Assessment Act 1997 (Cth) ss 376-55, 376-65.

25. Income Tax Assessment Act 1997 (Cth) s 376-65(6).

offset to be claimed alongside these existing offsets inevitably and expressly facilitates consideration of how to incorporate diversity in both on-screen and off-screen settings. Furthermore, incorporating Diversity Standards into the existing framework is administratively efficient. Currently, either the relevant Minister or the film authority (Screen Australia) must issue a compliance certificate in order for productions to claim a tax offset in their income tax assessment.²⁶ This same process would be used with the inclusion of the Diversity Standards, representing a recognised but hopefully reasonably minor increase in administrative burdens.

A final alternative to either of the options mentioned above (but in a similar vein) would be to introduce the scheme by way of a transitional period during which all applicants for existing offset schemes would complete a diversity scorecard as part of their application to determine whether and to what extent such projects would qualify for a diversity offset. This would have the added advantage of providing a baseline of the extent to which existing projects already consider diversity and the potential for enhancing diversity through extending any further offset to existing applicants pursuant to the existing offsets.

4. A Diversity Tax Offset

A final option for increasing screen diversity in Australia is to provide a stand-alone Diversity Offset. This option is likely to be the most expensive and legislatively complex option.

A major question in relation to the proposed Diversity Offset is whether it should be able to be claimed in the alternative to or in addition to the existing Producer, Location, or Post, Digital and Visual Effects Offsets (which are all alternatives/mutually exclusive).²⁷ It is suggested that the Diversity Offset be available in addition to the existing offsets because this would complement rather than compete with the policy aims served by the existing offsets.

As with the existing film tax offsets, it is suggested that a Diversity Offset be refundable. Refundable tax offsets are particularly attractive because they are valuable to entities that do not have a tax liability, and therefore provide similar benefits to grants. As noted above, Australia currently provides various film tax offsets of 16.5% to 40% of qualifying production expenditure.²⁸ It is suggested that a standalone diversity tax offset should be provided at a lower rate to this (particularly if it is available in conjunction with Australia's other film tax offsets). However, the rate needs to be high enough to actually provide an incentive effect. A good starting rate might be 10% (which may not provide a strong incentive effect but will be more cost-friendly than a higher rate),

with possible subsequent increases depending on the take-up and behavioural impact of the offset. This is in contrast to a 'top-up' tax offset as discussed above, which could probably be provided at a lower rate as it is necessarily an addition to existing offsets (without the administrative cost and burden of having to apply for a separate and distinct offset as is the case here). A monetary cap on the total amount of tax offsets provided to a particular production may also be an appropriate way to cap the support provided to particular productions and ensure some level of fiscal prudence and certainty.

It is suggested that the amount of the tax offset should be calculated with reference to a production's 'qualifying Australian production expenditure', which is currently defined in section 376-145 of the Income Tax Assessment Act 1997 as the production expenditure that is incurred for or is reasonably attributable to goods and services provided in Australia, the use of land located in Australia or the use of goods that are located in Australia at the time they are used in the making of the film (this definition would need to be modified to include productions other than films).

In terms of eligibility criteria, it is proposed that the Diversity Standards outlined in the minimum standards model be adopted legislatively in the Income Tax Assessment Act 1997, with the option for the Standards to be modified by the regulations. The offset would be claimed by productions in their income tax assessment, as with the current film tax offsets. Similarly, it is recommended that there be a requirement for productions to obtain a compliance certificate from Screen Australia prior to claiming the offset. This requirement would facilitate monitoring and compliance and is already part of the framework for the existing film tax offsets.

Something that should also be considered is whether it would be appropriate to require productions to meet the Significant Australian Content requirement contained in the Producer Offset.²⁹ Including this requirement would help ensure that the benefits of the Diversity Offset accrue to Australia and Australian productions, but might also unduly constrain productions from being eligible for the offset (which then means that they are less likely to focus on meeting the Diversity Standards). It is not suggested that films be required to meet the minimum expenditure requirements contained in the existing offsets, as this would limit the ability of small producers to claim the offset.

It is recommended that the proposed Diversity Offset be introduced on a time-limited basis with a sunset clause so that its impact and efficacy in fostering increased screen diversity can be evaluated.

26. See Income Tax Assessment Act 1997 (Cth) ss 376-2, 376-20, 376-45, 376-65.

27. See Income Tax Assessment Act 1997 (Cth) ss 376-10, 375-35, 376-55.

28. Income Tax Assessment Act 1997 (Cth) ss 376-15, 376-40, 376-60.

29. See Income Tax Assessment Act 1997 (Cth) ss 376-65, 376-70.



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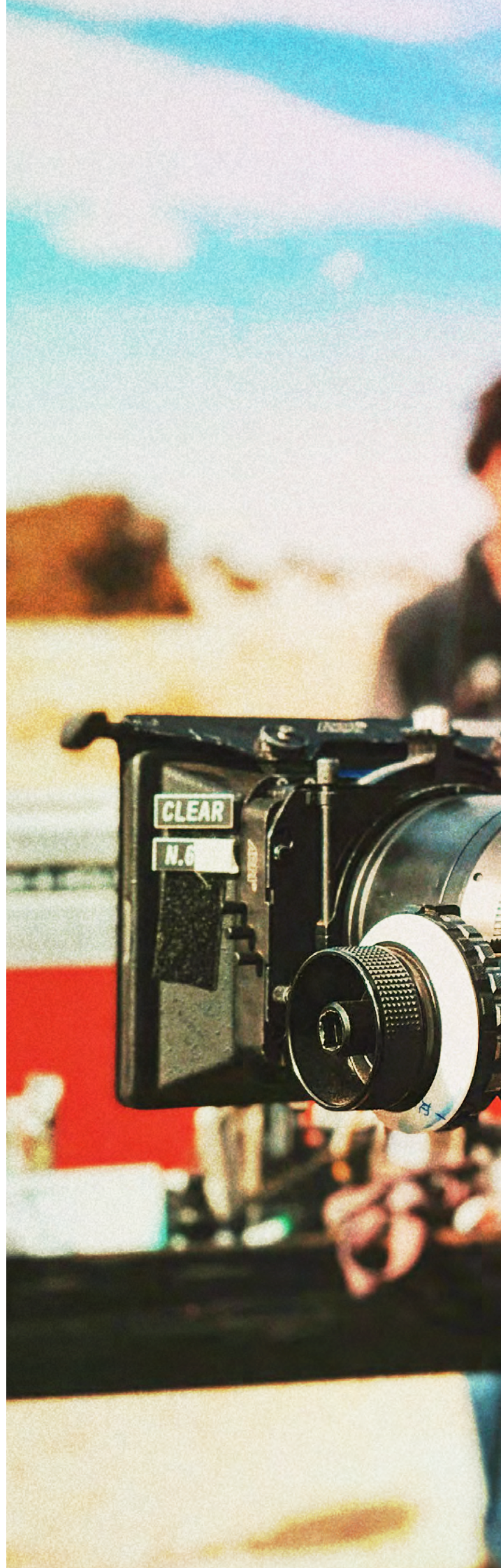
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