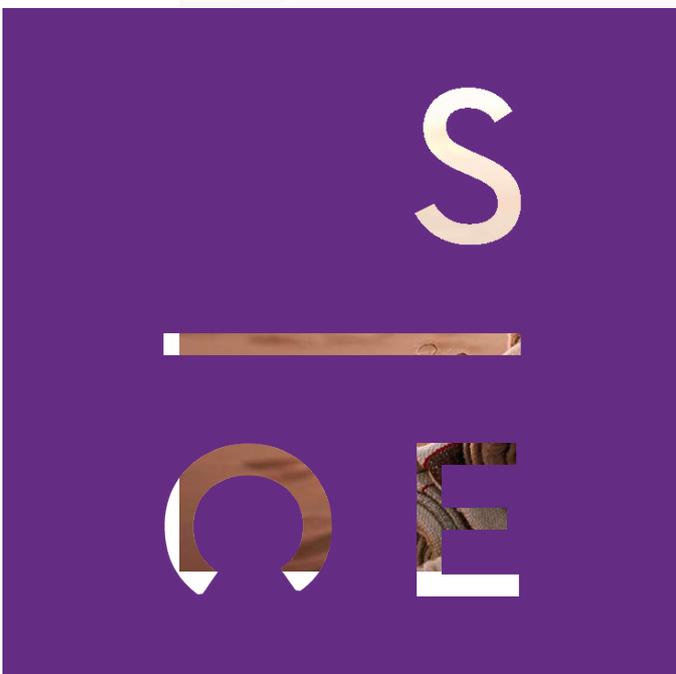




SCREEN
EXPORT
COUNCIL

SUBMISSION TO THE SUPPORTING AUSTRALIAN STORIES ON OUR SCREENS OPTIONS PAPER

JULY 2020



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1. Executive Summary

Australia's screen production industry delivers substantial economic and cultural contributions, leveraging a complex mix of regulation and support measures to do so. This value has been recognised and supported in a bipartisan way by successive federal, state and territory governments.

Australian screen productions tell the stories that reflect Australia back to Australians and help us make sense of our place in the world. They help us understand our past and how we see our future. That is the cultural power of screen stories.

As well as delivering a diverse range of high-quality and highly valued cultural content to Australians, the industry also takes our stories to the world and has a rich export potential. Screen exports play a vital role in Australia's 'soft diplomacy' efforts internationally.

This potential is currently under-utilised and export revenue has flatlined. We see this as due to a lack of strategic leadership and co-ordination, a stagnation of co-production treaties, limited opportunities for SMEs to create exportable content, and limitations in the regulatory and competitive financing environment for Australian content and formats.

There is an opportunity in the current reform process to address those inhibitors, and maximise the economic, employment, cultural and soft power benefits that increased export activity can provide. Reform has been on the agenda for almost 10 years, but with the impact of coronavirus, and with changes in consumer behaviour, entertainment choices and industry economics all arriving at increasing speed, this is a singular opportunity to update outmoded incentives and regulatory settings and coordinate and expand current programs and marketing strategies. We must get this reform process right, so that in years to come, Australians are able to access new generations of Australian stories, on the platforms that are relevant to them and that the nation can receive a greater value of this investment in local stories, both in economic return and heightened soft power.

This submission considers the current reform opportunity through the lens of Australia's screen export capacity and focuses on measures which will unlock that potential, including:

- A co-ordinated approach to screen exports from Government
- Competitive tax incentives
- Growth in the number of official co-production treaties, with a particular focus on Asia and Europe
- Modernisation and harmonisation of existing co-production treaties
- Streamlining of visa processes for key elements of production
- Removal of the regulatory loophole that allows New Zealand content to count as Australian
- A single umbrella branding and strategy for the sector internationally, including expanding marketing and relationship maturing opportunities.
- Make permanent the increases to the Export Market Development Grant scheme announced in April 2020

Success should be measurable, and the Screen Exports Council (SEC) supports the adoption of a target to double the value of export revenue for the screen sector in five years. This mirrors the screen industry size growth target (double in 5 years) proposed by Screen Producers Australia (SPA) in its submission to the options paper.

SEC also supports the following measures of success:

- Expansion of number of markets providing export revenue
- Increased number of co-production treaties and MOUs
- Increased number of co-productions (both official and unofficial)
- Improved and increased facilitation of market access across sector both in outbound and inbound programs
- Development of skills and knowledge within sector about trade and export opportunities.

A fundamental condition precedent of successful Australian screen exports is a healthy, vibrant, diverse and sustainable domestic production industry. Maintaining a particular level of production activity is not a stated objective of the current regulation. However, if production activity is not maintained at a level that supports sustainable employment and quality of output, then the cultural and economic objectives of Australian screen content are jeopardised.

The Screen Export Council supports the reform measures in the Screen Producers Australia (SPA) submission, which seeks to capitalise on this crucial opportunity with a set of proposals which will underpin growth and sustainability in the sector for many years to come.

The fundamentals for growth of the industry are:

- Modernisation of Australian content quotas under a platform-agnostic system that incorporates all key distributors of Australian content
- Modernisation and harmonisation of tax offsets, including improvements to the back office administration of the offsets
- Regulatory arrangements that support the retention of IP by production businesses
- A new paradigm for children's content
- ABC and SBS obligations, with funding quarantined for vulnerable genres

2. Background

About SEC

The Screen Export Council was formed in April 2019 to help advance the export potential of Australia's local screen industry in taking Australian stories to the world. The SEC's role is to advance the export potential of the screen industry as a key part of Australia's creative industries.

The SEC provides strategic oversight and focus on building export skills and capabilities of Australian screen businesses as well as boosting screen trade and co-productions in underserved Asian and European markets.

The SEC is comprised of prominent business leaders and industry experts and is supported by a secretariat provided by Screen Producers Australia (see Attachment A for biographies).

Contribution of Australian production businesses

Australian screen exports generate significant economic and cultural returns to Australia and enhance Australia's 'soft power' capabilities around the world. Globally, some of the best-known Australians are from the screen industry.

The international cultural and soft power impact of Australian screen exports is unique amongst Australian exports. As noted in the Options Paper, screen exports “depict Australian life, history and culture, showcase Australia’s flora and fauna, and promote an understanding of, and openness to, Australian values.”¹

Star actors, directors and producers have come to be both official and unofficial ambassadors for Australia, and have contributed to many successful tourism marketing campaigns. There is clear potential for Australian productions to play an expanded role in ‘soft diplomacy’. The Australian Government has recently announced an initiative to provide Australian content to audiences in the Pacific in a limited way over three years.²

Further, Australian production companies, crew, writers, directors and Post Production, Digital and Visual Effects (PDV) providers are renowned to be among the best in the world.

The broader screen industry contributed \$5.34 billion in industry value add to the economy in 2015-16, supporting 30,000 jobs.³ There are flow on economic and employment benefits in terms of thousands of jobs in trades, facilities, cleaners, buyers, hospitality and professional services. Screen production also generates substantial economic and employment activity in other creative sectors, including performing arts, music and design, as well as in hospitality and tourism.

Australian screen content is estimated to attract around 230,000 international tourists to Australia each year, driving an estimated \$725 million in tourism expenditure.⁴

Further, the PDV sector is a highly-skilled and rapidly growing digital export, with more than \$100m in foreign spend in 2017/18 alone.⁵

The cultural and economic value of Australian screen production has been recognised as central and Australia has a long history of bipartisan political support. This support has taken the form of regulation (television quotas), incentives (various tax offsets and schemes) and direct funding support (Screen Australia and its predecessors and state/territory funding bodies) over many decades. There has also been support for ancillary inputs through support of training institutions the Australian Film, Television and Radio School (AFTRS) and the National Institute of Dramatic Arts (NIDA).

Untapped opportunities

Australian productions are shown in at least 225 territories, but this market penetration is shallow in many jurisdictions and our success has been despite a strategic plan.⁶

There are opportunities to expand and develop in a strategic way the market offerings across various territories by working directly with the screen production industry businesses who create and own most of Australia’s screen content in genres other than sport and news. These genres have global appeal and explain and present Australian culture and way of life

¹ Supporting Australian Stories on our Screens, Options Paper, p 15

² <https://www.paulfletcher.com.au/media-releases/joint-media-release-australian-content-boost-for-audiences-in-the-pacific>

³ Australian Bureau of Statistics, 8679.0 – Film, Television and Digital Games, Australia, 2015-16, 2017

⁴ Deloitte Access Economics, What are our stories worth? Measuring the economic and cultural value of Australia’s screen sector, 2016,

⁵ <https://www.screenaustralia.gov.au/sa/media-centre/news/2018/10-30-drama-report-2017-18-home-grown-expenditure>

⁶ Screen Production in Australia: Independent screen production industry census - <https://www.screenproducers.org.au/assets/Media-Release/20180625-Screen-Producers-Australia-Report.pdf>

Relative to other Australian businesses, screen producing businesses are much more likely to be exporting. For example, more than two in every five production businesses (43%) received at least some revenue from overseas.⁷

This compares to only 7.6% of Australian businesses that generate export revenue. Around 79% (or \$119 million) of export revenue is generated by businesses earning more than \$25 million. While businesses earning less than \$1 million export much less in value terms (\$183,000), exports still represented a significant proportion of total earnings for these businesses.⁸

Most export income is derived from the United Kingdom and the United States. For example, of producers that did report exports by country, more than half (59%) of revenue comes from the United Kingdom and another 32% from the United States. An additional 7% of export revenue is derived from Europe.⁹

Further, there is a \$1.5 billion trade deficit in the Australian screen industry, with less screen exports (\$203m) than there were 10 years ago (\$253m).¹⁰

This information confirms that:

1. Export is vital for the Australian screen industry;
2. The Australian screen industry faces significant challenges in staying globally competitive, with more than 80% of screen businesses being small to medium sized enterprises with less than 20 FTEs
3. The Australian screen industry needs to expand its export markets.
4. The industry is partly set up for success and capable of doing more.
5. There is a clear need for Government support, leadership and strategy to unlock the export opportunities present in the Australian screen industry.
6. The screen industry can take a leading role in assisting the Government with its soft power objectives and initiatives.

Policy principles for reform process that will aid export activity

In order to ensure a reform process that is consistent with an advancement of the sector's export capacity, the Government should ensure regard to the following key principles/objectives:

- Reform should support growth of export revenue for the screen sector
- Reform should support an expansion in the number of markets providing export revenue and strategic soft power advantages
- Reform should enable production businesses to retain IP
- Reform should ensure competitive tax incentive and support measures

3. Realising the industry's ambitions to grow via export

This section of the submission outlines key areas of Government leadership and intervention which are required to develop the international trade performance of the Australian screen sector. This section considers measures relevant to the broader screen industry reform process currently underway, as well as a number of ancillary measures which should be pursued in tandem with the major reform exercise.

⁷ Screen Production in Australia: Independent screen production industry census - <https://www.screenproducers.org.au/assets/Media-Release/20180625-Screen-Producers-Australia-Report.pdf>

⁸ Ibid.

⁹ Ibid.

¹⁰ <https://www.screenaustralia.gov.au/fact-finders/international-context/trade/trade-in-royalties>

Broader reform process

In relation to the Government's broad-reaching screen industry reform process, SEC supports the submission of SPA, which advocates for a forward-looking vision for the screen industry that leverages regulation and incentives to deliver growth, jobs, economic activity, exports, increased industry capacity and quality/quantity of Australian content delivered to Australian audiences. The proposals will drive innovation and will ensure a level of quality in skills and talent vital to the success of the industry in the broader economy.

The SPA submission supports:

1. A platform-agnostic Australian content quota requirement that is tailored to individual providers' business and operating models
2. A new paradigm for children's content
3. A harmonisation of tax incentives, together with revisions and streamlining of their administration
4. Measures to ensure independent production businesses can retain and leverage IP
5. Expansion of opportunities for international co-productions

Further detail on these measures can be found in the SPA submission. This SEC submission focuses on reforms and measures which will enhance the screen sector's export capacity, however we note that the proposals above would boost local content production, thereby increasing export opportunities.

A co-ordinated approach to screen exports from Government

With the objective of maximising the trade performance of the Australian screen sector as a key part of Australia's creative industries, SEC submits that Australia should develop a screen exports strategic plan.

Trading partners such as the UK, Canada and the EU all have screen export strategies.¹¹ A strategy could provide a unified vision for coordinating Government activity and regulatory interventions that advance screen export capacity.

The strategy could have as key targets the following measures, which underpin the work of the SEC:

1. Double export revenue for the screen sector in five years.
2. Expansion of number of markets providing export revenue.
3. Increased number of co-production treaties and MOUs.
4. Increased number of co-productions (both official and unofficial).
5. Improved and increased facilitation of market access across sector both in outbound and inbound programs.
6. Development of skills and knowledge within sector about trade and export opportunities.

Government action that supports creation and retention of IP that can be exported

The capacity for screen businesses to remain sustainable and to grow is dependent on their ability to retain the intellectual property in their productions. If producers can retain their intellectual property, they can use it to generate income in other markets and in other jurisdictions and build sustainable, successful businesses that can then reinvest in labour, skills development and new productions. SME content creators are more likely to extract

¹¹ See, for example, Film Export UK <https://www.filmexportuk.com/export-support.html>; Creative Export Canada <https://www.canada.ca/en/canadian-heritage/services/funding/creative-export-canada.html> ; *Creative Europe* <https://www.bfi.org.uk/about-bfi/partnerships/creative-europe-funding>

maximum value from any particular asset over a content distribution platform because of the comparative value of that asset to the business.

The Government's intervention in the screen sector should have as a key objective policies that facilitate the generation, retention and exploitation of intellectual property in Australian content here and abroad. Ensuring Australian producers can control their intellectual property is crucial to enabling trade and access to international audiences.

We refer to the SPA submission in this regard, which proposes regulatory intervention to protect the ability of independent producers to retain intellectual property.

Competitive tax incentives

The producer offset has been a hugely successful source of secure funding for Australian productions. However, offset legislation has not been significantly updated since it was introduced and some modernisation is required.

SEC supports the SPA submission which proposes harmonisation and modernisation of the offsets, with an increase to 40% in the Producer Offset for Australian content that now receives 20% and potentially broadening the support for genres of content that can offer export potential. SEC also supports competitive Location and PDV Offsets, but with a focus within the overall suite of offsets on measures which prioritise and have superior incentives to support productions that utilise and create Australian IP for export sales.

In a highly competitive international market, Australia cannot afford to retain static tax incentive measures.

There are also a range of improvements which can be made to the administration and payment of the offsets. These are explored in more detail in the SPA submission, and include an improved eligibility test and staggered, progressive payments (rather than a single payment at completion), to assist in business planning and cashflow.

Expand the number of official co-production treaties

Co-production treaties allow Australian producers to partner with producers from treaty countries to access the benefits of each country's regulatory and taxation environments and can be an effective conduit for increasing export opportunities.

Australia currently has 12 co-production treaties and MOUs with other nations. In total, there have been 188 official co-production titles made with total budgets of \$1.9 billion exported to over 250 territories (as at May 2019). Australia produced less than 8 official co-productions per year on average over the last 10 year period.¹²

This is small in comparison with other countries. For example, China (16 treaties), France (over 30 treaties) and Canada (over 60 treaties) each produce approximately 60 co-productions per year. This is a clear regulatory impediment on Australian screen businesses being able to realise their ambitions.

The SEC supports an expansion of the number of official co—production treaties, starting with pursuing a co-production agreement with the EU as an immediate priority, and also taking in Asia as a priority focus. A treaty with the EU would open up access to 27 territories, unlocking enormous export potential for Australian content, which has a strong reputation for quality and diversity in these markets. SEC notes that. Co-production treaty with Denmark was negotiated

¹² Data is drawn from the Screen Australia website: <https://www.screenaustralia.gov.au/funding-and-support/co-production-program>

by both sides and ratified by the Danish Parliament. It remains unratified by the Australian Parliament.

Co-production treaties with Asian nations should also be a focus.

Modernise and harmonise existing co-production treaties

A long-standing stated purpose for co-production agreements is:

- To foster cultural and technical development and exchange by facilitating international co-productions
- Open up new markets for Australian film and television productions
- Enable a creative and technical interchange between film personnel, and
- Increase the output of high quality productions through the sharing of equity investment.

These treaties allow Australian producers to partner with producers from treaty-countries to access the benefits of each country's regulatory and taxation environments. For example, a film co-produced in Australia and the United Kingdom could get access to the Producer Offset in Australia, the United Kingdom's taxation and incentives and the film would qualify as an Australian film as well as a UK/European film for the purposes of content regulation. The effect of combining resources is to make film and television content that can more readily compete in a global distribution environment.

Many of the co-production treaties Australian has in place were concluded before the internet, the rise of Asia as an economic power, and the emergence of Google, Facebook, Netflix and Amazon. As such, there are many anachronisms within the treaty texts that require updating to make them fit for purpose. There is a pressing need for improvements to existing treaties so that businesses can use them more efficiently and effectively to grow the pool of available revenue. At present, many of the treaties are difficult to utilise to their full potential and are not fit for purpose.

There are restrictions in the co-production treaties and their administration (inconsistent with best practice in comparable territories such as the UK and Canada) on:

- non-party involvement
- rates of expenditure inconsistent with other territories
- barriers to flexibility in guidance that create greater obstacles for Australian producers compared to international counterparts
- limits on the location of the provision of services, and
- multi-party co-productions.

The exclusion of non-party involvement is of particular concern. The inability to bring in key creatives from third-party countries has diminished opportunities for local production. For example, the 2015 production of *Macbeth* by Seesaw Productions was planned to be an official Australian-UK co-production, however the inclusion of a US writer meant that the official co-production treaty could not be utilised. The exclusion of the project from the treaty because of the nationality of the writer appears inconsistent with the intention of co-production treaties.

Another constraint is the high barrier to entry relating to the minimum Australian contribution in some co-production agreements. Most co-production treaties that Australia has entered into set a minimum Australian contribution of 20 per cent (for example, China, Ireland, Israel, Korea, Singapore and South Africa). However other treaties, such as the ones with Canada, Germany, Italy and the United Kingdom contain a 30 per cent minimum Australian contribution.

It is difficult to discern a policy rationale for the differential in minima, however the higher minimum Australian contributions are inevitably harder to meet and are an obstacle to greater levels of production. Together, these barriers limit a producer's ability to source labour and other services efficiently and cost effectively, make co-productions less attractive and limit trade opportunities for the industry.

Also of concern for industry is the perceived inflexibility in Screen Australia's acquittal of its role as the Australian competent authority for co-production agreements. Businesses have experienced opaque decision-making and unexplained rigidity in interpretations, in ways which have encouraged proportions of productions to head off shore or not proceed entirely. This is an area of red tape which is inhibiting business and export activity.

SEC proposes an urgent review of how co-productions are structured and how they are administered in Australia, including all guidelines and government processes, with an objective of establishing what flexibility could be introduced into the framework.

Improve / streamline visa processes for key elements of production

Bringing into Australia some international elements on a production can be necessary in order to complete financing both for local and export markets. This in turn helps to access foreign investment and sales increases the volume of productions as well as production budgets. The attachment of high profile creatives and/or crew to an Australian production can also greatly enhance the attractiveness of the project to international audiences and is therefore one key way in which export potential can be maximised.

The Temporary Employment (Entertainment) Visa (Subclass 408) allows foreign citizens to work in television or live productions as either a performer or in a behind-the-scenes capacity, such as directing, producing and other technician roles. To obtain this visa there are criteria that assess the experience, skills, finances, health and character of the visa applicant and set out the obligations of the employer to consult with the relevant union and meet any relevant thresholds of the Foreign Actors Certification Scheme.

The 408 visa requirements have not been substantially updated since the 1990s, despite multiple Government reviews between 2014 and 2018 and should be reformed to take into account the current commercial and regulatory environments as well as the competitive processes in other territories. The goal is to ensure efficient decision making and processes that enable the market to operate nimbly and maximise inward investment and employment.

Remove regulatory loophole that allows NZ content to count as Australian

There is an anomaly in the current regulatory environment for commercial broadcasters that allows the commercial broadcasters to acquit their first run Australian content obligations with second run New Zealand content that can be bought for 10 per cent of the purchase price of Australian content.

This loophole means that instead of commissioning new Australian-produced content, commercial television broadcasters can buy second-run, cheap New Zealand programs and have them qualify as Australian programs to acquit their obligations under the Australian Content Standard.

This means Australian producers are prevented from competing at a level playing field, with deleterious effects over the long term for sustainability of the independent production sector.

The regulatory framework going forward must include measures to preclude New Zealand content being able to be used to acquit any new quota obligations.

Training and support for SMEs - outward mission support - inward market relationship development

In a competitive global environment where relationships and market knowledge is paramount and what are extreme challenges for businesses based in Australia who need to have a global footprint and deep market understanding in a complex ever changing landscape, there is a need to support SME's in assisting with international market knowledge and navigation as well as providing individual relationship development opportunities.

This should be done through specific training and skill development, market delegation co-ordination for outbound efforts as well as inbound support for those international businesses that commission Australian businesses.

This is achieved for inbound production and relationship establishment through government funding via Ausfilm. There is no equivalent support for export.

Screen Forever is Australia's primary locally based content market and should be supported in its development as a content market for global business and specifically the local Asia Pacific region.

A single external way of presenting and navigating our sector from outside in – there are multiple brands and presentations of the sector outwards

Support for export focused SMEs sits hand in hand with the need to market and present the Australian screen industry under a unified single brand with energy and enthusiasm.

Our current presentation to the international market of our industry is handled by multiple agencies and government investments in an unco-ordinated manner that in aggregate present to the international market confused agendas and depending on individual agendas, over emphasise certain elements of industry to the detriment of others in an ultimately inefficient manner. Broader global and longer term strategies are overlooked for short term and often competing individualistic goals.

The needs of local businesses that develop IP for export are often overlooked or completely deprioritised for other agendas.

Creating unifying strategies under an umbrella brand and consolidating and co-ordinating resources will be beneficial for the export development of the sector as a whole and significantly enhance competitive opportunities for the industry.

Canada and the UK provide good examples of structures, brands and strategies for improving export outcomes. Canada's Creative Export Strategy is divided into three components:¹³

- Position creative industries for export and sales in foreign markets, and bolster funds available through existing programs
- Increase capacity at Canada's embassies and consulates to help creative industries success in key export markets
- Grow creative industries b funding export ready projects through the Creative Export Canada program and build the relationships needed to make business deals via trade missions, events and partnerships

In the UK, the Creative Industries Council 'UK to The World' initiative is a joint forum between the creative industries and government which provides international trade audiences with a

¹³ <https://www.canada.ca/en/canadian-heritage/services/exporting-creative-industries/creative-export-strategy.html>

single destination and guide to the UK's creative industries.¹⁴ This sits under the broader UK national brand administered by the Department for International Trade.¹⁵

Australia has a unified brand only for inbound productions (Ausfilm) and there has been a focus lacking to efforts to encourage and facilitate outbound activity. A 'single desk' for all screen exports would empower communication through a single brand that presents Australian screen exports as a valuable opportunity.

We note with interest the development of Australia's nation brand and submit this as an opportunity to develop a unified brand and strategy for screen exports, sitting under the umbrella nation brand.

Support for content types which perform well in the export market

There are some categories of content which are consistently strong performers in the export market. This primarily includes original format development across scripted and non-scripted productions and tape sales.

The SEC supports reform measures which encourage the production of categories that can develop formats which are attractive to export markets due to their ability to be adapted for the purchasing jurisdiction.

These formats are also quite commercially successfully locally, and provide employment and training to very large numbers of Australian screen professionals. Government support for these formats will maximise economic activity, employment, trade potential and audience reach.

Export Market Development Grant (EMDG) scheme

The EMDG scheme greatly assists producers to penetrate export markets and to achieve export sales. This increases employment and most importantly, facilitates innovation and investment. The sustainability of the Australian screen industry's export endeavours has been greatly assisted by the EMDG scheme.

However, the level of benefit derived from the scheme could be significantly boosted through a decision to make permanent the temporary increases announced in April 2020.¹⁶ Maximising the reimbursements to screen businesses which have spent their own money to grow their export potential would be highly beneficial to aspiring screen exporters.

4. Conclusion

An Australian screen industry that performs well in the export market delivers on a range of valuable cultural and economic objectives.

Maximising export activity stimulates further business development, strongly supports the sustainability of the local industry and helps to unlock job creation and training opportunities for Australians.

Australian screen content also contributes to positive cultural and economic perceptions of Australia.

¹⁴ <https://www.thecreativeindustries.co.uk/about-us>

¹⁵ <https://www.great.gov.uk/international/>

¹⁶ <https://www.trademinister.gov.au/minister/simon-birmingham/media-release/funding-boost-support-australian-exporters-and-tourism-businesses>

At present, the full export potential of the screen industry is not being realised, and this submission has highlighted the ways in which the Government's reform process can optimise the factors which contribute to strong export performance. Some longer-term measures are also suggested, which should be prioritised by the Government.