

1st June, 2021

Tom Whitby

Analyst, Competition Exemptions
Australian Competition and Consumer Commission
GPO Box 3131
Canberra ACT 2601

Via email: tom.whitby@acc.gov.au

Dear Tom,

With reference to your email of 27th of May:

1. *Our application noted that the Exclusive Dealing provision (s. 47) might apply to the proposed conduct.*

Whilst, as we discussed, this was originally included from an overabundance of caution, having reconsidered the relevant provisions of the *Competition and Consumer Act 2010* and taken further advice on the matter, we are now of the view that this provision would not apply in relation to the proposed conduct. Particularly as the model agreement(s) will not be binding on ADG Members or SPA members and do not preclude negotiations between individual ADG Members and producers for variations on the model terms of engagement or their own agreements. The proposed model agreement(s) simply provide a benchmark for recommended minimum terms of engagement. And, the proposed model agreement(s) do not provide for collective boycott activity.

2. *The ADG's application describes the proposed conduct as ADG collectively negotiating model agreements with SPA, however it does not describe entering into contracts.*

This was an oversight, the intent of the proposed conduct in our application is better expressed as follows:

“The ADG seeks a new authorisation for the ADG to collectively negotiate on behalf of its current and future members, to create new contracts or arrangements with current and future members of Screen Producers Australia (SPA) that contain model terms of engagement for feature film, television series, and television serials (“Screen Productions”) and give effect to those new contracts or arrangements.”

3. Confidential Material

The full application is provided for publishing on the ACCC's website

Kind regards,
Australian Directors' Guild



Alaric McAusland
Executive Director