



**media, entertainment & arts alliance**  
the people who inform and entertain

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**Submission to the**

**Trade Commitments Branch  
Department of Foreign Affairs and Trade**

**with respect to the**

**Trans-Pacific Partnership Agreement**

**September 2009**

**The Media, Entertainment & Arts Alliance**

The Media, Entertainment & Arts Alliance (Alliance) is the industrial and professional organisation representing the people who work in Australia's media and entertainment industries. Its membership includes journalists, artists, photographers, performers, dancers, symphony orchestra musicians, freelance musicians and film, television and performing arts technicians.

The Media, Entertainment & Arts Alliance (the Alliance) welcomes the opportunity to make comment in relation to the current Trans-Pacific Partnership Agreement negotiations.

The Alliance has a long-standing interest in trade agreements in respect of the manner in which they might affect Australia's cultural industries. The Alliance has made submissions to the Department of Foreign Affairs and Trade (DFAT) regarding a number of proposed and negotiated free trade agreements including:

- the Singapore-Australia Free Trade Agreement (SAFTA);
- the Australia-United States Free Trade Agreement (AUSFTA), the Cooperation Council for the Arab States of the Gulf (GCC);
- Malaysia;
- Japan;
- China;
- Indonesia;
- Chile;
- Pacific Agreement on Closer Economic Relations (PACER);
- the agreement between Australia, New Zealand and the ASEAN countries,

as well as the General Agreement on Trade in Services (GATS).

The Alliance continues to consider that the nation's trade objectives are best achieved in the context of multilateral agreements such as the GATS and the General Agreement on Tariffs and Trade (GATT).

Consistent with bipartisan Federal Government policy in respect of the GATS, Australia's position in all positive listing free trade agreements must continue to be one where no commitments are made that might in any way adversely impact on the Government's ability to give effect to its social and cultural objectives for Australia's cultural industries now and into the future.

*"Australia has long recognised the essential role of creative artists and cultural organisations in reflecting the intrinsic values and characteristics of our society, and is committed to sustaining our cultural policy objectives within the context of multilateral trade agreements."*<sup>1</sup>

This position is reinforced by Australia becoming a party to the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions.

Australia already has FTAs with all the parties to the Trans-Pacific Strategic Economic Partnership Agreement other than Peru. Only the ASEAN FTA is a positive list, all others are negative lists.

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<sup>1</sup> Australian Intervention on Negotiating Proposal on Audiovisual Services, CTS Special Session, July 2001, Geneva.

In the event a negative listing agreement with the Trans-Pacific Strategic Economic Partnership Agreement, comprehensive cultural reservations in SAFTA should serve as a workable precedent.

The Alliance did not support the concessions made in the AUSFTA and would oppose the inclusion of similar concessions in any future free trade agreements. The Alliance is similarly opposed to any Most Favoured Nation clause that would have the effect of granting the concessions made in the Closer Economic Relations (CER) Agreement with New Zealand or the AUSFTA to any other country.

The Alliance wishes to raise its concerns with regards to entering into a FTA with countries that have agreements (in some form) with New Zealand and the United States. The Alliance does not wish the concessions provided to the US under the AUSFTA and the unintended consequences found in the CER to find their way into any further agreements. Therefore the agreement should be designed to enact a quarantining of these concessions in the CER and AUSFTA to those specific agreements.

The Alliance notes that under the Trans-Pacific Strategic Economic Partnership Agreement, “advertising films and recordings” are covered in Chapter 3 – Trade in Goods. The Alliance can not support an agreement where audiovisual works are treated as goods, not services. The Alliance further notes that creative arts are also found within the Chapter 19 – General Exceptions. The definition of “creative arts” under this section seems to be more limited referring to “creative arts of national value” than that found under the SAFTA. This could potentially result in opening Australia’s cultural policies up to challenge. Australia must retain the right to introduce any cultural policy in any form it sees fit (including any direct or indirect forms of support) – without recourse to “national value”.

The Alliance would also wish to make sure that Australia retains its power to regulate the natural movement of persons for those in the entertainment industry. This is an important plank of employment, cultural and immigration policy that needs to be retained. The regulations in place are balanced to allow Australian audiences access to international performances and support the development of an indigenous Australian entertainment industry.