



AUSTRALIAN CHILDREN'S TELEVISION FOUNDATION

Submission to Department of Environment, Water, Heritage and the Arts 2010 Review of the Australian Independent Screen Production Sector

The Australian Children's Television Foundation ('ACTF') is pleased to have the opportunity to respond to the Department of Environment, Water, Heritage and the Arts *Review of the Australian Independent Screen Production Sector*.

The ACTF is a national children's media production and policy hub and performs a wide range of functions in children's media: as a voice in policy matters; as a distributor of and investor in Australian children's television series; as an instigator of new, innovative and entertaining children's media and as a developer of valuable screen resources for the education sector.

This submission will discuss the Australian independent screen production sector predominantly as it relates to the production of Australian children's television.

Introduction

The announcement of this review in 2007 accompanied the introduction of the Australian Screen Production Incentive ('the Offset'), and the formation of Screen Australia from the functions of the Australian Film Commission, the Film Finance Corporation and Film Australia.

Screen Australia and the Offset represent two key elements in the Government's multipronged approach to supporting Australian screen content creation. While it is important that the review consider the impact of these key changes, these elements cannot be viewed in isolation.

The review must take into account the regulatory and commercial environment in which the independent screen production operates, examining the role of free-to-air commercial broadcasters, Pay TV and the public broadcasters in the development and production of local content. In relation to children's content, the review must consider the role of content quotas as the key driver of local production, as well as the various sources of direct funding for children's content, whether it is Screen Australia, the ACTF or the ABC.

The review must also take into account the rapid changes in the media environment brought about by ongoing technological change. The launch of a digital multi-channel broadcast environment with a high speed national broadband network just around the corner poses as many challenges as opportunities.

The role of Government in supporting Australian content

Government intervention in the screen production industry ensures Australian child audiences can access audiovisual stories in their own voices and accents that reflect the communities in which they live.

The value Government places in local content creation is evident in its continued commitment to funding development and production of children's television, whether directly through Screen Australia or the ACTF, or indirectly through the Producer Offset, or the ABC.

However, the key to guaranteeing a vibrant and economically sustainable Australian independent production sector is not only to maintain funding for content creation, but to ensure that there is a viable local market for Australian content through regulation and content quotas.

Economic sustainability and the cultural dividend

The review invites discussion on the economic sustainability of the industry. Ensuring the right mix of Government support to assist in the economic sustainability of individual production companies is paramount.

However it also needs to be recognised that unique programs of a significant cultural and social value are unlikely ever to be made if left entirely to the marketplace. The marketplace, concerned primarily with financial return, seeks to create content that is accessible to the broadest cross section of audience. In children's production this is particularly the case with programs aimed at younger child audiences, where franchises and foreign imports dominate. It is essential that Government support high quality children television content that may not necessarily have wide international appeal, but which nevertheless is significant to local audiences.



Programs such as *My Place*, a 13 part historical series based on the award winning children's book by Nadia Wheatley, and funded by Screen Australia, the ABC and the ACTF,

make a profound cultural contribution to the nation. The series debuted on ABC3 on the channel's launch, and has since been shown on ABC1 as well. The series not only provides engaging high quality entertainment for the child audience, but the program represents an enduring educational resource that will provide generations of children across the country with the opportunity to engage with their history and society.

While the series itself represents an excellent educational resource for children, parents and teachers, an accompanying educational website was also created to assist teachers across Australia to harness the educational potential of the show. The website represents the cutting edge of engaging, interactive, multi-modal learning.¹

Before examining the role of Government in supporting the creation of screen content, it is important to highlight the importance of supporting projects because of their significant cultural value. Allowing the review to focus too narrowly on economic sustainability may result in a reductionist view of the industry where support is only provided to projects pitched to the broadest audience and narrowly focused on the bottom line. We believe that there is considerable and enduring value from innovative, engaging and risk taking cultural projects that would not be produced if left to the marketplace alone.

Local content quotas and regulation

The key to creating a sustainable independent production sector is to ensure that there is a viable local market for independent producers to service.

Commercial free-to-air broadcasters ('FTAs') and Pay TV do not licence predominantly Australian content because it is expensive in comparison to foreign imports. The size of our audiences compared to the international market, and the resulting difference between the cost of creating first run Australian drama and licensing foreign imports means that a sustainable industry without local content quotas is implausible.

At this transitional stage in the broadcast environment, and when the main commercial channels are owned by foreign private equity firms with little commitment to nurturing local culture (rather than the colour proprietors of the recent past) Government must step in to ensure local content continues to be produced.

We believe that the transition to a digital multi-channel broadcasting environment represents a critical opportunity for the Government to establish a strong regulatory framework that encourages and promotes significant levels of Australian content creation. We also believe that the development of a national broadband network will further transform the broadcasting and media environment in a way that is difficult to predict. A local production sector producing engaging content is essential to guarantee a distinctly Australian cultural identity, particularly in an increasingly globalised and online media environment.

The most effective way to ensure these outcomes is to put in place revised local content quotas or regulation across FTA, Pay TV and public broadcasters and create sufficient momentum for Australian content creation. Any regulatory or quota obligations need to be balanced across the sectors fairly and appropriately, as well as be flexible to ensure they deliver a successful outcome for audiences. Only then will broadcasters create a viable market for Australian content that drives production across the independent production sector.

¹ <http://www.myplace.edu.au/>

- **Content quotas and commercial free- to-air broadcasters**

In February this year the Government announced a \$240 million rebate of licence fees over two years for FTAs.² While the rebate is intended to assist FTAs in their transition to digital broadcasting and ensure continued investment in local content, there is no actual requirement to increase levels of Australian content.

The announcement followed shortly after submissions to the Government's review on program standards and digital multi-channelling closed. In our submission to that review we argued that existing quota levels for children's television on FTAs were appropriate, but that greater flexibility in their application could increase access for child audiences to Australian content³. For example, we supported further consideration of a tradable obligations scheme among commercial FTAs as well as an incentive scheme that granted FTAs a rebate of their licence fee in exchange for increased levels of Australian content.

The licence rebate granted to FTA provides a much needed boost to the FTAs, however, it is important that the community receive some cultural return for the financial support provided by Government. We believe an increase from the requirement of first release Australian children's drama of 96 hours in a three year period to 42 hours a year is appropriate, warranted and manageable, particularly in a digital multi-channel environment.

The increased content quota should also be tied to requirements to schedule children's material at appropriate times, rather than being corralled into marginal times in the television schedule. The FTAs are fond of promoting the choice and diversity of their offerings via their Freeview:

Why pay for TV when Freeview digital television gives you more channels, more shows and a better picture, for free?

Given the increased opportunities provided by the digital multi-channel environment, it is not a big ask to expect an increased commitment to local content. After all, the proposed modest increase in quota is a decrease in real terms when aggregated across any FTAs complement of multi-channels.

Greater flexibility should also accompany any increase in quotas. The multi-channel environment provides increased opportunities for FTAs to reach audiences, allowing them to tailor their schedules to niche audiences, such as child viewers, that were previously marginalised under the core analog channels.

In practice, FTAs are already taking advantage of the flexibility offered by the multi-channel environment by showing increasing levels of foreign children's content. The Nine Network's *GO!* channel has been successful in attracting younger audiences with its mix of youthful programming, including a recent announcement of youth orientated news services, as well children's animation occupying afternoon slots and the occasional prime time position (unthinkable on an analog core channel). The Seven Network's *7Two* has also shown children's content, albeit confined to the more traditional early morning time weekday slot.

For both FTAs and child audiences, it makes sense to consolidate children's content to a specific destination or block of children's programming on a multi-channel, rather than

² *Government to protect Australian content on commercial television*, Media Release, 7 February 2010, Senator the Hon Stephen Conroy, Minister for Broadband, Communications and the Digital Economy.

³ Australian Children's Television Foundation Submission to the Department of Broadband, Communications and the Digital Economy's Review, *Content and access: The future of program standards and captioning requirements on digital television multi-channels*.

require a broadcaster to schedule marginal amounts of children's television at times that aren't accessible to children, as is the case under the existing quotas that apply to analog channels.

We also recommend that consideration be put towards a tradeable obligations scheme operating between the three commercial FTAs. It is our hope that this flexibility might lead the FTAs to consolidate some or all of their quota requirements on a single dedicated commercial FTA children's multi-channel. Such a channel could show a high proportion of locally produced content and can compete for audiences against the strong children's offerings available on ABC2 and ABC3 as well as Pay TV. This would result in greater diversity in children's programming, greater competition for content, and lead to better quality content and greater sustainability for the industry and producers of child content.

- ***Content quotas and Pay TV***

The existing 'new eligible drama expenditure' ('NEDE') requirements under the *Broadcasting Services Act 1992* have not translated into better outcomes for Australian child audiences.

The scheme as it is currently administered lacks transparency. It is difficult to determine what investments are made by Pay TV providers under the scheme, and what shows are eventually created. As a result, it is extremely difficult to determine the qualitative or quantitative contribution the scheme is making to enhanced levels of Australian content.

The scheme's focus on expenditure means that there is no obligation to actually broadcast a program once it is produced. A Pay TV provider may consolidate its expenditure into a flagship program, which results in a low overall percentage of Australian content across a Pay TV provider's channel than when compared to the minimum hours required to be broadcast requirement by a FTA under a quota.

This has worked in favour of Pay TV providers, as it has allowed them to make significant investments in appealing high quality dramas that may be used to drive subscriptions. However, while this has succeeded in adult drama, it has not had the same impact in children's drama.

We acknowledge that the Pay TV scheduling model is substantially different to FTAs, and that Pay TV channels are likely to show programs made under the NEDE requirements rather than warehouse them. To implement and monitor a quota requirement in a Pay TV scheduling model (which includes frequent repeats of content) would be particularly challenging. The fact remains that there is no minimum requirement for Pay TV channels to show Australian content.

And so despite its limitations, we believe that the NEDE scheme is still an appropriate mechanism in ensuring some level of local content creation from Pay TV. We believe that as the Pay TV sector has matured into a successful and profitable industry, an increased NEDE requirement is an appropriate and manageable way for the Pay TV industry to contribute to higher levels of Australian content. Accordingly, we recommend that NEDE requirement be increased from the existing 10% of program expenditure on local content to 20%.

- ***Regulation and public broadcasters:***

There is an inherent obligation by public broadcasters to provide programs that contribute to a sense of national identity, programs of an educational nature and programs that reflect the diversity of the entire community rather than just the broadest demographic. Public broadcasters have an obligation to explore new, innovative, educational, entertaining content and to reach out to broad as well as niche audiences.

Public broadcasters have an important role in commissioning and broadcasting content that the market will not provide. A public broadcaster has a responsibility to cater for the Australian child audience, irrespective of regulation.

We warmly welcomed the increase in funding for the ABC by \$136.4 million over three years in 2009, specifically allocated to fund the dedicated children's channel ABC3 and for increased production of Australian drama. The launch of ABC3 was a significant boost for children's audiences, enviable even when compared to international examples.

However, although ABC3 broadcasts significant amounts of Australian content, and has made a public commitment to achieving 50% local content in the near future, there is currently no regulatory requirement that it do so.

We recommend that specific funding for public broadcasters should be tied to levels of first run Australian content, with a specific requirement relating to local drama and documentary. Much in the same way that funding for ABC3 and the increased drama allocation was specifically set aside for these purposes, the ABC's triennial funding should clearly identify key performance indicators addressing the levels of local content that it broadcasts and in which genres. These KPIs should be negotiated between the ABC and Government as well as made publically available for the industry and the general public to contribute to any debate over Australian content.

We do not recommend a quota because levels of Australian content produced by public broadcasters are ultimately dependent on funding from the Government. Having transparent, publicly available KPIs will hold the ABC more accountable for the levels of local content it produces, enable the ABC to prioritise internally the importance of Australian content, and allow the ABC to engage productively with Government to ensure the area is adequately funded.

- ***Minimum licence fees***

One of the main reasons why producers struggle to create high quality children's television drama, and why the area is so heavily subsidised, is because of the low licence fees that FTAs have traditionally offered for this content.

Licence fees fell dramatically in the late 1980s when the FTAs experienced considerable financial stress and upheaval. While advertising revenues have picked up since, licence fees have stagnated.

An effective way of addressing this issue would be for ACMA and Screen Australia to establish minimum licence fees for children's television.

ACMA could make it a condition of certification as Australian C Drama Content (under the Australian Content Standard) that a program receive a minimum licence fee per episode. Unless the licence fee exceeded this minimum it would not qualify as Australian Content and would therefore not go towards a FTAs quota requirement.

The big budget high quality children's television drama that currently receives Screen Australia funding would naturally impose a higher minimum. This would ensure that funding from Screen Australia would be contingent on the producer receiving licence fees commensurate with the quality of the content.

We propose that a standard minimum licence fee imposed by ACMA would be in the vicinity of \$80,000 per episode. We also propose that Screen Australia impose a higher minimum

fee of \$105,000 per episode as a condition of Screen Australia funding. In addition, a \$25,000 minimum could apply to Pay TV licences of programs. As it currently stands, Pay TV channels are beneficiaries of the current regulatory regime as they pay a significantly smaller proportion of licence fee for Australian content as most content is originally commissioned by the FTAs. Such minimums should be subject to regular review to ensure that they remain appropriate.

We believe that this requirement would cause a shift in the independent production sector to make it fairer for producers and result in a far more sustainable industry. Producers would be able to receive a better return for their content which would allow them to reinvest in future productions.

The Producer Offset and Screen Australia

Indirect funding via the Producer Offset and direct funding through Screen Australia comprise the other elements of a comprehensive approach to Government support for the independent screen production sector.

The Offset has been a positive outcome for those children's producers who would not normally have received direct funding from the Government. For example, producers of co-produced children's animation series are clearly beneficiaries of the new funding arrangements, since they were previously not able to receive direct government funding. The Offset now provides them with substantial financial support to assist in their productions. For these producers, the Offset has contributed significantly to the sustainability of their businesses.

Despite this, we remain concerned that current funding arrangements are not operating efficiently to assist independent producers of high quality live action children's drama, where the majority of production occurs in Australia and the subject matter is distinctly Australian. This is an area of children's television production that has traditionally not been well supported by the market. Attracting international pre-sales can be difficult for these projects. For series with a distinctly Australian character, such as *My Place*, it is all but impossible. And yet despite their distinctive Australianness, due to the high quality of their production, many of these series have in fact been successfully sold overseas.

If there is any area of production where Government support for the screen sector is crucial, it is in the creation of distinctly Australian productions that child audiences can relate to. In fact, Australia is a world leader in the creation of high quality children's television drama. Series such as *My Place*, *Dance Academy*, *Lockie Leonard* and *Mortified*, and going as far back as the *Round the Twist* series, leave an enduring legacy for future generations. However, the current funding arrangements threaten their viability.

Under the previous system of direct funding, these productions would receive anywhere up to 40% of their funding directly from the Film Finance Corporation. While the financial demands of producers have not substantially changed, the new arrangements have made it more difficult for producers to access the finance necessary to go into production. Sources of Government funding have become fragmented between Screen Australia and the Offset, complicated by the higher administrative, legal and financial costs involved in cashflowing the Offset.

Cashflowing the Offset is a significant financial and administrative burden for independent producers. A sizeable percentage of the Offset is diverted into servicing interest on loans, and paying fees associated with obtaining finance, as well as legal fees and administrative costs. Larger producers may be in a position to effectively self-fund the Offset. As it is the

aim of Government to develop the industry beyond a cottage industry, smaller companies should not be disadvantaged in accessing financial support as it disproportionately inhibits their opportunities to grow and develop.

The continued creation of high quality, distinctly Australian, live action children's drama should therefore be a high priority in the Government's strategy for the independent screen sector. We believe that these projects will continue to require significant direct support over and above the 20% Offset or they will cease to be viable.

Screen Australia

The role of Screen Australia is critical to the success of the independent production sector. We also believe that the Screen Australia's policy and research functions are essential to the well being of the industry.

- Policy

We believe that Screen Australia should play a leading role in developing and responding to policy directions in the screen industry; not as a self-serving lobby group for the industry as a whole, but in a policy leadership role which draws on its comprehensive industry knowledge and experience. Involvement in project development, financing and investment, marketing and distribution, combined with research and statistics, means that Screen Australia is in a unique position to inform policy direction.

When compared to the policy leadership shown by the former Australian Film Commission and Film Finance Corporation, Screen Australia's participation in policy debate concerning the industry has been significantly muted. We believe that this is a significant loss for the industry. No other organisation in the industry is as well placed or resourced as Screen Australia to fulfil this role.

- Research and statistics

Without reasonable data collection it is impossible for the wider industry to measure the performance of the Offset. This is particularly the case in relation to Children's programming.

Government has clearly identified the importance of local children's television production and prioritised its funding accordingly: the continued support of the ACTF and the launch of ABC3 is testament to this. However, the dearth of information available to the industry on children's television production makes it very difficult to gauge its performance.

The lack of data is not confined to the Offset. There is a shortage of data in relation to both FTAs and Pay TV adherence to their local drama quota and expenditure requirements.

Screen Australia has advised that data is not currently collected in relation to children's projects that apply for the Offset, or the number of successful applications. No data is currently available as to the value of Offset obtained by producers of children's content. Such data, if it was collected, may be confidential in respect of individual projects. However, it should be possible for Screen Australia to publish aggregated or de-identified data in some form, split across genres, which may assist the industry to evaluate the effectiveness of the Offset.

This is essential to allow the wider industry to make an informed contribution to the debate over Government support of screen production. Industry has a significant contribution to make in discussions concerning the direction of the screen sector. However, the largely

anecdotal or case study nature of industry feedback would be far more valuable if it were also accompanied by comprehensive data and analysis.

The Australian Children's Television Foundation

We note that the ACTF is mentioned as a key government agency in the Discussion paper. However, there is no distinction made between the size and level of funding of each organisation.

The ACTF received funding of \$2.654m from DEWHA in 2008-09 compared to \$102,888,000⁴ provided to Screen Australia, so we are a much smaller organisation.

Nevertheless the ACTF provides considerable support for the creation of high quality local children's television production. We continue to invest heavily in script development funding, nurturing the development of children's television projects at an early stage.

In 2008-09 we invested in the development of many projects and invested in the production of several high profile children's television productions: *My Place*, *Lockie Leonard 2*, *Dance Academy*, *Flea-bitten!* as well as providing assistance to the producers of *Pearlie!* in the form of an Offset cashflow loan.

⁴ Screen Australia 2008-09 Annual Report, p 133.