



Australian Screen Industry

Comments on the Exposure Draft (04/09/2007) of the Screen Australia Bill 2007

September 2007

Introduction

Three of the key representative organisations of the Australian Screen Industry (ASI) have jointly prepared this submission for DCITA.

The ASI appreciates DCITA providing the opportunity for industry to provide comment and recommendations on the current Exposure Draft of the Screen Australia Bill.

Comments on the Screen Australia Bill 2007

The ASI has the following comments on the exposure draft (04/09/07) of the Screen Australia Bill:

Part 1, Section 3

The ASI notes that the definition of an Australian program under Section 3 differs to the Australian Film Commission Act. Section 3 of the AFC Act states:

"Australian program" means a program:

- (a) that has been made wholly or substantially in Australia and that, in the opinion of the Commission, has a significant Australian content;*
- (b) that is to be made wholly or substantially in Australia and that, in the opinion of the Commission, will have a significant Australian content; or*
- (c) that has been, or is to be, made in pursuance of an agreement or arrangement entered into between the Government of the Commonwealth or an authority of the Commonwealth and the Government of another country or an authority of the Government of another country.*

The current draft bill states that an Australian program:

means a program:

- (a) that, in the opinion of Screen Australia, has, or will have, a significant Australian content; or*
- (b) that has been, or is to be, made in pursuance of an agreement entered into between the Commonwealth or an authority of the Commonwealth and the Government of another country or an authority of the Government of another country.*

The new draft bill removes the phrase *"been made wholly or substantially in Australia"*. The ASI understands that there is concern that this phrase may preclude Australian films shot overseas. The ASI believes that this is not necessarily the case and a film can be shot overseas (in the case of a documentary) and still be *"made wholly or substantially in Australia."* The ASI believes that this new definition may be unnecessarily watering down the current definition of an Australian program too far and has the potential to be exploited.

Part 2, Section 6(1)(a)

Part 2, Section 6(1)(a) states the objective of Screen Australia is to:

Support and promote the development of a highly creative, innovative and commercially focused Australian screen production industry.

The ASI recognises the importance of developing the commercial focus of the

Australian film industry and welcomes measures designed to enhance the fiscal health of the industry as a whole. The stated aim of Screen Australia to develop sustainable screen production businesses is strongly supported by the ASI.

Further, the ASI does not believe that all “highly creative” and “innovative” projects will necessarily have a commercial focus. The ASI believes it is imperative that the development of projects by Screen Australia does not exclude those which represent creative innovation and original and audacious new voices solely on the basis of their commercial prospects. Any healthy and sustainable film industry must strike a balance between the development of new and emerging talent with commercial considerations.

Part 2, Section 6, (4)

Part 2, Section 6(4)(a)&(c)

Part 2, Section 6(4)(a)&(c) reiterate the commercial focus enunciated in Part 2, Section 6(1)(a) by requiring that Screen Australia must, in as far as is practicable “promote the open market as the primary means of support for projects with commercial potential” and to “ensure the development of a diverse range of Australian programs that deal with matters of national interest or importance to Australians or that illustrate or interpret aspects of Australia or the life and activities of Australian people”

Again, the ASI does not believe it is the case that developing a diverse range of Australian programs that deal with matters of national interest or importance to Australians is necessarily compatible with a purely commercial focus. The ASI recommends extensive industry consultation in the development of the functions of Screen Australia to ensure that programs dealing with matters of national interest have clear support mechanisms that don’t focus exclusively on commercial potential.

The ASI believes that the phrase “open market” in Part 2, Section 6, (4) (a) is unclear and ambiguous and seeks clarification of the purpose and meaning of the phrase “open market”.

Part 2, Section 6, (4)(b)

Part 2, Section 6, (4) (b) states that in performing its functions, Screen Australia is to:

(b) promote the development of commercially focused screen production businesses

The ASI suggests that the word “Australian” be inserted into this clause to emphasise the aim to support the development of a local industry.

*(b) promote the development of commercially focused **Australian** screen production businesses*

Part 2, Section 6(4)(d)

In the Government’s announcement on 8 May 2007 of the intention to form the Australian Screen Authority (now Screen Australia), the Minister made the following statement:

The major priority for the ASA's resourcing will be on production of projects of national cultural significance which would be unlikely to attract the necessary private finance to proceed on the basis of the rebate alone. Such projects may include documentaries, children's programs, new producers' work and indigenous content.

The Australian Screen Council suggests that the draft Bill does not fully address this original vision.

Specifically, Section 6(4)(d) of the Bill – dealing with the considerations governing the performance of the functions of Screen Australia – states that Screen Australia should:

- (d) place an emphasis on:*
(i) documentaries; and
(ii) programs of interest or relevance to children”

The ASI welcomes the specific focus on both these forms of production.

The ASI believes that other vulnerable areas identified by the Government need to be included in this clause – namely that the following addition be made:

- (d) (iii) content made by first time producers, directors and writers , and*
(iv) content made by indigenous Australians”

Part 2, Section 6(4) – Further issues

The ASI notes that the draft bill has removed an extant clause in the current AFC Act, pertaining to the performance of its function. Section 12 of the AFC Act states that:

For the purposes of performing its functions, the Commission shall keep itself informed, whether by the collection of statistics, the conduct of market research or otherwise, of all aspects of making, promoting, distributing and broadcasting programs in Australia.

The ASI recognises that the Government has decided to move the research and statistics function currently undertaken by the AFC to the AFTRS. However, it is clear that for Screen Australia to remain connected to the industry and adapt to changing circumstances within the industry, Screen Australia will need to keep itself informed of all aspects of making, promoting, distributing and broadcasting in Australia. The ASI believes that this function may be implicit in the nature of the organisation and its functions but that keeping this explicit in the legislation is important for clarity's sake in the functioning of the new agency.

Other issues

The ASI notes that the Australian co-production program is not mentioned in the draft bill, nor was in the previous AFC Act. The AFC currently administers the International Co-production Program and the ASI believes that this should be clarified within the functions of the new agency and be addressed in the new legislation.

The ASI would be happy to provide any further information, and can be contacted in the first instance by contacting either Jacqueline Woodman AWG Executive Director,

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Yours sincerely,

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