



RESPONSE TO SCREEN AUSTRALIA
REVISED ENTERPRISE PROGRAM GUIDELINES
AUSTRALIAN DIRECTORS GUILD (ADG) 29 JANUARY 2010

OVERVIEW:

The ADG welcomes the opportunity to comment on the revised Enterprise Program Guidelines.

The ADG represents a cross section of Enterprise Program stakeholders. These include applicants and recipients, as well as directors and writer/directors who are or may be engaged by the production companies funded under the Program

The ADG continues to support the Program's broad aim to help build sustainable screen businesses that in turn foster the talents of a wide range of creatives working in the screen arts. However, we wish to reaffirm our view that such a Program should be able to demonstrate support for the creative endeavours and careers of directors and other filmmakers who contribute to the success of the local industry. A beneficial flow-on effect for other key creatives cannot be assumed, but must be built into the Program Guidelines.

The director is recognised as an author of an audio-visual work in all 27 EU Member States. These countries give directors a first economic ownership in the films that they direct. Directors in North America and the UK are substantially protected and rewarded by collective bargaining arrangements negotiated and enforced by powerful unions such as the DGA.

Directors in Australia do not have the rights or recognitions afforded their peers in other countries as primary producers of screen content, and as such do not have

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the remuneration that flows from this recognition. It is one of the principal reasons that all but a handful of Australian directors have struggled to build sustainable careers in their own country. Any discussion about industry sustainability must take into account the reality for Australian directors, who do not have the avenues for on-going remuneration or recognition afforded to directors in all other major international screen production countries.

The ADG believes that the key actions which will enhance the ability for directors and independent filmmakers to build and sustain careers are:

- The payment of equitable rates and recognition of fair conditions.
- The payment of secondary income streams for directors and independent filmmakers from the exploitation of their creative work.
- A shift in industry practice towards respecting and rewarding the Intellectual Property of directors and independent filmmakers.
- The screen industry working to build unity within it, with an emphasis on the key collaborations between producer and director.
- The involvement of directors in Screen Australia assessment committees and procedure/ policy reviews, in order to ensure that the unique perspective of those in this crucial industry role is heard.

We urge Screen Australia to take these broad issues into consideration during the next stage of drafting.

General Recommendations:

- That special consideration be given to enterprises that include directors as part of their business structure. Enterprise development is equally important for the sustainability of directors' careers, and production companies benefit greatly from having their directors' input into business development.
- We strongly recommend that a portion of the Enterprise allocation be sanctioned for companies including or working with experienced directors who are creatively initiating and driving a project.
- It is a reality that directors are very often required to create their own work opportunities. Many projects are by necessity initiated by directors and developed by directors with teams. We therefore recommend a flexible approach that would allow directors initiating projects to engage the services of a producer, and form partnerships that acknowledge the director's initiative.

- That production vehicles seeking provisional Producer Offset certification where the director of the project is not a Company Director, must exercise an acceptable agreement between the production vehicle and the director which sets out the director's rights and responsibilities. The ADG Rate Cards and Code of Practice are pertinent to any such agreement, and we hope that Screen Australia will broadly affirm them.
- Peer assessment and reviewing is essential in any process deliberating on development support, whether as part of the Enterprise program, or part of the single-project development funding and we urge Screen Australia to ensure that directors are integrated into the assessment process.

Specific comments on the Revised Enterprise Program Guidelines:

Application process

The ADG believes that the elimination of the EOI stage and the requirement to complete a full business plan restricts diversity and disadvantages smaller companies. We believe that companies with limited resources require some early indication of how competitive the round is, so that they may make an informed decision about how to best direct their resources.

Feedback from our members indicates that the financial and human resource costs of the Enterprise application process are enormous. While this can be justified and borne by larger companies, production companies that may be innovative and successful but smaller (and therefore looking to the Enterprise Program to grow their business to the next level) may not be in a position to take such a risk even if they wish to do so.

We believe that any streamlining of the process through a disincentive to apply, would be at the cost of diversity.

Single- project development funding

The ADG supports flexibility in single-project development funding for Enterprise recipients in certain circumstances, as we believe this may create additional opportunities for directors to partner with production companies.

As stated in our general comments above, we also recommend a flexible approach to contracting that would allow directors initiating projects to engage the services of a producer, and form partnerships that acknowledge the director's initiative.

Fairness and reasonableness

The ADG commends Screen Australia for requiring successful applicants to act fairly and reasonably towards third parties.

We strongly believe however that the wording “*paying at least award minimum rates*” is not appropriate to most directors and independent filmmakers, who work as contractors or sub-contractors under agreements negotiated between producer and director.

The ADG currently has recommended standard agreements for directors in feature and documentary, and we are developing agreements in other areas. These agreements contain a range of rights and conditions including agreed fees based on industry standards. We encourage Screen Australia to refer to this resource as the award rates outlined in the MPA bear little relevance to standard industry practice in the screen industry for directors working as freelancers.

To be consistent with the overview for production and documentary budgets to pay “industry norms” (pg 31, 36 & 46 in the Program Guidelines) we recommend the wording avoid reference to the MPA award and include:

paying market rates for all work performed by third parties on their project as recommended by the relevant industry bodies, ie: ADG, AWG.

We endorse the wording regarding “respecting intellectual property rights of all relevant persons whether those rights be copyright, moral rights, or ICAP rights.”