

AUSTRALIAN SCREEN COUNCIL
the peak body for the independent film and television industry



August 24, 2007

Committee Secretary, Senate Economics Committee
Department of the Senate
PO Box 6100, Parliament House
Canberra ACT 2600
Via email: economics.sen@aph.gov.au

**Inquiry into the Provisions of the Tax Laws Amendment
(2007 Measures No.5) Bill 2007**

The Australian Screen Council (ASC) welcomes the opportunity to comment on the Bill, specifically on the section regarding the film and television industry.

The Australian Screen Council has two main points:

- We support the majority of the Bill.
- We have major reservations regarding one aspect of the Bill – access to the rebate for television production for commercial broadcasters.

Access for broadcasters

Commercial broadcasters are given exclusive access to the broadcast spectrum. In exchange for this protection, the broadcasters must meet public service license conditions which include investment in Australian content.

Allowing broadcaster access to the federal 20% rebate effectively subsidises the broadcasters' agreed conditions. The Australian Screen Council does not believe it is good public policy to provide a financial subsidy to assist a highly protected and profitable oligopoly fulfil their public service obligations.

The argument applies equally to free-to-air broadcasters and subscription television channels in respect of their obligations for Australian content.

Furthermore, the Council believes that access to the rebate for television production for commercial broadcasters directly contradicts the original stated objectives of the Bill, which were to ensure the growth and sustainability of the industry. Instead both the commercial and cultural diversity of the industry will contract. Broadcaster access to the rebate will lead to a lack of diversity in stories, budgets and regional representation. Australian audiences will be harmed by this unintended flaw in the legislation.

The Council strongly supports the Bill being amended to remedy this flaw.

Preferred Position

The industry's preferred option is to amend the Bill to limit access to the producer rebate to bona fide "independent producers", as defined in the Broadcasting Services (Australian Content Standard Variation 2004) - No. 1.

This has precedent in two federal areas – the Film Finance Corporation limits funding to “independent producers”, and the regulator ACMA differentiates between “independent producers” and broadcasters.

Alternate Position

The industry has also developed an alternate position. As a minimum, the Bill must be amended to ensure that Broadcasters and subscription television channels cannot access the Producer Offset for the Australian content they are mandated by law to provide. If these entities choose to invest in producing new Australian content beyond their legal minimum obligations, this additional content would be eligible for leveraging the rebate.

This alternate eliminates the public policy issue of broadcasters being subsidised by taxpayers to fund their regulatory obligations. It also provides an incentive for broadcasters to make additional Australian content above the current quotas, which would be a benefit for Australian audiences.

Both positions would ensure the new legislation would deliver a fair and equitable package that will drive new investment and build stronger businesses in the Australian film and television production industry across Australia.

Importantly, they would ensure a diversity of stories and voices on screen for Australian audiences.

We would be happy to provide any further information, and can be contacted in the first instance by contacting either Jacqueline Woodman AWG Executive Director, tel: 02 9281 1554 or Bethwyn Serow, SPAA Policy Manager, tel: 02 9360 8988.

Yours sincerely,

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