



19th September 2008

Screen Australia

Dear Sir/Madam,

We are writing in response to Screen Australia's Draft Statement of Intent.

This submission is from Emile Sherman of See-Saw Films, and Marian Magowan and Miranda Culley of Magowan Films.

As feature film producers, we are writing specifically to address concerns relating to the feature film industry.

We are broadly very supportive of the central messages in the Statement, and welcome Screen Australia's focus on helping to create sustainable production companies as the engine for a vibrant production sector.

Specifically, we welcome Screen Australia's intent to shift responsibility and accountability to producers by providing proven producers with a development slate as well as providing bonuses as incentives for success.

To create a sustainable film production sector, there needs to be a number of production companies that make a number of films each year. Only by making a commercially significant number of films can a production company have any deep understanding and connection with the marketplace and with international distributors and financiers, giving them the ability and experience to:

- Secure the best material
- Make the best decisions both creatively and commercially
- Negotiate the best deals

Production companies need to be accountable for their productions as much as possible and to be accountable for their decisions to back projects, directors, writers etc. Only by shifting the focus towards accountability can the industry move from a cottage industry to one which has long term sustainable and successful production entities.

A wonderful result would be if, through the process of consolidation envisaged under the Statement of Intent, some of the talented Screen Australia script assessors and development executives could move into the private sector, working in thriving production companies to help increase the quality of films.

We believe that one of the most important signs of a mature feature film production industry is the ability to retain and continue to work with our successful directors, writers and actors. In the UK, it is commonplace for their top directors to work between Hollywood and the UK, doing both studio films and independent UK films. With the extreme competitiveness of the independent marketplace and the flood of product into the market, the way to make consistently saleable films is to work with our top directors and top cast. Naturally we should continue to nurture new talent and often these are the truly surprising films that exceed everyone's expectation, but a mature industry cannot be based on the hope that an untested director will create a breakthrough hit! And there is no point in nurturing new talent if we don't also nurture their ongoing careers as well as reaping the rewards from their successes by retaining them to work regularly in this country.

The UK's success at nurturing and retaining their top directors is one that we believe is well worth looking at closely. The key point is that directors who have proven themselves internationally have a stronger ability to secure top cast, and to help producers secure top underlying material (if the directors attach themselves early to a producer's bid to option a book etc) as well as writers. This, in turn, translates into projects that, in addition to being strong projects, can pre-sell and can therefore be made for decent budgets. This is the picture of a mature industry rather than an industry of 'first timers'.

To retain our top directors, and to be able to secure our top underlying material and work with top writers, we need production companies that are international in terms of the quality and quantity of films produced. ie. To be able to attract a significant Australian director to work in this country, we need production companies that have sufficient resources to option material that excites these directors (and can compete with their other international offers) and to pay for writers of international standard. All this is naturally a 'chicken/egg' cycle of sorts, but the Statement of Intent goes some way to show Screen Australia's commitment to help develop a production industry that could achieve this goal.

Cast/MEAA

It is also worth mentioning the importance of cast in the international marketplace to secure the presales needed to trigger finance for films. The current stance of MEAA in restricting imports to one lead and one support is not consistent with the long term benefits of the industry and for the acting community. Nor is it consistent with the Statement of Intent. Often to secure presales one needs more than one significant name actor, particularly if we are to be more ambitious in terms of the size and marketability of films made. And although Australia boasts many actors with international standing, there just aren't enough to enable us to always cast within the MEAA requirements and still make a strong marketable film, or even to just finance the film in the first place. We believe this is an area that needs significant attention and cooperation.

We'd like to make a number of specific points in relation to the Statement of Intent.

Section 2.e). Reward Achievement.

This brings up the question of what 'achievement' means. Independent films can be successful through:

- big local box office
- big local ancillary sales and exposure (without necessarily achieving in the box office)
- strong international sales and box office
- top festival exposure and critical acclaim.

All these are facets of success and each film is geared towards different parts. They all work to promote Australian talent, culture and storytelling. And box office in itself is problematic in that a wide released (large p&a) film that does \$2 million is nowhere near as successful as a small release that does \$2 million. Regardless, we welcome the intent to reward achievement, whether by providing bonuses to producers, or through development slate funding or by making it easier for producers who do make successful films to secure funding for their next film.

3. Enterprise and Professional Development

Current guidelines state that a producer cannot have two 'evaluation' letters of intent at the same time. This is clearly antithetical to what the current Statement of Intent stands for. It seems like there will not be a distinction between 'marketplace' and 'evaluation' in the future. This has some benefits and issues that we'll address. But a key factor would be to **encourage and reward** producers who have more than one strong project rather than to bar them. It is just not possible to create sustainable production companies if production companies cannot have multiple projects.

3. Production Financing

We fully agree that guidelines for the assessment of feature films should be flexible, "taking into account the Producer Offset, market attachment, the commercial, cultural, artistic and critical merit of the project and its ability to reach a wide audience or a specific targeted audience in Australia". This is exactly as it should be. But the Statement also refers to the Minister's expectations that all top up funding for projects must take into account 'cultural merit'. It is important that this is defined as widely as possible and put in the context of the other requirements mentioned above. Films that may be set outside Australia with foreign characters, but driven entirely by Australian storytellers (and produced in Australia), are culturally significant, as they build up our cultural capital and they nurture and further the careers of Australian storytellers. And this, in turn, gives the industry the tools it needs to retain our top directors who may be interested in telling stories not set in Australia but ones that are still 'Australian films', driven and controlled by Australians. **Without this flexibility, the industry has little chance of developing beyond a cottage industry.** A broad interpretation of 'cultural merit' is certainly something that has been applied in the UK and it has resulted in their top directors developing longstanding relationships with UK producers, making a wide variety of stories out of the UK, as English storytellers.

Further, we need a broad cultural test to ensure that co-productions which may not be set in Australia are also supported. Co-productions are one of the **key** tools we have to grow the industry and to pool the creative and financial resources of Australia and abroad. To grow the industry into a mature one, Screen Australia needs to be able to support Australian majority as well as minority co-productions, co-productions with foreign directors that are set in Australia and co-productions with Australian directors that are set overseas.

The Offset.

The main point we wish to make in this submission is that the Production Offset, **on its own**, is not sufficient as the sole source of federal government funding on films, whether they are seen as 'commercial' or 'arthouse'. This is because the Offset is reduced to about 26% net to a producer to be used to finance films. And 26% is well below what is realistically needed from subsidies in this and any other developed country outside the US, even on overtly commercial films.

The 40% becomes 26% because:

- 40% of QAPE is usually about 36% of budget.
- Lenders generally lend the 'bonded' QAPE which is 85% of QAPE. So 36% becomes 30.6%.
- Costs of borrowing vary but currently sit at a minimum of 15% including establishment and legal costs. This takes it down to 26%.

We should not think of the Offset as delivering 40%. It delivers 26%!

This means that Screen Australia is **still a critical trigger of finance for practically all Australian films**. There will of course be exceptions, but to assume that 'commercial' films can just rely on the Offset is naive thinking within the context of international independent films outside the US. If this is the path Screen Australia takes, then the industry will end up with primarily first time arthouse directors, and no mature sustainable industry.

Marketing Support

The Statement envisages additional scrutiny being placed on the marketing and distribution potential of a film, which makes sense. However, if we had sufficient experienced producers who make numerous films and who deal directly with sales agents and distributors on a day to day basis, they should be in the best position to analyse a film's potential market. Assisting producers to focus more on this area could be a good idea, depending on how much money it diverts from the core areas of developing and funding films.

However, we are not believers in Screen Australia providing p&a money to distribution companies. Australian distributors spend MORE money on Australian films than they do on EQUIVALENT foreign films. We have never had trouble getting Australian distributors to focus on Australian films and to give them the support they deserve. We believe that often the expectations on the level of marketing an Australian film should get is unreasonable and totally inconsistent with the level that an equivalent foreign film gets. There is also no evidence that spending lots of money on a film that doesn't warrant the spend will result in the requisite increased returns. In fact, there is evidence that increased spend makes a negligible difference. Screen Australia's money is best spent in developing and financing films - films that deserve marketing support will receive it from distributors.

We also note that putting money into other films rather than p&a has many other flow-on effects such as building up the production sector, creating jobs, cultural benefits etc etc, whereas providing p&a money just benefits TV stations (which is where the money will generally be used).

Producer Margin

Finally, it is worth noting that the current Screen Australia position of taking two thirds of the producer margin does not fit within the spirit of the Statement of Intent. Valuing the offset at 85% of the 40% of QAPE for the purpose of finance plans is the realistic position for Screen Australia to take, as this is what lenders will lend in the current market. Penalising producers for this makes no sense and runs contrary to the Statement of Intent. Hopefully this is something that will be addressed.

In summary, we believe this Statement of Intent contains ideas and sentiments that should greatly benefit the Australian film industry, particularly the focus on shifting responsibility and accountability onto production companies. We make the points above in the interest of ensuring that we can maximize the impetus behind the Production Offset as well as the agency merger to create a long term sustainable and successful production sector.

Kind regards,

Emile Sherman, See-Saw Films
Marian Magowan, Magowan Films
Miranda Culley, Magowan Films.