



April 2011

SPAA SUBMISSION TO SCREEN AUSTRALIA DRAFT GUIDELINES FOR CONVERGENT TELEVISION AND ALL MEDIA FUNDING.

SPAA welcomes the opportunity to comment on the draft guidelines, and has now had the opportunity to canvass Council and members on the various issues raised in the document. Here follows our comments:

1. DOCUMENTARY

The release of the documentary guidelines at AIDC in March was broadly welcomed by the sector. SPAA recognises that Screen Australia has incorporated many of its members' views into the draft guideline document, and welcomes the proposed changes. However, as Screen Australia will be aware, there are still concerns on a number of points, particularly from series producers. Individual submissions from members have been submitted to Screen Australia, and SPAA herewith confines its comments to the majority concerns of the membership:

- NDP funding and assessment processes.

There appears to be still a lack of clarity around how programs will be assessed for inclusion in the NDP, and the role of the library in making these decisions and the respective weighting against other criteria. While recognising that strains on funding inevitably means assessment criteria will need to be in place, the industry seems to be generally unclear on how decisions are arrived at in relation to this program. It would be helpful if the assessment process and criteria is clearly articulated to the documentary sector. Examples of what has constituted 'ideal' NDP programs over the last few years and why, would be useful.

There are still concerns about assessment potentially 'over-riding' broadcaster commissioning decisions; whether this is a real concern or not, it is a real perception amongst members and therefore would benefit from some explicit clarification before the guidelines are finally endorsed.

It should be possible for broadcasters to prioritise their projects with producers and Screen Australia. It is essential that as much uncertainty as possible is alleviated to avoid projects falling over at the critical Screen Australia funding stage. SPAA recognises that the broadcaster split of funding will certainly help in this regard. This may simply be a communication issue, and SPAA would recommend that Screen Australia, as did the FFC in the past, have a series of industry forums to go through the guidelines in detail so that concerns can be aired.

- Foreign formats

There has been much discussion on this subject from members who are directly engaged with foreign formats for factual programs. SPAA acknowledges that Screen Australia has addressed the situation in its current guidelines, and will allow foreign formats provided they fit into a diverse slate with precedence given to Australian IP owned programs. The question of foreign companies' eligibility for funding remains vexed with some members. SPAA's view has always been as long as there is a separate, independent Australian entity registered as a company that pays tax in Australia and employs Australian personnel, then there should be no impediment to funding eligibility for a foreign format from a third party entity provided all other relevant criteria are met. This is a subject to be discussed at SPAA Council at its next meeting.

2. CHILDREN'S PROGRAMS

SPAA members are still unconvinced that \$100K licence fees will work. As we have argued in our earlier comments on the television blueprint, children's producers struggle to persuade the networks to reach \$95K. Members feel that progress would be achieved if the free to air networks agree to a floor of \$95K without any pay TV component. There is a very strong view that pay TV channels will not pay \$15K for animation and often not for live action. This guideline may well result in fewer commissions, and animation producers may well not be able to secure the minimum fee to secure a pre-sale, thereby putting their whole financing plan at risk. A combined licence fee of \$115K from pay and FTA may help one live action project per annum, as there is a possibility to get more from pay TV and offer it for less to FTA.

There is also confusion, it appears, between messages being received by Screen Australia from broadcasters as to what they are prepared to pay as a floor price, and what producers are being told by the networks, which seems to be that \$95K is a stretch. However, undoubtedly Screen Australia can shed light on its negotiations with the broadcasters and assure producers of some certainty.

SPAA believes that stipulating a minimum hold-back period is an unnecessary intervention. The Nine Network look for a 2 year holdback and show no signs of changing; however, SPAA recognises that this will inevitably have to change in the run up to analogue switch off. SPAA believes holdback periods are a matter between the networks, pay TV and the producer to work out between them except where independent producers negotiate collective terms of trade with broadcasters.

Screen Australia's comments in this section relating to digital media are unclear. The ABC have catch-up rights as part of their licence requirements and most of the other networks and pay TV broadcasters appear to be falling in line with this. Do the references to digital media imply rights beyond these?

3. TELEVISION DRAMA

- Assessment is the main issue for adult drama producers notwithstanding Screen Australia's assurances that this would be a "light touch" approach. What sort of profile will the independent panel have? Why would it be reasonable to assume this panel together with Screen Australia investment personnel would have more experience and judgement than

broadcasters to evaluate domestic television programs? As SPAA has commented before, Screen Australia does not engage in television development, this is undertaken by producers and broadcasters with a specific slate and slot in mind, usually domestic prime time. Once again, the proposed process needs further articulation and clarification; there is concern that Screen Australia may override broadcasters in its assessment processes. If a project has been developed and commissioned by the broadcaster and the producer, and if it meets the requisite guidelines, the prospect of it being turned down at a final stage by Screen Australia on editorial grounds would not reflect well on the agency, and it would undermine confidence on all sides. There is concern that the artistic and cultural brief included in the principles for this guideline means that Screen Australia intends to shape projects for television independently from the judgements of the end user.

- The guidelines comment on importation of foreign actors, which Screen Australia is well aware is currently under review by the Department. SPAA believes that Screen Australia has no place issuing its own directives on this matter independently and in advance of the Department's review. It takes no account of the difficulty producers face in selling Australian drama overseas without the inclusion of recognisable foreign performers.
- The terminology concerning broadcaster access to Screen Australia funding is somewhat ambiguous. It would be helpful to have a definition of development, either in the guidelines or in the Terms of Trade. If a broadcaster pays the full cost of development of an independent production, does this mean that the broadcaster has 'developed' the project?
- SPAA is opposed to the need for international sales agents to be attached for drama conceived for an Australian domestic prime time audience. It is a reflection of poor licence fees paid by the free to air and pay TV broadcasters that a domestic program cannot be funded solely by the broadcasters they are made for, as is the case in most other countries in the world. If producers choose to go down this path to make their program, then this of course should be factored in, but if they can do without it, then surely this gives the producer some opportunity to exploit their own IP and control their sales after the program has been made, a significant step to encouraging sustainable businesses.
- This requirement locks up television drama in foreign hands for years for little financial risk on the part of the sales agent, and is an impediment to independent producers benefitting from their own back catalogue. Most sales agents demand all world rights for a minimum of 15 years, but rarely if ever do any work after 1 or 2 years, or the initial exploitation period. Sales agents know they are in the front seat when dealing with television programs that need Screen Australia funding, and trying to negotiate fairer terms (or reversion of rights) is difficult for the smaller players, and, of course, the more "Australian" the product the tougher it is to secure international commitment. SPAA would like to see a review of this provision in the guidelines.

4. SMALL SCREENS, CONVERGENT TELEVISION & ALL MEDIA

General comments

- The guidelines overall refer to convergent television, yet maintain clear divergent categories of television. They envisage a world where the main outlet for television drama is terrestrial free to air Australian channels, and where online is a secondary outlet for additional plays, various add-ons and enhancements and low budget or non-linear projects. This is the current situation, but it is surely necessary as we approach analogue switch off to contemplate mainstream drama being delivered in other ways on online platforms. Quality drama made on reasonable budgets may be able to reach large audiences in this way.
- There is a clear difference between ‘convergent’ and ‘interactive’. Taking a piece of content made primarily for a film or television medium and showing it on a different device is not innovative, nor is it digital. It’s simply another method of delivery. Any guidelines that equate convergence with digital should be treated with caution, especially when it comes to funding support. True digital content should require an interactive component for the consumer beyond a remote control device.
- Screen Australia has an opportunity to assist content producers take a lead in creating truly digital content, whether linked to a broader television or film property which is interactive and which could not work outside of an interactive device.
- As the NBN comes on stream, the division between television and the computer will blur. SPAA would welcome ongoing discussion about small screens such as computer, tablet and mobile, as we prepare for a detailed submission to the Convergence Review later this year.
- SPAA actively encourages the assumption of other screens that TV being the destination for content; however, as every broadcaster offers some kind of ‘catch-up’ TV, they are, in theory, all convergent broadcasters. The major issue for producers is for rights protection where other territories are involved.
- The use of the term ‘innovation’ implies that this takes place only in the digital space, which is manifestly not the case. Interactive multimedia may be an appropriate term to encompass transmedia (where there is a narrative arc), and factual & documentary programming.

Guidelines

- The Overview should include a requirement for the interactive nature of any cross-platform offering and make it clear that catch-up TV, YouTube channels or the broadcast of TV episodes on a small screen do not alone meet the criteria for the All Media Fund.
- It’s difficult to imagine how linear content can push the envelope as envisaged by the guidelines without some form of interactivity, multiple platforms or social interaction being part of it. We are concerned that the reference to linear content could be interpreted as non-interactive. We strongly support skills development in the digital realm, more

engagement with digital as a platform and an increase in familiarity and use of these tools by traditional TV producers.

- The current guidelines would allow a broadcaster to argue that catch-up TV meets the criteria of 'all media' in this fund. The repurposing of linear content for another form of small screen should not be part of this funding envelope.
- The guidelines refer to 'innovative risk-taking linear media' which could just as well relate to the subject matter of the media or the manner in which it was made, and doesn't require any real engagement with the digital realm or the user. We believe the guidelines should be more explicit and require, especially of a linear story, that there be some intrinsic requirement in the product which would exclude it from being broadcast as a simple linear television show.