Funding Australian Content on 'Small Screens' - A Draft Blueprint - 15 November 2010 - A review of Screen Australia's role and objectives in television funding

Australian Children's Television Foundation Submission

AUSTRALIAN CHILDREN'S
TELEVISION FOUNDATION

The Australian Children's Television Foundation ('**ACTF'**) is pleased to have the opportunity to respond to the Screen Australia's *Funding Australian Content on 'Small Screens' - A Draft Blueprint - 15 November 2010* ('**Blueprint'**).

The ACTF is a national children's media production and policy hub and performs a wide range of functions in children's media: as a voice in policy matters; as a distributor of and investor in Australian children's television series; as an instigator of new, innovative and entertaining children's media and as a developer of valuable screen resources for the education sector.

Introduction

We wish to congratulate Screen Australia on the extensive work and analysis contained in the Blueprint. Screen Australia is charged with implementing Commonwealth government policy aimed at ensuring the continued delivery of high quality, distinctive Australian content. In a period of continuing pressure on funding appropriations, developing creative incentives to stimulate the industry to achieve this objective, and ensuring the right mix of content and audience engagement within a transparent and accountable framework, is no easy task.

Like many in the industry, we believe that direct and indirect financial support from the government, and government regulation of minimum levels of Australian content, is critical to the continued presence of Australian voices and stories on Australian screens. We believe that the role of government in underpinning an environment that encourages independent producers to create their projects cannot be understated.

We are therefore particularly impressed by Screen Australia's acknowledgment of the critical and powerful role it plays in the television funding and production industry:

> *Screen Australia's funding has the ability to shape and influence the content production market often providing pricing 'floors' for content by way of minimum licence fees paid by broadcasters as well as overseeing the legitimacy of various commercial terms. In effect this provides Screen Australia with a quasiregulatory function for various industry conditions, with its investment criteria acting as 'policy levers' within industry transactions. It is these levers that are largely the focus of Screen Australia's review of its funding of small-screen content.*[1]

Screen Australia's awareness of the impact of its funding structures, the impact this has on the day to day business of independent producers, and ultimately the content that we see on our screens, is a frank and refreshing assessment of the nature of the small screen industry in Australia. The manner in which Screen Australia's 'policy levers' are applied is crucial to ensure the continued creation and delivery of high quality, distinctive Australian content on multiple screens and platforms via multiple broadcasters (free, pay and public). We hope that this approach to Screen Australia's role will encourage further frank and productive dialogue between the agency and the broader industry.

This submission is confined to a number of the proposals included in the Blueprint that affect the production and broadcast of children's television in Australia.

[1] *Funding Australian Content on 'Small Screens': A Draft Blueprint - A Review Of Screen Australia's Role And Objectives in Television Funding*, 19 November 2010, p9.

Licence Fees (Screen Australia ref 2.1.2 – page 14, 18)

Retaining minimum licence fees

Minimum licence fees are necessary to ensure both commercial free-to-air and public broadcasters make a reasonable contribution towards the cost of creating Australian television series. It is critical that any minimum licence fees are also set at a level to ensure Screen Australia funds are directed towards producing only the highest quality content.

Commercial free-to-air broadcasters generate significant advertising income from television drama content funded by the government: primarily through Screen Australia, as well via state agencies as well as indirect government assistance via the Producer Offset in some cases.

In this context, ensuring that commercial free-to-air broadcasters contribute towards the cost of the production of a series is entirely reasonable and also ensures that broadcasters value the content being created. For the same reason, it is appropriate for Screen Australia to also consider introducing a minimum on licence fees paid by subscription channels, in recognition of the commercial returns they derive from subsidized content.

A minimum licence fee also ensures that the call on government funding for individual television projects is reduced and can be spread across the industry.

Although the existence of a minimum licence fee can inadvertently operate in the industry as a de facto 'maximum', producers are better placed where a minimum licence fee operates. The commercial reality of the Australian television industry is that without a minimum licence fee producers would find licence fees driven further and further down by broadcasters. This would widen the gap to be filled by producers in financing their projects, making it even more difficult for them to finance projects, or requiring government to further subsidise content for broadcasters.

Equity

Broadcasters and subscription channels should pay licence fees (of at least the Screen Australian minimums) for publicly funded content and should not be able to substitute equity investment for those licence fees.

If broadcasters and subscription channels wish to invest further funding in addition to a licence fee, in a project, that should be negotiable.

Minimum Licence Fees - Annual CPI increases

A key problem with the minimum licence fee is their failure to keep up with the overall increase in the costs of television production. Any increases over the past decade or more have been irregular and infrequent, and in the context of rising costs as well as increasing advertising revenues enjoyed by fee-to-air broadcasters and subscription channels, manifestly inadequate.

We are therefore very pleased to support the introduction of annual CPI increases for minimum licence fees.

Minimum Licence Fees – 10% increase

The Blueprint proposes an increased minimum licence fee for children's television drama of $105,000. But because the Blueprint proposes that there should be no restrictions on the composition of the minimum licence fee, the proposed increase is not an increase in real terms. It simply reflects current industry levels, where the minimum licence fee of $95,000 per half hour is usually paid by a free-to-air broadcaster, with a further licence fee of approximately $10,000 typically paid by a subscription television channel.

An overall increase in total licence fees paid for high quality Australian children's television is long overdue.

Minimum Licence Fee – Flexibility

The Blueprint proposes that there should be no restrictions on the composition of the minimum licence fee. This is to encourage greater flexibility for producers to secure financing for their projects.

We support any measures that may assist producers to secure financing for their projects. Greater flexibility for producers may be one such measure, particularly in an increasingly covergent broadcast environment

A flexible licence fee would allow a producer to obtain licence fees from a mix of sources. Assuming a $105,000 minimum licence fee is in place, a producer might theoretically secure a $85,000 per half hour licence fee from a free-to-air broadcaster and $20,000 from a subscription channel.

This flexible model is based on the assumption that producers will be able to negotiate flexible positions between broadcasters and subscription channels, and any distributers that are yet to emerge.

However, this flexibility is severely compromised by the minimum 24 month holdback that is also proposed in the Blueprint.

Assuming for a moment that most television production will remain primarily driven by free-to-air broadcasters, but enjoy a secondary run on a subscription channel, the 24 month holdback effectively formalizes current arrangements to benefit free-to-air broadcasters at the expense of subscription channels.

With a 24 month holdback, free-to-air broadcasters would enjoy a longer holdback period than the current industry standard of 18 months or after the first run has completed. In contrast, subscription channels will have to wait longer to access content. As a result they would have very little incentive to pay an increased licence fee when they are locked out of accessing the content for two years after a premiere.

The outcome from this model would be the opposite of flexibility. Free-to-air broadcasters and subscription channels would have little incentive to move beyond their existing positions if there is no flexibility to negotiate different holdback positions depending on the relative financial contribution of each broadcaster or channel.

A further issue arises if a project does not attract a licence from a subscription channel. The free-to-air broadcaster would be required to pay the entire $105,000 per half hour fee.

The ACTF can see no reason why both free-to-air broadcaster and subscription channel licences should not be subject to minimum licence fee provisions in order to attract Screen Australia funding.

Minimum licence fee conditions should be:

- a minimum of $100,000 per half hour from a free-to-air broadcaster;
- a minimum of $15,000 per half hour from a subscription channel (where there is a primary sale to a free to air broadcaster); and
- a minimum holdback of the earlier of 1 run or 18 months, where each broadcaster pays the minimum licence fee.

However, to allow for greater flexibility for producers, there should also be the option for a minimum total licence fee with no conditions or restrictions as to how the fee is constituted or on holdback provisions, so long as the minimum total licence fee of $115,000 per half hour is met. This would provide producers with flexibility to negotiate a difference balance of licence fees and holdbacks between different broadcasters.

Holdbacks (Screen Australia ref 2.1.1 p14)

Our views on introducing a standard holdback period of 24 months for children's drama in the minimum licence fee are addressed in the section immediately above. However, we briefly turn our attention to maximum holdbacks.

We do not support introducing a cap on holdbacks. If a broadcaster or subscription television channel wishes to pay a premium to the minimum licence fee for exclusivity, then we would assume that the licensee will be sufficiently motivated to properly promote and schedule a program. This would hopefully result in better outcomes for independent producers as well as allow broadcasters to develop and invest in their brands.

In any event, the natural life of a program can often be relatively short and licensees may have little incentive to tie up a program indefinitely. A natural ceiling renders a maximum cap unnecessary in practice. Also, it is relatively commonplace for secondary runs to be negotiated after the event, at least in respect of children's television.

Foreign Formats (Screen Australia ref 2.1.2 – p 16)

A key function of Screen Australia is to foster the creation of high quality and distinctive locally produced content. It is essential that the local industry is comprised of dynamic and innovative local producers. Ownership of intellectual property in a program is a key to developing and growing as an industry that reflects local culture. Accordingly, we support excluding producers wishing to create projects based on foreign formats from accessing Screen Australia funding.

Series Funding (Screen Australia ref 2.1.2 – page 16).

The Blueprint considers limiting funding of any series to the first two seasons, and possibly only to the first season if it is demonstrated to be successful.

The problem with this approach is that there is no accepted industry standard on what constitutes a season. Also, it is not clear whether this proposed cap is intended to apply equally to children's and adult drama. We acknowledge that any cap introduced by Screen Australia will be to some extent arbitrary, and is determined by balancing limited resources and identifying need.

We propose that a cap on funding apply to children's television series based on the duration of a production. A cap of 52 x half hour programs or its equivalent should apply. It would not matter how many seasons a program ran for. The key determinant is the total duration of the series.

For example, 52 x half hour episodes is equivalent to any of the following combinations:

- 2 seasons of 26 x 30 min episodes;
- 1 seasons of 26 x 60 min episodes;
- 4 seasons of 13 x 30 min episodes; and
- 2 seasons of 52 x 12 mins episodes.

The Producer Offset caps funding at 65 episodes, which is the equivalent of 2 and a half series under the 52 x half hour episodes cap that we have proposed. The resulting 'shortfall' between Screen Australia funding and eligibility for the Producer Offset should not be an issue as Screen Australia funding needs to be reserved for culturally distinctive Australian content. The 'shortfall' simply distinguishes the policy objectives of Screen Australia funding from the market emphasis of the Producer Offset.

Eligible drama formats (Screen Australia ref 2.1.2 – page 17).

C Drama classification

'C' drama classification only applies to commercial free-to-air broadcasts, and not to the ABC or subscription channels. Screen Australia has previously funded children's content that has not been classified as C for that reason.

Removing the requirement that a program is classified as 'C' drama won't diminish the quality or relevance of programming for child audiences if the overriding guideline is, as set out in the Blueprint, that 'the primary audience for the content…must be children.'

The key criteria for children's programs funded by Screen Australia should be that they:

- be predominantly aimed at children, as opposed to being produced with families generally in mind

- be drama programs, and not magazine/studio based programming

- achieve the minimum licence fees set out in the Screen Australia funding guidelines

- are presold to a dedicated children's channel or to a mainstream broadcast network to be scheduled for their children's audience.

So long as these specific criteria are met in relation to children's television drama in addition to the existing qualitative criteria set out in the guidelines, we are confident that programs funded by Screen Australia for child audiences will be relevant and engaging to those audiences.

P Drama Programming

Removing the C drama requirement clarifies the eligibility of P drama programming to access Screen Australia Funds. P programming should be eligible for funding, provided it is drama (whether live action or animation) and meets the minimum licence fees established by Screen Australia for children's television drama.

Granting lower budget magazine style P programming or family orientated magazine programming access to Screen Australia funding, which generally attracts licences fees commensurate with their lower budgets, would inevitably mean less funds available for high end children's live action and animation drama. An analogous situation is adult light entertainment, which understandably is unable to access Screen Australia funding.

The cyclical nature of the children's television sector

It is important to address the cyclical nature of children's television production in Australia.

The level of competition for Screen Australia funding of children's content, year on year, is not necessarily a reflection of the level of activity in children's television production.

The continued existence of high end children's television drama and animation on commercial free-to-air television owes its existence to minimum content requirements set out in the Children's Television Standard, and to a lesser extent the New Eligible Drama Expenditure requirement that must be met by subscription channels. A consequence of these two regulations is that the demand for children's content from commercial free-to-air broadcasters and subscription channels can fluctuate dramatically over a short period, but remains constant over the medium to long term.

Commercial free-to-air broadcasters have currently stockpiled children's content to meet their quota. However we estimate that they are likely to start commission content again in 2012. ABC3 has extensive material currently in development that will eventually move into production.

Accordingly, a low level of applications in one year should not necessarily be taken as a decline in demand for funding for children's television or to justify redistribute funds allocated to children's content to other areas. The rise and fall in demand for funding is structural outcome of the regulated children's television industry.

ACTF
February 2011