Getting down to business

The Producer Offset five years on

Screen Australia

The Producer Offset was introduced in July 2007 as part of the *Australian Screen Production Incentive* (ASPI), the Australian Government's package of measures to boost support for the Australian film and television industry. One of the key aims of the Offset was to assist Australian producers to build stable and sustainable production companies.

By 30 June 2012, the Offset had been in place for five years, nearly 500 final certificates had been issued for qualifying projects, and the industry had gained considerable experience in working with it. This presents a timely opportunity to investigate producers' experiences with the Offset, the benefits it has delivered, and the ways in which it has impacted on business practices.

ISBN: 978-1-920998-22-6

www.screenaustralia.gov.au/research

COVER: Photographer: Swell Media

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METHODOLOGY

Screen Australia has used a range of methods to develop a picture of how producers have been working with the Offset to finance projects and help build their businesses over the five years since it was introduced.

Producers: Interviews were undertaken with 28 production companies, covering a representative sample of the producers most experienced with using the Offset. The companies reported on a total of 301 Offset projects. Most of the findings in this report are based on information gathered from these interviews. See appendices for a full profile of the surveyed companies.

Broadcasters: Interviews were undertaken with representatives of the free-to-air and subscription broadcasting industry: ABC, SBS, Seven Network, Ten Network and Foxtel.

Offset cashflow providers: Interviews were undertaken with eight of the main Offset cashflow providers: Aver (Canada), Export Finance and Insurance Corporation, Film Victoria, Fulcrum Media Finance, International Financial Services (Singapore), Media Funds Management, National Bank of California (US) and Screen Queensland.

Screen Australia's extensive project databases were also analysed for information about **production activity** and **recoupment structures** for titles with investment from Screen Australia and its predecessor agencies.

Key findings

Based on total expenditure in Australia, production of Australian narrative content has increased since the Offset was introduced.

IMPACTS ON PRODUCERS

For the individual producers surveyed for this report, the Offset has unquestionably provided relief from the challenges involved in **raising production budgets**. But the recent scarcity of international finance and the high Australian dollar have counterbalanced that effect to some extent, and most Offset projects (features in particular) still need to secure direct funding from Screen Australia.

Along with the financial contribution of the Offset to the project's budget, the Offset has also **improved the producer's equity share** for their projects, in some cases giving them a position on the recoupment 'waterfall' where previously they had none.

Extra equity **increases the producer's share in their project's potential revenue**. Although it can take some time for revenue to pass through the higher levels of the revenue waterfall and reach the producer (and other equity investors), the majority of surveyed producers have received revenue for at least one of their Offset projects to date.

The Offset has also **altered the playing field** for negotiating with the marketplace and raising finance. Producers have been harnessing this enhanced leverage in two main ways:

- Equity trading: some producers traded part of the extra equity delivered by the Offset to attract investors and/or talent.
- Creative use of the 'margin' – the difference between the Offset amount eventually received from the ATO and the amount included in a project's finance plan at the outset: this might be invested back into the budget, offered to investors, or retained to build the business or finance subsequent projects.

Apart from the Offset's contribution to the budget and the access it gives to a greater share of revenue, the **main benefits** identified by producers depended on the type of project:

- For feature films, it was the leverage provided by the extra equity, which can be used to attract investors and talent to the project.
- For TV drama and documentaries, it was the ability to invest the Offset margin back into the company or into subsequent projects.

WORKING WITH THE OFFSET

The portion of the budget contributed by the Offset is not available until the film or program is complete and a tax return filed, so **needs to be cashflowed** into the budget by producers. Feature producers relied more heavily on interest-incurring loans from banks and financial institutions to cashflow the Offset, while TV dramas and documentaries had a greater capacity to be cashflowed using the company's internal resources. This is in part explained by the higher value of the Offset for features and the different financing structures for features and TV.

All Offset features and most TV dramas and documentaries were made using **special purpose vehicles (SPVs)** – companies set up specifically for each production. For around half the features this was specifically to avoid a delay in Offset payment. For TV drama and documentaries it was much more likely to be associated with quarantining the Offset payment from other tax liabilities.

While the Offset has had a positive impact for producers overall, many noted that it had added to their **administrative and legal costs**.

Part 1: Getting it made

Production of market-focused Australian content

Overall production of feature films, TV drama and documentaries has increased since the Offset was introduced in 2007.

For features, average annual expenditure has risen from $141 million in the five years pre-Offset to $239 million in the five years since it was introduced, an increase of 70 per cent. This has been due in large part to a higher incidence of US studios investing in Australian films – average foreign investment in the Australian feature slate rose from $82 million to $122 million over the same period.

TV drama has seen strong and steady growth in expenditure post-Offset, with a move toward programs with high production values (telemovies and mini-series). Documentary production has also reached new highs, in terms of budgets and hours. While this can partly be attributed to the popularity in recent years of reality-style documentary series (many of which are made below the Offset thresholds), high-budget (and Offset-eligible) series have also contributed significantly to the growth.

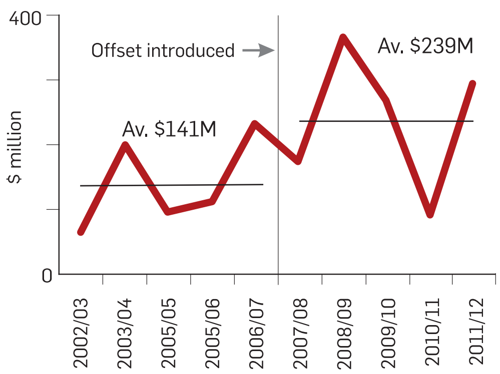
Production expenditure figures alone, however, do not tell the full story of the impact of the Offset on the myriad individual businesses that make up the Australian screen sector, especially given the disproportionate contribution that a few high-budget titles can make to these figures.

RAISING FINANCE: THE PRODUCER'S VIEW

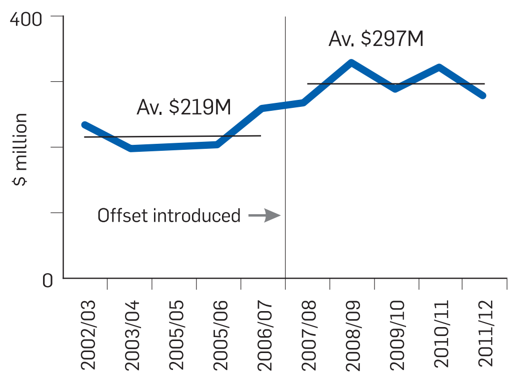
The majority of surveyed producers acknowledged that as a secure payment from the Government, the Offset has unquestionably provided relief from the challenges involved in raising production budgets. However, it was also almost universally agreed that other events and conditions since the introduction of the Offset had presented significant new challenges. As an outcome primarily of the global financial crisis, the availability of international finance for film and television production had contracted considerably. And when Australian producers did manage to secure foreign →

DRAMA PRODUCTION TRENDS (SPEND IN AUSTRALIA)

FEATURES

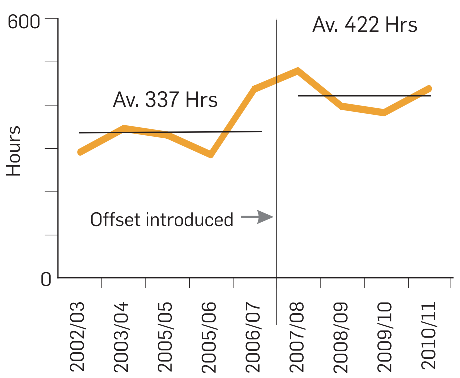


TV DRAMA

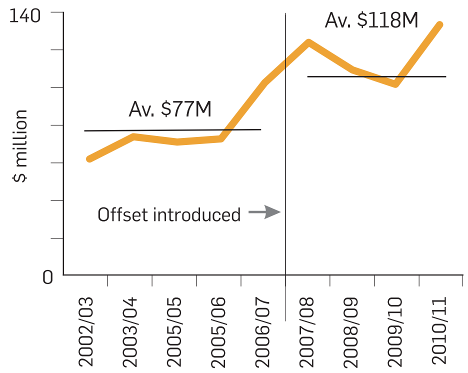


DOCUMENTARY PRODUCTION TRENDS

HOURS



BUDGETS



Source: Screen Australia, *The Drama Report 2011/12* and *Documentary Production Summary 2010/11.*

presales, the continuing high level of the Australian dollar has ensured that their value to the budget was diminished.

Further, with sources of finance tightening on the one hand and increasing competition for audience driving up expectations of the content on the other, many producers felt they were having to do more with less funds. Some noted that their fees had effectively shrunk, and several mentioned that the cost of making films and TV programs in Australia was higher than in some other countries, due in part to industry standards and conventions.

One of the intentions of the introduction of the Offset was to: *encourage greater private sector investment in the industry and improve the market responsiveness of the industry.*[1] This has been interpreted to mean that the Offset would provide a 'market door': automatic Government support for eligible projects able to raise sufficient interest from the marketplace. Several producers felt that due to the economic circumstances outlined above, this had not effectively been achieved. With the value of foreign marketplace attachments diminished due to exchange rates, most Offset projects (features in particular) continued to need direct funding from Screen Australia in order to complete their budgets. And given Screen Australia's finite resources, many producers felt that overall production volumes were still being artificially limited as a result.

NEGOTIATION AND LEVERAGE

As Part 2 of this report will demonstrate, the Offset has generally helped producers to retain substantial equity in their projects, and provided opportunities around the use of equity and the margin between the value of the Offset and the amount used to finance the production. Nearly all of the surveyed producers felt that the Offset had created a shift in the producer's role in the industry – variously described as creating a more 'balanced playing field', giving producers some 'skin in the game' or a 'place at the table as an equal player'. With a greater stake in the success of their projects, producers are also incentivised to maximise the marketability and long-tail potential of their projects. Despite some extra costs and processes (see page 15), this shift was almost unanimously viewed by producers as a positive development.

Previously, the producer's power at the negotiation table was defined by the market's need for content, and the strength of the project they had to offer. With producers now adding a portion of the budget to their package, the market has also needed to adjust to an altered playing field. However, some of the surveyed producers felt that in the case of television content, and documentaries in particular, this extra 'skin in the game' has not necessarily delivered extra leverage in negotiating deals. It was felt by some that the broadcasters, aware of the value of the Offset to the project's budget, were adjusting the deals they were offering producers accordingly. This was mainly reported by the large, established documentary-making companies, in reference to some of the commercial broadcasters.

Several producers noted that Screen Australia's terms of trade, with stipulated minimum licence fees, have largely prevented this occurring for projects with production investment from the agency (although one pointed out that minimums quickly became maximums). Some producers reported that the deals made with a particular broadcaster for Screen Australia–funded projects followed through to subsequent deals with the same channel on non-funded projects, while others were experiencing difficulty in negotiating equivalent terms and conditions when Screen Australia finance was not part of the investment structure.

VIEWS FROM THE MARKETPLACE

Representatives of the free-to-air and subscription broadcasting industry[2] indicated that the Producer Offset had introduced several benefits from the broadcaster's perspective.

All indicated that the Offset gave them access to higher-budget or higher-quality programs without taking on the additional costs and associated extra risks. Each nominated examples of successful titles that would have been made at a more modest scale, or not made at all, without the Offset. In several cases, these projects have reaped benefits in terms of audience engagement and overseas sales, which may not have occurred if the projects had been made at a less ambitious scale, particularly with the current international appetite for high-production-value TV programming. Some reported commissioning programs with the Offset that they probably wouldn't have considered previously, occasionally engaging audiences outside the channel's key demographics.

Some also noted that because of the Offset they weren't having to contribute as much equity investment on top of their licence fee to secure a program, thus freeing up funds to invest in a greater volume of Australian productions (although a corresponding increase in the volume of programs produced has yet to be seen in the production activity figures, at least in the case of drama).

Further, the ability to spread the financial risk across more programs could sometimes facilitate ongoing seasons of a series, particularly where the initial series had not performed as well as expected. With many programs finding a dedicated audience only in a second or third season, the ability to continue production is vital in attracting that base. In addition, foreign sales of programs often depend on there being a quantity of hours available, with overseas broadcasters keen to purchase programs that offer access to more material if the program works with their audience.

Several broadcasters also indicated that for some project categories, particularly documentaries and children's drama, they are being presented with more projects from which to choose, and often from a wider range of producers. This includes less experienced producers for whom the extra benefit of the Offset is a key factor in their ability to realise their projects. Although possibly bringing with it some extra risk and extra work for the broadcasters involved, they felt that this presented an opportunity to help develop new producers with whom they could continue to work in future.

Feature film distributors and sales agents were not interviewed for this research. In the absence of Australian content requirements for theatrical release, and with their contribution to project budgets generally limited to marketplace finance rather than equity, they are unlikely to have felt the impact of the Offset directly, or changed the way they do business with producers.

1 The Explanatory Memorandum of the Tax Laws Amendment (2007 Measures No. 5) Bill 2007

2 Interviews were undertaken with representatives of: ABC, SBS, Seven Network, Ten Network and Foxtel, September 2012.

Part 2: Building stable production businesses

The importance of the producer's equity share

One of the then Government's key objectives in introducing the Producer Offset in 2007 was to: *provide a real opportunity for producers to retain substantial equity in their productions and build sustainable production companies*.[3]

Equity is important because it's what enables producers to share in the benefit of any ongoing or future earnings. But the financing processes for film and television production mean it has sometimes been difficult for producers to retain equity in their projects.

Producers traditionally raise budgets for films and TV programs using a combination of marketplace finance and funds related to ownership or equity in the project.

Marketplace finance gives the contributor – generally a distributor, sales agent or broadcaster – the ability to exploit the project in the market, or on-sell the right to do so. The marketplace contributor's benefits are limited to recouping their costs plus any fees or commissions. Marketplace finance generally only covers a portion of the total production costs, and unless the producer can put together the rest of the budget using grants, bank loans and/or their own resources, they will usually need to raise some finance by selling a share of equity in their project to investors.

Equity investments often come from government agencies, private investors and from within the industry (broadcasters, for example often contribute some equity finance on top of the licence fee that allows them to screen the program). While this enables producers to spread the risk associated with such a costly endeavour as creating a film or TV program, it also involves sharing the ownership of their project, and therefore any potential future earnings from sales to additional territories or for additional platforms.

With limited funds available from the marketplace, producers can often find themselves retaining minimal equity in their projects, restricting their ability to build a self-sustaining business where current projects contribute to future income.

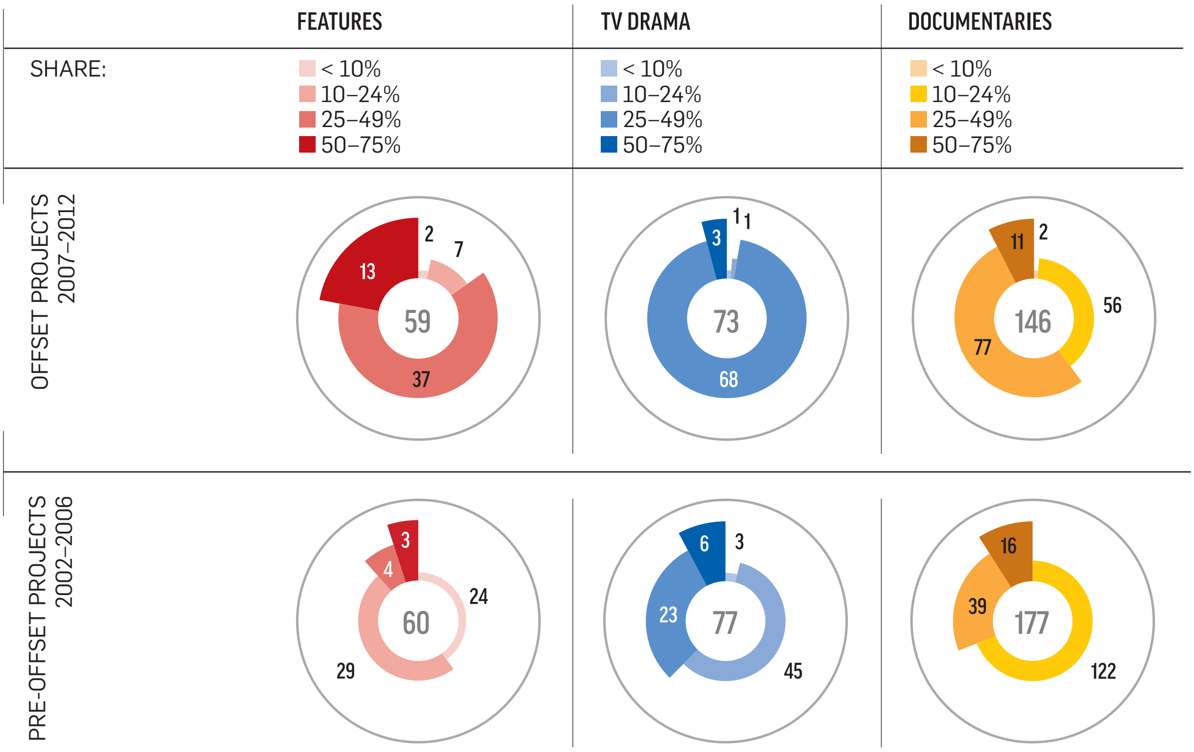
The Producer Offset addresses this by enabling producers to bring a portion of the budget to the table (up to 40 per cent for feature films and up to 20 per cent for TV programs), and retain the equity represented by that contribution. That's in addition to any equity retained through the use of grants, bank loans or the producer's own funds.

The Producer Offset enables producers to bring a portion of their budget to the table (up to 40 per cent for feature films and up to 20 per cent for TV programs), and to retain the equity represented by that contribution.

3 Explanatory Memorandum of the Tax Laws Amendment (2007 Measures No.5) Bill, 2007.

PRODUCER'S EQUITY SHARE IN OFFSET PROJECTS COMPARED TO PRE-OFFSET

Based on 278 Offset projects that had direct production investment from Screen Australia and/or the Film Finance Corporation compared to 314 projects financed pre-Offset by the FFC.



FEATURES

	OFFSET PROJECTS 2007–2012[1]		PRE-OFFSET PROJECTS 2002–2006[1]	
	NUMBER	%	NUMBER	%
< 10%	2	3%	24	39%
10–24%	7	12%	29	48%
25–49%	37	62%	4	7%
50–75%	13	22%	3	5%
> 75%	0	0%	0	0%
Total	**59**	**100%**	**60**	**100%**

TV DRAMA

	OFFSET PROJECTS 2007–2012[2]		PRE-OFFSET PROJECTS 2002–2006[3]	
	NUMBER	%	NUMBER	%
< 10%	1	1%	3	4%
10–24%	1	1%	45	58%
25–49%	68	93%	23	30%
50–75%	3	4%	6	8%
> 75%	0	0%	0	0%
Total	**73**	**100%**	**77**	**100%**

DOCUMENTARIES

	OFFSET PROJECTS 2007–2012[3]		PRE-OFFSET PROJECTS 2002–2006[4]	
	NUMBER	%	NUMBER	%
< 10%	2	1%	0	0%
10–24%	56	38%	122	69%
25–49%	77	53%	39	22%
50–75%	11	8%	16	9%
> 75%	0	0%	0	0%
Total	**146**	**100%**	**177**	**100%**

Notes:

1. Excludes 7 titles with variable share over course of recoupment (10% of projects made in the period)
2. Excludes 2 titles with variable share over course of recoupment (3% of projects made in the period)
3. Excludes 1 title with variable share over course of recoupment (1% of projects made in the period)
4. Excludes 13 titles with variable share over course of recoupment (7% of projects made in the period)

EQUITY SHARE AND RECOUPMENT POSITION

The mix of marketplace, loans and equity finance used to raise a project's budget creates the revenue 'waterfall' – the structure for distributing back to the investors any revenue the project earns.

Each project's waterfall will vary depending on the deals in place, but as a general rule, the marketplace will take its share of revenue first.[4] Loans generally need to be paid off as soon as possible to minimise interest charges and because priority payment is often conditional in securing the loan. Investors with equity, including the producer, then start recouping.

So the producer's position on the waterfall is dictated by how much equity they have in their project. And the advantage of the Offset is that producers keep the equity its contribution represents, even though they may have to borrow the funds to cover it until the payment comes in.

All surveyed producers felt that the Offset had improved their equity share and corresponding recoupment position, and, in some cases, had given them a position in the recoupment waterfall where previously they had none.[5] A small number of producers also acknowledged that Screen Australia's funding processes and terms, and those of other agencies, also had a role in influencing the improvement.

The perception of an improved equity share for producers is confirmed by analysis of projects with direct funding from Screen Australia and the Film Finance Corporation (see graphs opposite). In aggregate, projects made with the Offset and Screen Australia investment delivered producers better recoupment positions than projects made with FFC finance in the five years prior to the introduction of the Offset.

REVENUE

The ultimate aim of helping producers retain a greater share of equity in their projects, and an improved position in the revenue waterfall, is to translate those conditions into actual revenue to the production company.

Ongoing revenue comes not only from renting to exhibitors in the case of features, but also from sales of rights that weren't already pre-sold to raise the budget, such as to foreign territories or for secondary platforms including DVD, video-on-demand and airlines.

While equity investors have the advantage of ongoing access to revenue to recoup their investment, and, if it gets to that stage, share in the profits, the trade-off is that they don't start to share in revenue until the marketplace has recouped its advances and commissions, and loans have been repaid. So it can take some time for producers to start seeing the extra benefit that the Offset gives them.

Of the 26 surveyed companies that provided revenue information, 19 (73 per cent) reported that their company had received revenue for at least one of their Offset projects at the time of surveying.

Four of the seven businesses that had not received any revenue to date were feature-making companies. Their projects were a mixture of films that have not performed particularly well in the market, and those that have not been in the market long enough to generate revenue back to the producer. Two TV drama companies and one documentary company were yet to receive revenue for their programs. While these projects included some solid performers and multi-season series, producers indicated that it was too early for sufficient revenue from overseas and DVD sales to have flowed through to the company.

Many of the surveyed producers acknowledged that the increased equity share and corresponding recoupment position delivered by the Offset sets the producer up to benefit from a greater share of revenue. But ultimately, it's the performance of the project that will determine whether that potential is realised. Given the time it can take for revenue to pass through the higher stages of the waterfall, significant sales may be needed before the producer starts to see some revenue.

TRADING EQUITY

While the equity the Offset provides to producers primarily gives them a larger share of any revenue generated by their projects, it can also deliver some leverage in raising finance.

Once revenue reaches equity investors, the schedule of payment can be complex and variable. Some equity investors may be given priority over others, and the percentage splits may vary over the course of recoupment. Producers may choose to use some of their Offset equity to attract an investor, by offering them more equity than their investment alone would deliver, or an accelerated position on the waterfall.

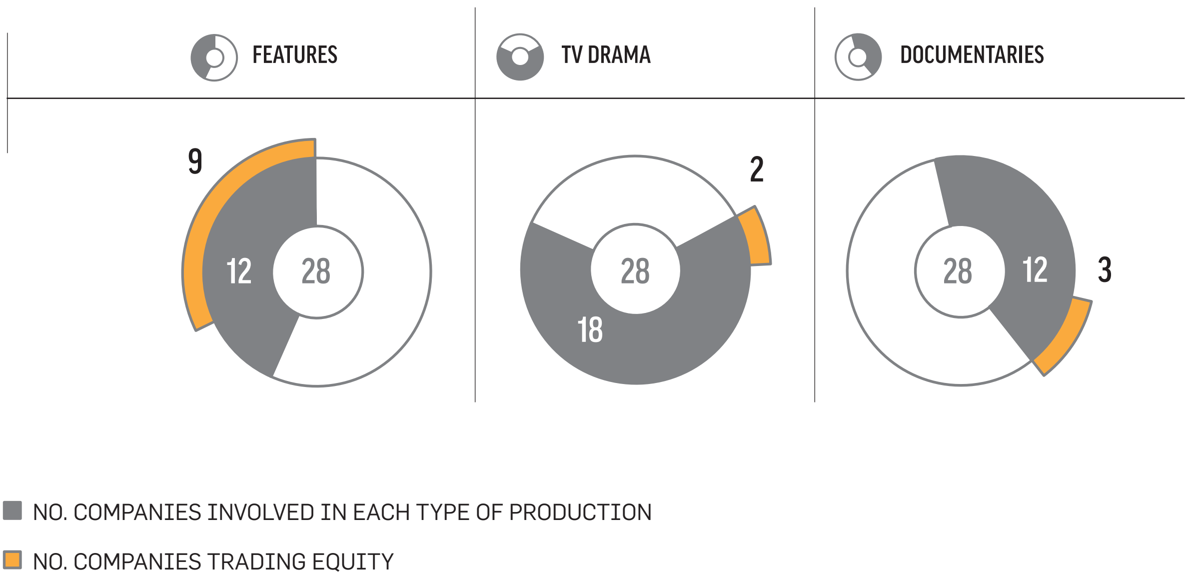
Around half of the surveyed producers had traded some of the equity related to the Offset, and this predominantly related to features. There are a few reasons why trading equity would be more common for feature films than either TV drama or documentaries. Firstly, at 40 per cent, the Offset for features is worth twice as much as the 20 per cent for TV, so feature producers have more equity to offer whilst still potentially retaining a →

All surveyed producers felt that the Offset had improved their equity share and corresponding recoupment position.

4 Very occasionally, high-profile producers or talent may negotiate a position at the top of the waterfall with the marketplace, but this is rare for Australian films.

5 Two documentary producers felt that in some cases, other factors eroded some of the improved position presented by the Offset.

COMPANIES TRADING EQUITY IN FINANCING THEIR PROJECTS



The equity the Offset provides can also deliver some leverage in raising finance.

substantial share. Additionally, feature films are traditionally more challenging and complex to finance, frequently relying on small amounts from multiple contributors, compared to TV projects that often receive the bulk of their finance from the primary broadcaster.

Features

It was common for Offset equity to be traded for feature films, with nine companies reporting having done so, or 75 per cent of the 12 feature-making companies surveyed. They covered all business types, with the exception of very large diversified businesses.

Six companies, predominantly small specialist producers, reported trading equity in all or most cases. They mostly traded less than half of the Offset equity. The other three, all larger companies with mixed slates, traded equity only sometimes or rarely. However, two of these reported trading more than half of the Offset equity on those occasions.

For the most part, producers were trading equity for features either to investors or to cast and crew.

TV drama

Only two companies reported having traded equity for TV drama projects (11 per cent of all TV drama producers surveyed). They were varied business types, and there was little pattern in the regularity or amount of Offset traded, with one trading less than half of the Offset equity occasionally and one trading less than half most of the time.

In both cases, the projects for which equity was traded were all made without direct funding from Screen Australia. The equity was traded to broadcasters and cashflow providers.

Documentaries

It was similarly rare for producers to trade Offset equity for documentaries. Again only three companies reported having done so (25 per cent of the 12 documentary producers). They were all large, diversified companies. Two traded less than half of the Offset equity only sometimes, and the third reported trading more than half for all projects. Trading applied to projects both with and without direct funding from Screen Australia, and the equity was traded to the relevant broadcasters, which included public, commercial free-to-air and subscription channels.

Part 3: Working with the Offset

Benefits and challenges of the tax offset model

The fact that the Producer Offset is a refundable tax offset, governed by legislation contained in the *Income Tax Assessment Act 1997*, presents benefits as well as challenges to producers.

Chief among the benefits is the fact that the Offset offers producers relative certainty of payment. The Offset is automatic and uncapped, so the competitive evaluation processes in place for most direct Government support do not apply. Eligibility is based on minimum thresholds of qualifying expenditure, and passing the Significant Australian Content (SAC) test. Providing these are met, and producers are clear about what constitutes qualifying expenditure, they will receive the expected Offset payment via the production company's tax return, following completion of the project and final certification. Provisional certification can also help to provide some certainty for projects that may be on the margins of eligibility criteria.

The key challenges for producers working with the tax-based instrument are time and cost: the time it can take to receive the final payment, and the interest costs associated with delays; and more generally, the extra administrative and legal costs that can be incurred in working with a tax offset. The majority of surveyed producers noted that the legal and business costs of production had increased with the additional costs of financing and administering the Offset.

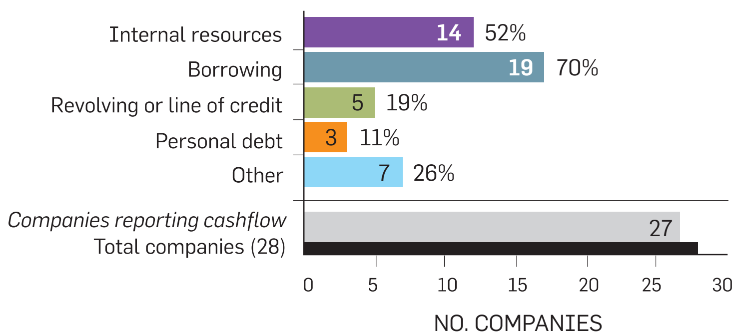
The Offset is not paid until the project is complete so producers need to find funds to cashflow it until payment is made.

OFFSET CASHFLOWING

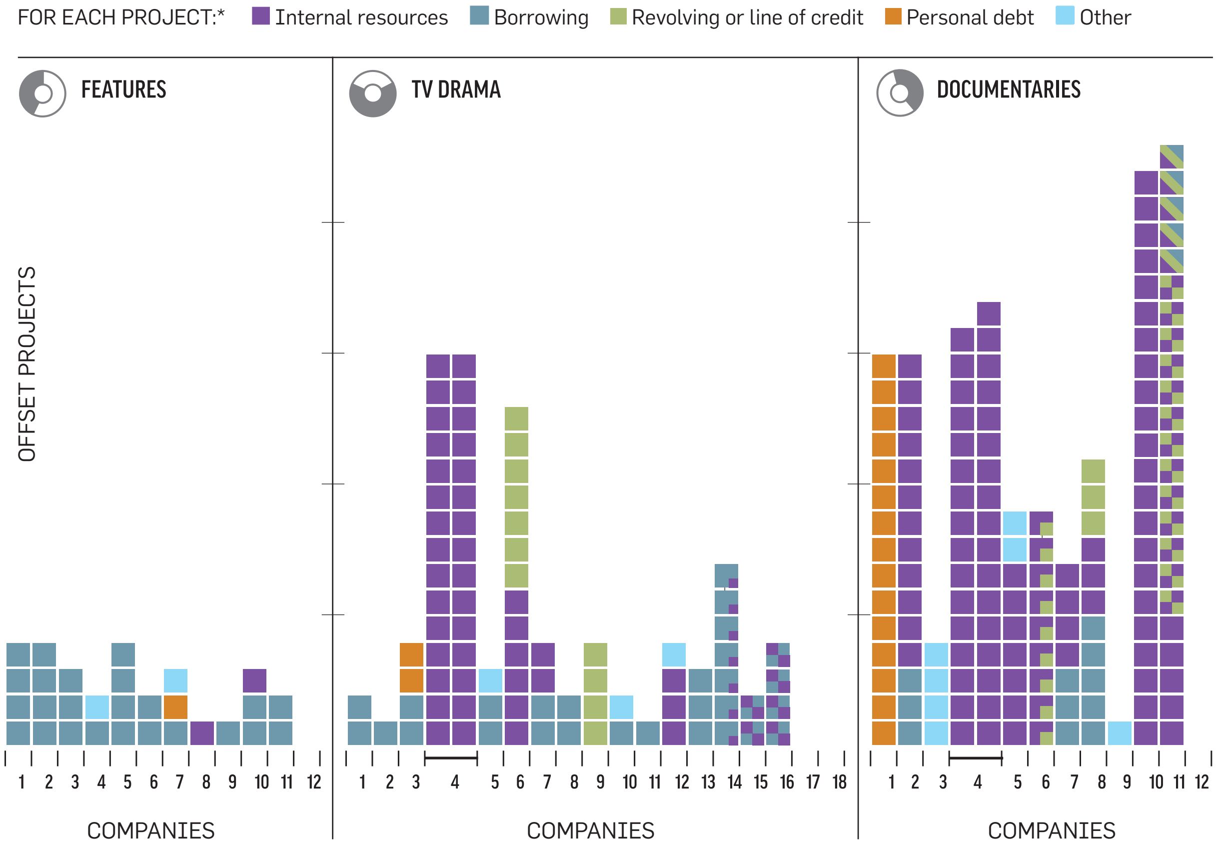
The portion of the budget contributed by the Offset is not available until the film or program is complete and a tax return filed. To make the project in the first place, the producer needs to find the funds to cashflow the Offset component until the payment is made. The patterns of Offset cashflowing provide an indication of the ways in which producers are managing the Offset at a business level.

The Offset can be cashflowed in a number of different ways. A company may use its internal resources to cover the Offset amount, or borrow the funds, which incurs costs as fees and/or interest. Some companies may obtain an ongoing or revolving cashflow facility, either as an extension of their business banking or specifically for Offset cashflowing.

SUMMARY: CASHFLOW FINANCE METHODS USED



COMPANIES' USE OF CASHFLOW METHODS BY TYPE OF PROJECT



* Multiple methods indicated proportionally by multiple colours.

Seventeen of the 27 companies that reported their Offset cashflow methods indicated that they had used more than one type of finance (63 per cent). This primarily related to the use of different methods for the same type of project, rather than using one method for, say, features and a different method for documentaries. Only four companies reported using multiple methods to cashflow single projects.

The companies that adhered to a single type of cashflow finance across their slate were predominantly the feature-making companies, relying solely on interest-incurring cashflow from financial institutions. A couple of large, diversified companies were able to cashflow all their TV drama or documentary projects from internal resources only.

The majority of companies (70 per cent) borrowed Offset cashflow for at least one of their projects, and over half used their company's internal resources for at least one. Five (19 per cent) had set up some type of revolving cashflow facility, either through the extension of their company's general banking facilities, or by setting up a special line of credit. Three companies reported having taken on personal debt to cashflow at least one of their Offset projects.

'Other' sources principally related to non-interest loans, mainly the Film Finance Corporation's cashflowing of its funded projects in the first year of the Offset's operation. It also included a non-interest loan from an investor in one case, and a project fully financed from other sources, without the inclusion of the Offset in the finance plan.

Methods of obtaining Offset cashflow varied depending on the type of project, with features relying more heavily on interest-incurring loans from financial institutions, while TV dramas and documentaries had a greater capacity to be cashflowed using the company's internal resources. This may be both a reflection of the higher rebate for features (finding 40 per cent of the budget from internal resources may be roughly twice as challenging as finding 20 per cent), and the different financing structures of features and TV programs.

Unsurprisingly, the ability to cashflow the Offset using internal resources was generally associated with the larger, more established and diversified companies with mixed slates or business activities. However, some smaller TV drama and documentary companies also reported cashflowing the Offset internally.

Features

Eleven of the 12 surveyed companies that had made Offset features reported their cashflow sources. Ten reported borrowing for at least one, and this source accounted for 83 per cent of all the features made by these companies. Four feature-making companies (36 per cent) used other sources for the remaining projects. The two companies that used internal resources were both large companies that also worked across other project types. One company (a small specialist feature company) reported having taken on some personal debt.

TV drama

Sixteen of the surveyed companies reported Offset cashflow for TV drama projects. The majority (75 per cent) borrowed cashflow for at least one of their projects. For most of these companies, borrowing was the main source used.

Seven companies (44 per cent) reported using internal resources. Those for which it was a major source included the two large, diversified businesses, and one small specialist company run by experienced producers. The most-prolific TV drama producer cashflowed all Offset internally (30 projects), making this source the most common for TV dramas, on a project basis.

Three companies combined internal resources with borrowing on all of their projects. Two companies used a revolving fund or line of credit, both well-established businesses run by experienced producers with strong track-records.

Documentaries

Eight of the 11 companies that reported Offset cashflow for documentaries used internal resources for at least one project. In most cases, it was the major source, particularly for the large diversified documentary-making companies. As for TV drama, there was one very prolific company that used internal resources for all projects, making this the most common cashflow source on a project basis.

Four companies also used borrowing in combination with internal resources. One was a small specialist with a strong track record, and two were larger companies with mixed slates. Three companies reported using a line of credit from their bank, one combining it with internal resources on all nine of its projects, and another combining it with general loans and/or internal resources.

One company reported having used personal debt to cashflow all Offset documentaries.

THE MARGIN

The Offset 'margin' refers to the difference between the actual Offset payment received from the Australian Taxation Office (ATO) after the project is completed, final certificate issued, and tax return filed, and the amount cashflowed into the budget at the time of production.

Many guarantors will not bond, or insure, (and cashflow providers will not lend against) the →

OFFSET CASHFLOW LENDERS

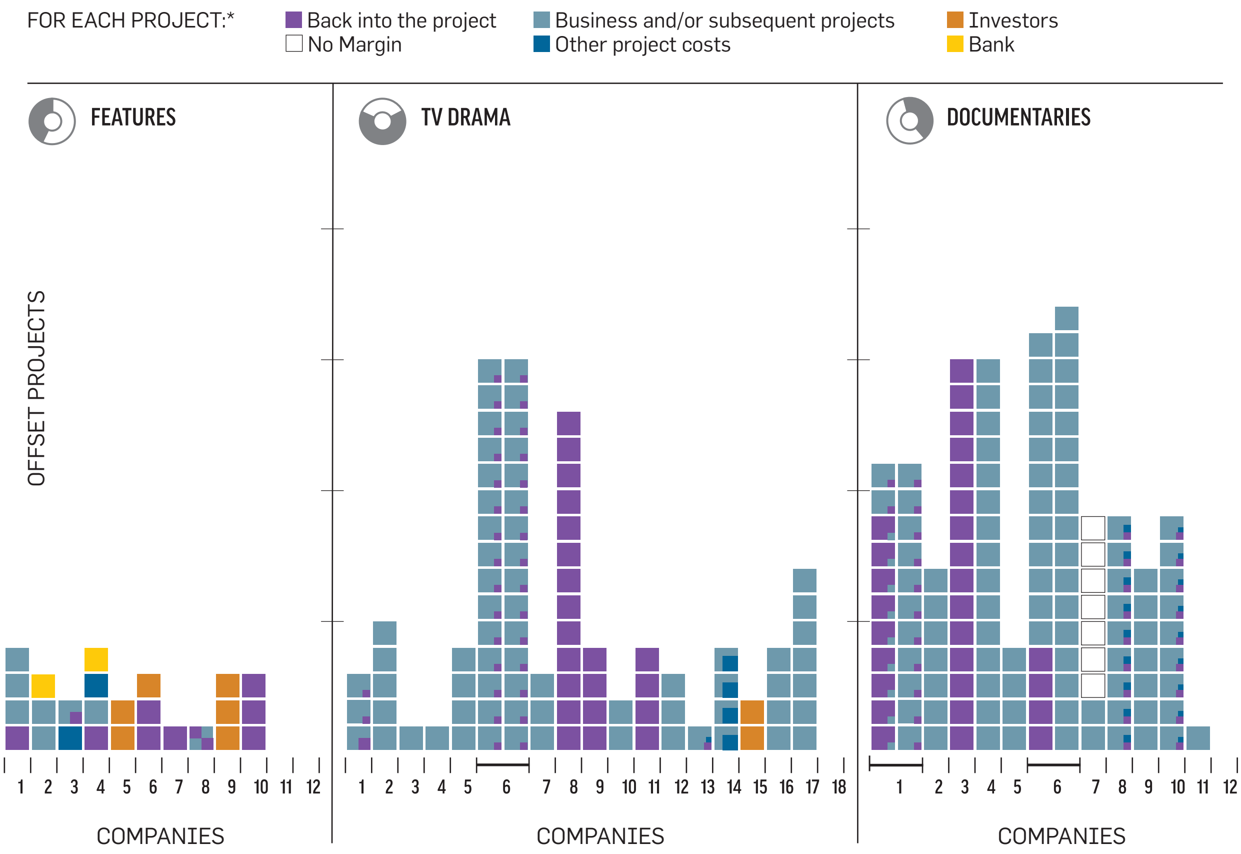
For producers borrowing Offset cashflow, sources include commercial banks, several of the state film agencies, the Australian Government's Export Finance and Insurance Corporation (EFIC), and specialist funds that have been set up to lend against the Offset (as well as providing other cashflow finance), such as Fulcrum in Australia/New Zealand and Aver in Canada.

Eight lenders were interviewed by Screen Australia, and their broad terms and conditions are summarised below:

- **Type of cashflow offered:** The most common form is one-off cashflowing for individual projects. Some lenders offer cashflowing for groups of projects or a line of credit for suitable clients, but this is less common and generally involves an extended loan incorporating other forms of lending.
- **Minimum amount per project:** Most commercial lenders interviewed preferred not to go below $500,000 for individual projects, but the Government-supported lenders will go lower, some having no floor.
- **Requirement for SPV:** Most lenders require a special purpose vehicle (SPV) to be formed for each project they cashflow. Those that don't require it strongly recommend it.
- **Requirement for completion guarantee:** Most lenders indicated that they generally require a completion guarantee to be in place as insurance that the project will be completed and delivered, with some making an exception for TV projects.
- **Rates charged:** Rates varied but were most commonly either the base rate plus 3 to 3.5 per cent, or around 7 to 8 per cent. If other lending products are involved, these rates may vary. Some lenders charge a set fee rather than interest.
- **Amount of Offset cashflowed:** Most lenders will cashflow up to around 90 per cent of the anticipated value of the final Offset payment, ranging from 80 to 100 per cent.
- **Other types of finance offered:** Almost all lenders provide other film and TV lending products in addition to cashflowing the Offset (such as gap finance or cashflowing presales).

Thirteen of the 28 surveyed companies had accessed one-off cashflowing of the Offset through a bank or financial institution. Only three – all large, diversified businesses – had used a revolving cashflow facility or line of credit for the purpose. All of the surveyed companies that used a financial institution noted that they were required to have a completion guarantee in place in all or most cases, in order to secure cashflow.

COMPANIES' USE OF OFFSET MARGIN BY TYPE OF PROJECT



* Multiple uses indicated proportionally by multiple colours.

total anticipated value of the Offset payment, as estimated at provisional certification stage. While the Offset payment is secure as long as the project is completed and maintains sufficient Significant Australian Content, qualifying expenditure may fluctuate over the course of the production process. So the final ATO payment may vary from the amount anticipated on the provisional certificate.

For this reason, many cashflow providers apply a 'margin' to the provisional Offset value. This margin varies depending on the type of project and the lender, but most cashflow providers surveyed indicated that they will lend between 85 and 90 per cent of the anticipated Offset value.

Depending on how producers cashflow the Offset, and cover the other 10–15 per cent in the project's budget, this margin can present an opportunity for producers to retain a share of the Offset payment to put towards other uses.

Some producers may have sufficient finance from other sources to complete the budget, and are therefore able to use the margin, when they receive it, to contribute to the costs of running their business or to develop subsequent projects. In other cases the margin is needed to cover unanticipated extra costs that came up during production. Some producers may cashflow it into the finance plan themselves, so the margin becomes part of the project's budget but still remains separate from the Offset contribution they've borrowed. Or producers may choose to offer a share of the margin to other investors to help attract them to the project.

For projects with direct funding from Screen Australia, the producer is expected to cashflow at least 90 per cent of the projected value of the Offset for feature films and TV drama, and at least 85 per cent for documentaries. When the total Offset is eventually received, any margin left after paying back cashflow loans is for the producer's own use and benefit.

Where a cashflow lender is providing a combination of Offset cashflow and other finance such as gap or a loan against a distribution guarantee, it will generally be a condition of the loan that the Offset margin be used to cover any outstanding debts until all are repaid (see *Offset cashflow lenders*, page 11).

Much like equity, the margin is an aspect of the Offset that offers producers some flexibility in tailoring and optimising the finance structure of their projects, and the possibility to reap some extra benefits for their business.

Amongst the surveyed companies, it was quite common to use the margin in a variety of ways for features, including to attract investors, although it was predominantly at least partially invested back into the project's budget. For TV drama and documentaries the margin was more consistently retained by the production company for other uses. Again, these results are likely to be influenced by both the larger Offset for features, and the more complex processes involved in raising their finance.

Features

The majority of feature-making companies (six of the ten) used the margin in a variety of ways – either by splitting a single project's margin and using it for multiple purposes, or by using it in different ways for different projects. This suggests that to some extent, producers are tailoring their use of the margin to suit the circumstances of the particular film.

However, it was most commonly invested back into the budget, either as a line item in the finance plan, or to cover unplanned extra costs. Seven of the ten surveyed feature-making companies reported doing so, either partially or fully. This was the sole use of the margin for a total of eight projects (27 per cent of all features), made by five companies, and another two companies reported it as a partial use for one project each, with the rest of the margin in these cases going into subsequent projects or into the business.

Three companies reported investing the full margin into the business and/or subsequent projects, for a total of six features (20 per cent of all features). The same proportion reported giving the margin to investors. In two cases it went to the bank or cashflow provider and another two went on other costs relating to the project, such as marketing.

The patterns of margin use were not tied to the type or scale of the company, but were evident across the various feature-making businesses surveyed.

TV drama

It was much more common for the margin to be used for a single purpose across all of a company's TV drama projects. More than half of the TV drama-producing companies surveyed reported investing the full margin into the business and/or subsequent projects in all cases, indicating that many companies were managing to retain the maximum benefit of the margin for TV dramas.

Two companies invested it back into all of their projects (eight in total). One reported giving it to investors for both its titles. These companies were of varied scale and diversification.

For those companies that used the margin for a variety of purposes, in most cases a small amount was invested back into the project, with the majority going into the business and/or subsequent projects.

Documentaries

Documentaries showed a similar pattern to TV dramas. Most companies indicated that the full margin was either invested into the business and/or subsequent projects for all, or the vast majority of all their documentaries.

The remainder mainly invested a small proportion back into the project, with the majority going into the business and/or subsequent projects.

One large specialist documentary company reported investing the margin back into the project in all cases.

One large diversified company reported that in the case of projects with direct funding from Screen Australia, the margin was invested into subsequent projects, but its documentaries made without Screen Australia funding effectively had no margin, as the full benefit was absorbed by the relevant broadcaster.

SPECIAL PURPOSE VEHICLES (SPVs)

For many companies, one of the business practices affected by the introduction of the Offset is the use of special purpose vehicles (SPVs). While it was not uncommon prior to the introduction of the Offset for producers to set up an entity for the production of a film or TV project (an SPV) it's now quite rare for Offset projects to be made without SPVs.

SPVs are used for two purposes in relation to the Offset:

- to keep it separate from the company's other tax affairs
- to avoid delays in Offset payment.

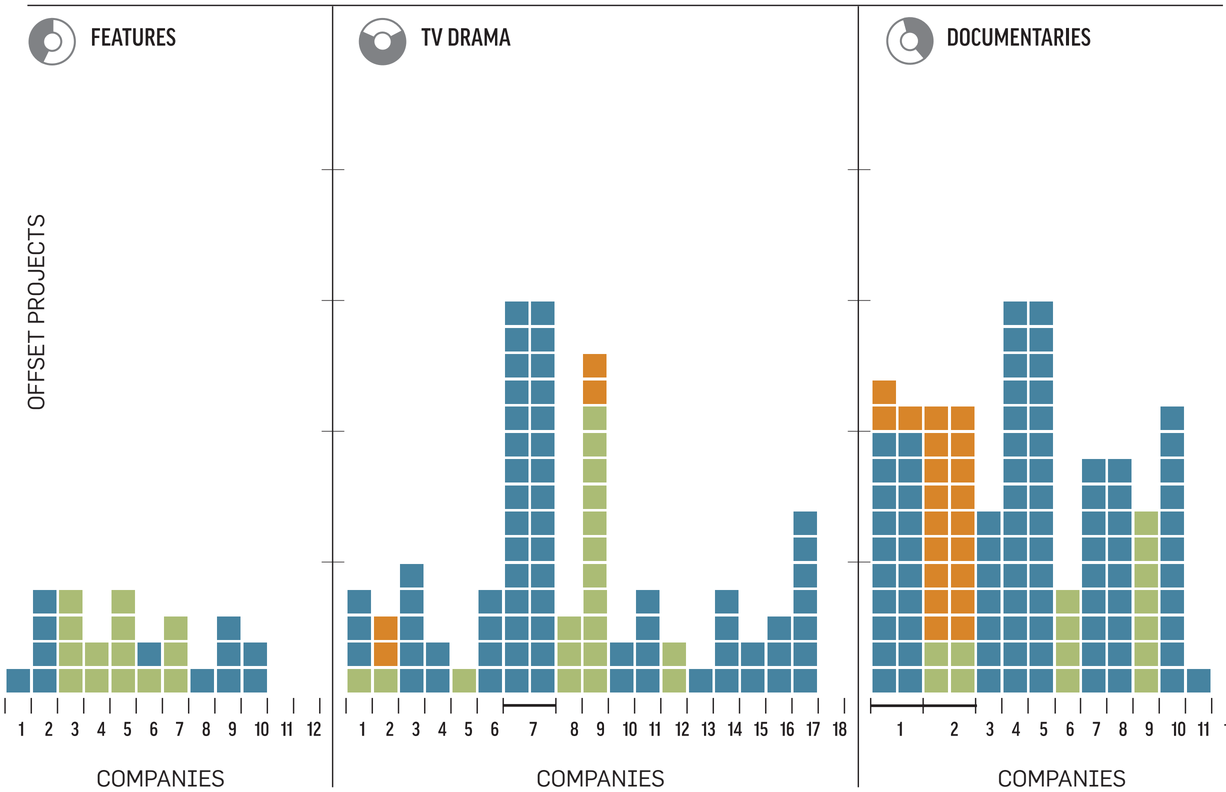
When the Offset is credited by the ATO to a company with a final certificate, it is credited firstly against any pre-existing tax liabilities, with the remainder paid out as a refund. Many producers use SPVs to avoid situations where part of the Offset payment is used by the ATO to cover the main company's tax liabilities from other activities, ensuring the availability of the full Offset for repayment of cashflow loans. For this reason, many cashflow lenders insist that the Offset activity is quarantined through the use of an SPV (see Offset cashflow lenders page 11).

Secondly, SPVs are sometimes used to avoid delays in payment of the Offset, where the timing of completion and final certification occurs early in the financial year. As a rule the Offset payment is not processed until the end of that financial year, following submission of the company's income tax return. This can result in substantial interest costs in cases where Offset cashflow has been borrowed. The ATO will process a tax return for a taxpayer before the end of a financial year only where it has certainty that the taxpayer will not earn any further taxable income in that financial year. In certain →

The Offset margin offers producers some flexibility in optimising the finance structure of their projects.

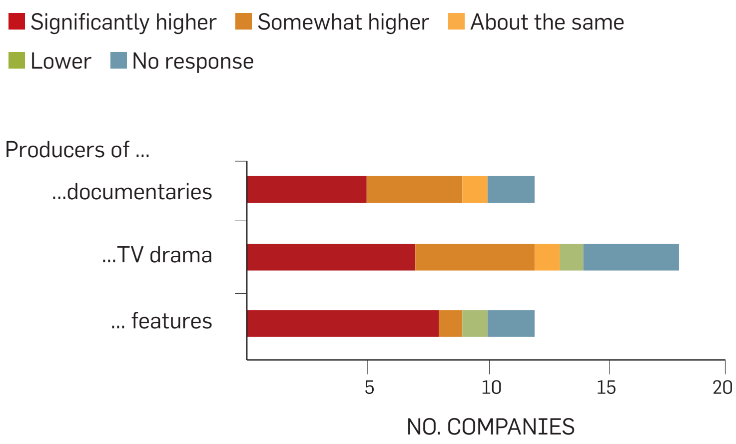
COMPANIES' USE OF SPVS BY TYPE OF PROJECT

FOR EACH PROJECT: To liquidate | Other reasons | No SPV



SPVs were not uncommon prior to the introduction of the Offset. Now, however, it is quite rare for an Offset project to be set up without one.

IMPACT OF THE OFFSET ON LEGAL AND BUSINESS COSTS



circumstances, the voluntary liquidation of an SPV may be used to facilitate this early processing.

All Offset features and most TV dramas and documentaries produced by the surveyed companies were made using SPVs. Around half of the features used SPVs specifically to avoid a delay in Offset payment. In the case of TV drama and documentary projects, the use of SPVs was much more likely to be associated with quarantining the Offset payment from other tax liabilities.

While the use of SPVs is generally considered a necessary by-product of the advantages of the Offset, several producers pointed to set-up, ongoing and liquidation expenses adding perceptibly to their business' costs.

LEGAL AND BUSINESS COSTS

The majority of surveyed producers noted that costs of financing and administering the Offset had had an impact on the legal and business costs of projects, with most stating that these costs were significantly higher than they had been pre-Offset. This was most pronounced for feature-filmmaking businesses, and was nearly always attributed to the impact of the Offset (though a few producers cited a rise in costs across the board over the last five years).

For some companies, extra costs were incurred through the need to employ extra people to handle the administrative and legal processes associated with accessing the Offset. Thirteen businesses (46 per cent of those surveyed) indicated that they had taken on extra staff to help cover these tasks. Twelve (43 per cent) indicated that they had contracted the skills of specialist service providers (accountants, lawyers) to assist in the preparation of final certificate applications. These companies covered all business types, scales and product mixes.

The way forward

In these financially challenging times, the Offset has delivered to the majority of producers improvements in the equity they hold in their projects, and this has provided them with opportunities: retain the maximum equity share and take advantage of the revenue it delivers to help build the business or finance new projects; or use the leverage of the increased equity to attract investors and/or talent to the project being financed.

This report provides a snapshot of the ways in which these options have played out over the first five years of the operation of the Offset. While many of the surveyed producers identified challenges in using the Offset, the overwhelming response was that it has had a positive influence in helping them finance projects and build businesses, not only financially, but also by giving them a greater stake in the success of their projects.

In the context of the evolving media environment and changing audience behaviours, the industry will continue to adapt the ways in which it does business, and producers will no doubt adjust how they use the Offset accordingly. The impact of several reforms to the Offset legislation, introduced in 2011, will also start to become more evident.

Recommendations from the Government's Convergence Review, established in 2011 to examine the operation of media and communications regulation in Australia, included increased Australian content requirements for broadcast television, raising the Offset for 'premium' television content from 20 per cent to 40 per cent, and the establishment of an interactive entertainment offset. If adopted, these changes will also affect the ways in which producers work with the Offset into the future.

WANT TO KNOW MORE?

Screen Australia administers the Producer Offset through its Producer Offset & Co-production Unit (POCU).

See www.screenaustralia.gov.au/producer_offset/

You can subscribe to POCU's newsletter to stay up to date, and explore Doing Business with Australia, a quick reference guide to the Offset and Australia's International Co-production Program. It's available to download as a PDF, or as an app from the App Store or Google play.

More reports and industry statistics from Screen Australia's Strategy & Research Unit are available at:

www.screenaustralia.gov.au/research

Appendices

PROFILE OF SURVEYED COMPANIES

Screen Australia interviewed representatives of 28 production companies to analyse the effects of the Offset on production businesses. They were identified as the companies and producers with the highest level of experience to date in taking Offset projects through to final certification. These 28 companies reported on 301 Offset projects in total – 30 feature films, 95 TV dramas and 176 documentaries.[6]

The 28 companies represent all the 'product mix' categories.

6 As an indication of the proportion of activity the companies represent, as of 30 June 2012, a total of 487 final certificates have been issued to 294 companies.

The majority of interviewed companies (26 out of 28, or 93 per cent) have made at least one Offset project in combination with direct finance from Screen Australia. Nineteen (68 per cent) have made at least one without direct finance from Screen Australia. Seventeen (61 per cent) have made at least one of each.

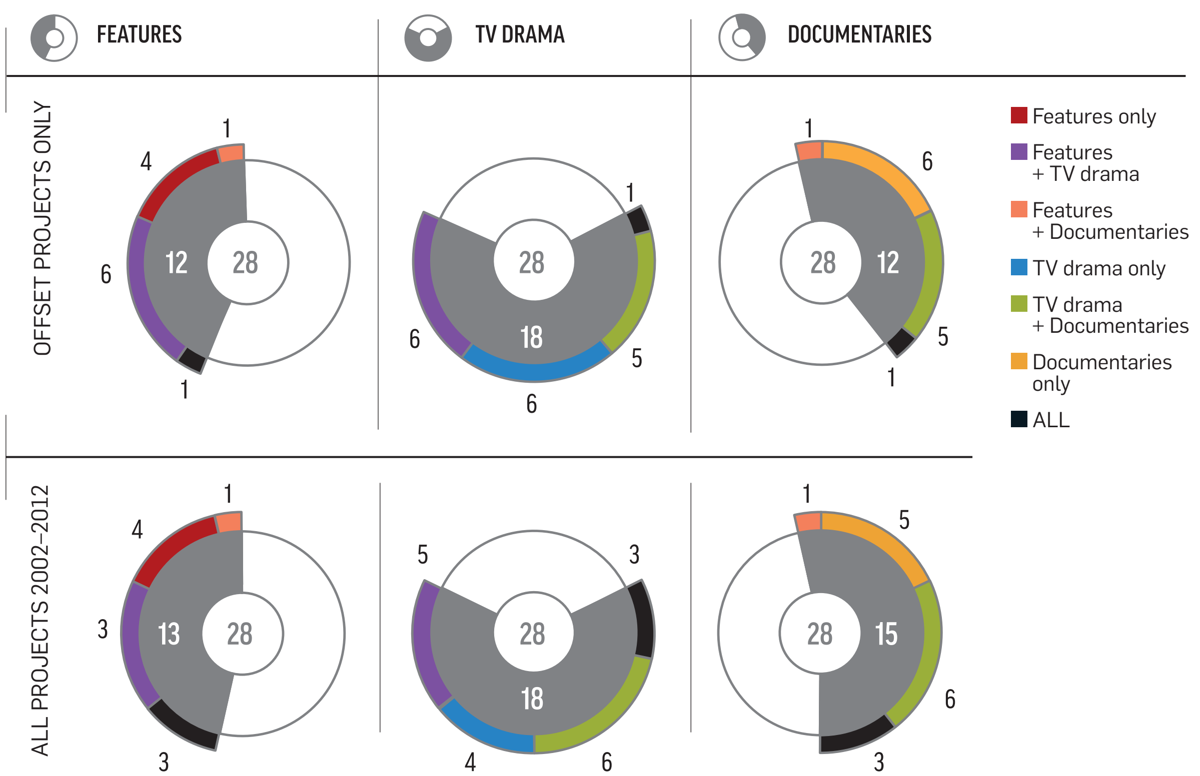
The interviewed companies have also worked with all Australian broadcaster categories: 15 have worked with the public broadcasters, 12 with the commercial free-to-air broadcasters and 10 with subscription. Five have worked with all three broadcaster categories.

Seventeen (61 per cent) are engaged in other businesses activities, primarily either production of non-narrative content or distribution, but also including PDV (post, digital and visual effects), film financing and equipment hire.

In interviewing companies for this report, Screen Australia actively selected those businesses with the most experience in dealing with the Offset. Given that the aim was to understand how the Offset impacts on business activities and helps build stable companies, we considered that these producers were the best equipped to provide insights from their experience, as opposed to those still coming to grips with using it for the first or second time.

A similar survey was circulated to all (non-interviewed) producers who had made at least one Offset project. The response rate to this secondary survey was too low for the results to be included in the main analysis. However, many of the same patterns were evident in the responses received. Most respondents to this survey had received one final Offset certificate to date.

COMPANY PRODUCT MIX



COMPARISON WITH THE BROADER INDEPENDENT PRODUCTION SECTOR

In April 2010, Screen Australia undertook a survey of screen production businesses as part of its submission to the Australian Government's 2010 Review of the Independent Screen Production Sector. The 320 responses to that survey provided a profile of Australian screen production businesses at that time that can provide a useful benchmark. The analysis looked at two indicators of sustainability: consistency of production activity and business profitability.[1]

Given that the focus of the current Offset survey was on those companies which were more experienced and active in working with the Offset, it is predictable that the sample has naturally skewed toward larger businesses (both in terms of employment and annual turnover), and toward those demonstrating the sustainability indicators of consistent activity and business profitability. However, the sample includes examples of businesses across the ranges of type of activity, business scale and profitability.

	2012 SURVEY PROPORTION OF COMPANIES SURVEYED ABOUT THE OFFSET	2010 SURVEY INDICATIVE PROPORTION OF ALL DOCUMENTARY AND DRAMA PRODUCTION BUSINESSES
Employment		
Under 10 people	43%	76%
10 to 50 people	29%	14%
Over 50 people	18%	10%
Unknown	11%	-
Turnover		
Classified as 'small business'*	39%	91%
Unknown	7%	-
Indicators of sustainability		
Business is consistent	100%	40%
Business is profitable	Approx. 79%**	56%
Business is both sustainable and profitable	Approx. 79%**	29%

Notes:
* Likely to be classified by the Australian Tax Office as 'small businesses', based on income (ie turnover of less than $2 million).
** Profitability not known for all businesses so this figure has been estimated by Screen Australia.

1 A 'consistent business' was defined as having a TV series or two or more one-off feature, TV drama or documentary titles in production in the previous three years. A profitable business, for this analysis, was one that had reported a profit in at least one of the previous two years.

Timeline

1 2 Division 10BA and 10B

Direct investment through the Australian Film Commission was the primary Government film funding mechanism until the introduction of Division 10B of the Tax Act in 1978, and Division 10BA in 1981. Initially, 10BA offered a 150 per cent tax deduction on investments in a qualifying Australia production as well as a tax free haven on the first 50 per cent of revenue a film earned.

To be eligible for 10BA, a project had to be certified by the Department of Communications, Information Technology and the Arts (DCITA) as a 'qualifying Australian film'. Program makers could apply for a provisional certificate early in the production process.

Programs allowed under 10BA included features, documentaries, mini-series and telemovies, with definitions provided by DCITA. To qualify, programs needed to be made wholly or substantially in Australia or be an official co-production, and have 'significant Australian content'. In March 2000, half-hour animated telemovies became eligible for 10BA as well as animated mini-series for adults (30 minutes an episode) and children (15 minutes an episode). Large-format (IMAX), 45-minute feature films were also allowed.

Programs certified under 10BA were also eligible for direct investment from the Film Finance Corporation Australia.

Division 10B tax concessions applied to a greater number of categories than 10BA and included feature films, documentaries, mini-series, short dramas and multimedia formats such as CD-ROMs, plus promotional, variety, educational and training material as well as large-format programs.

Under 10B, projects were also required to be assessed as wholly or substantially made in Australia and those that qualified were issued with a certificate. They were not eligible for funding from the Film Finance Corporation Australia. Initial investors who acquired an interest in the copyright of new, qualifying productions received a 100 per cent tax concession over two financial years once the film existed and was used to produce income.

2 Impact of 10BA

While there had been some private investment in films in the 1970s, this was minimal. With 10BA the private sector became the primary financier of Australian film and television production. In the first eight years, 10BA drove an almost doubling of production levels to an average of $120 million worth of film and television projects annually. The period 1981 to 1989 also witnessed an average market share of 12.4 per cent for Australian films at the local box office. The boom in both film and television production enabled formats such as mini- →

series to become viable and provided capacity-building infrastructure, the development of world-class practitioners and crews, and a globally competitive post-production sector.

3 Downscaling

The significant benefits of 10BA were overshadowed by higher than expected costs to government and the perception of some rorting. This lead to a downscaling of tax concessions in 1983 to a 133 per cent tax deduction and tax haven of the first 33 per cent of revenue and again in 1985 to 120 per cent and 20 per cent. The cost of 10BA to the Commonwealth Government peaked at $131 million for financial year 1987/88. Following this peak, 10BA was downscaled to a 100 per cent tax deduction and no tax haven on revenue earned.

4 Film Finance Corporation (FFC)

Following recommendations for change in 1986, the Government established the Film Finance Corporation in 1988 with a $70 million budget, to be the major government driver of film production. The FFC was empowered to invest in feature film, television drama and documentary with commercial potential and market participation.

The Gonski Review of Commonwealth Assistance to the Film Industry in 1997 resulted in a refocussing and clarification of the complementary yet distinct roles of the Australian Film Commission (AFC) and the FFC. The AFC was to concentrate on core functions of supporting script development, emerging filmmakers and professional development, and the FFC to provide production assistance to developed projects which demonstrated financial support from the private sector.

5 FLIC

Another outcome of the Gonski Review was the introduction of a new mechanism to promote private investment in the film industry: the Film Licensed Investment Company (FLIC) Scheme.

Investors received 100 per cent tax concessions for buying shares in a FLIC, which, in turn, invested in qualifying Australian programs. Unlike 10BA and 10B investments in single projects, shares in a FLIC spread the risk across a slate of productions.

Two FLIC licensees were appointed in April 1999 – Content Capital Ltd and Macquarie Film Corporation Ltd. Each could raise up to $20 million concessional capital over two financial years ending June 2000. Only $22.4 million out of the possible $40 million was secured by that date, $16.26 million for Macquarie and $6.14 million for Content Capital.

Content Capital's investments under the scheme included the feature films *The Monkey's Mask* and *The Bank* as well as a television documentary series on cartoonist Michael Leunig. Macquarie Film Corporation made a number of investments in features. The first of these, *Dirty Deeds*, starring Bryan Brown and Sam Neill, was released mid-2002. Other investments included *Crackerjack* and *The Nugget*.

A second FLIC scheme was announced in 2005 to follow the 1999 pilot scheme. Mullis Capital Film Licensed Investment Company was granted the licence in December 2005 to raise capital of up to $10 million in each of 2005/06 and 2006/07 for investment in Australian film and television productions. The FLIC scheme failed to reach its investment target.

6 Refundable Film Tax Offset

The Refundable Film Tax Offset (RFTO) was introduced by the Federal Government in September 2001 as a financial incentive for producers of large-budget films to use Australian locations, cast, crew and service providers. It provided for a 12.5 per cent offset on minimum Australian expenditure of $15 million. Initially restricted to feature films, mini-series and telemovies, legislation was introduced to include television series in August 2005.

This Offset was successful in attracting large-budget foreign films to Australia. However, few Australian films were able to access it due to the $15 million threshold.

7 Review of Australian Government Film Funding 2006

The downscaling of 10BA and the underperformance of the FLIC schemes led to low levels of local private investment in the industry. This meant that the industry relied heavily on direct government support, primarily through the FFC. Furthermore, production levels declined, with the total value of Australian film and television drama production reaching a ten-year low in 2004/05.

In 2006 the Australian Government announced a review of its film funding arrangements. The intention of the review was to ensure achievement of the most effective mix of direct and indirect support, and appropriate structures to facilitate this. The review was also to take into account the findings of two earlier reviews: the 2005 review of the 10BA and 10B tax incentive schemes and the 2006 statutory review of the Refundable Film Tax Offset. Importantly, the review provided a forum for the Government to outline its policy objectives for the Australian film industry.

8 Australian Screen Production Incentive

In May 2007 the Australian Government announced a package of measures to boost support for the Australia film and television industry: the Australian Screen Production Incentive (ASPI).

The central components of the ASPI were:

- three mutually exclusive tax offsets: the Producer Offset, the Location Offset, and the PDV Offset
- the amalgamation of the Australian Film Commission, Film Australia and the Film Finance Corporation into a single screen agency.

The Producer Offset: The Producer Offset was introduced in July 2007 and replaced the 10BA and 10B schemes. The Producer Offset offers a 40 per cent tax rebate for feature films and a 20 per cent tax rebate for production other than feature films. These other productions include documentaries, television series, telemovies and short-form animation with a minimum 15 minute duration.

In addition to the format requirement, projects must meet the Significant Australian Content (SAC) criteria, similar to 10BA requirements. Projects must also meet Qualifying Australian Production Expenditure (QAPE) thresholds.

The Location Offset: The Refundable Tax Offset became the Location Offset

Continued page 20 ➔

TIMELINE		
1978	1	**Division 10B of the Tax Act introduced**. Initial investors who acquired an interest in the copyright of new, qualifying productions received a 100 per cent tax concession over two financial years once the film existed and was used to produce income.
1981	2	Division 10BA introduced and **private sector becomes the primary financier of Australian film** and television production. 10BA offers a 150 per cent deduction on investments in a qualifying project as well as a tax free haven on the first 50 per cent of revenue a film earned.
1983	3	**Downscaling** of Division 10BA to 133/22
1985	3	**Downscaling** of Division 10BA to 120/20
1988		**Cost** of Division 10BA to Commonwealth Government peaks at $131 million for financial year 1987/88
	3	**Downscaling** of Division 10BA to 100/0
	4	Government establishes the **Film Finance Corporation** in 1988 with a $70 million budget, to be the major government driver of film production. The FFC was empowered to invest in feature film, television drama and documentary with commercial potential and market participation.
1997		**Gonski Review of Commonwealth Assistance to the Film Industry**
	5	**FLIC** pilot scheme introduced
2001	6	**Refundable Film Tax Offset** introduced, directed at attracting large budget, mostly foreign film and television productions. The Offset was applied at a fixed rate of 12.5 per cent of qualifying Australian production expenditure on a film project. Eligibility is governed by a minimum level of qualifying Australian production expenditure (QAPE) of A$15 million on the production of the film.
2002/03		ABS Television, Film and Video Production survey shows that the total value of the production industry is $1,502 million – a fall of 16 per cent since the last survey which was $1,792 million in 1999/2000. There were 2,174 businesses operating in the film and video production services sector at the end of 2002/03, a 10 per cent increase on the 1,975 businesses recorded by the ABS as operating in 1999/2000.
2005		**Review of Divisions 10B and 10BA**
		A **second FLIC scheme** is announced to follow the 1999 pilot scheme. Mullis Capital Film Licensed Investment Company was granted the licence in December 2005 to raise capital of up to $10 million in each of 2005/06 and 2006/07 for investment in Australian film and television productions. The FLIC scheme failed to reach its investment target.
2006		**Review of Division 376** of the Income Tax Assessment Act 1997: Refundable Film Tax Offset Scheme
	7	**Review of Australian Government Film Funding Support**
		ABS Television, Film and Video Production and Post-Production services survey is published. (2006/07)
2007	8	**Australian Screen Production Incentive is announced.** The four central components are the discontinuation of Division 10B and 10BA, the introduction of the *Producer Offset*, *Location Offset* and *PDV Offset* and the amalgamation of the AFC, FFC and Film Australia into a single screen agency.
2008		**Screen Australia** established.
2010	9	**Review of the Independent Screen Production Sector**
2011	10	**Offset reforms** introduced, ABS screen industry survey of the screen production and post-production industry is reinstated.
	11	**Convergence Review + National Cultural Policy Call for Submissions**

and increased from a 12.5 per cent rebate to a 15 per cent rebate. The $15 million minimum expenditure threshold remained unchanged.

The Post-production, Digital and Visual Effects Offset: This was a new offset for expenditure on post-production, digital and visual effects undertaken in Australia, regardless of where principal photography took place, with a minimum expenditure threshold of $5 million.

A single screen agency: As part of the ASPI, Screen Australia was to be created from 1 July 2008 incorporating the Australian Film Commission, the Film Finance Corporation and Film Australia.

The new agency's role was to focus on initiatives in the areas of practitioner and industry development, access programs and the promotion of Australian films domestically and internationally.

Another important aspect of the new screen agency's role was to provide funding for "projects of national cultural significance which would be unlikely to attract the necessary private finance to proceed on the basis of the rebate alone."[7] Direct support through Screen Australia was to be an alternative to support through the taxation system as well as providing supplementary funding for projects that receive the Producer Offset where that could be justified, with a maximum cap on Australian Government funding of 75 per cent of a project's Australian production expenditure.

Policy aims of the ASPI

The Explanatory Memorandum of the Tax Laws Amendment (2007 Measures No. 5) Bill 2007 outlined the objectives of the Producer Offset:

- to encourage greater private sector investment in the industry and improve the market responsiveness of the industry;
- to provide a real opportunity for producers to retain substantial equity in their productions and build stable and sustainable production companies.

The Explanatory Memorandum also stated the objectives of the Location and PDV Offsets:

- to encourage large-scale film productions to locate in Australia, aimed at providing greater economic, employment and skill development opportunities;
- to attract post-production, digital and visual effects production to Australia as part of large-budget productions, no matter where the film is shot.

9 2010 Review of the Independent Screen Production Sector

In 2010 the Australian Government announced a Review of the Independent Screen Production Sector. The Review was to examine the viability of the sector and assess the extent to which the Government's support measures assist the sector to achieve the stated screen culture objectives. For the purposes of the Review, the objectives were summarised as:

1: Encourage Australian stories

2: Assist production companies to become more focused on market and audience needs

3: Increase the sustainability of production companies, and

4: Ensure Australia remains competitive for large-budget overseas productions and in the post, digital and visual effects sector.

10 Offset reform

In response to the findings of the 2010 Review, the Australian Government announced several reforms to the ASPI as part of the 2011/12 budget. These included a comprehensive suite of Producer Offset reforms as follows:

- a reduction in QAPE thresholds, encouraging innovative and entrepreneurial Australian content on multiple platforms
- converting the 65-episode cap to 65 commercial hours for television, which is of particular benefit to children's programming
- replacement of the Producer Offset for low-budget documentaries with a more accessible Producer Equity payment administered by Screen Australia, funded through an additional appropriation of $2–3 million per annum
- exempting documentaries from the 20 per cent above-the-line cap
- providing for a broader range of expenses to be eligible for Qualifying Australian Production Expenditure (QAPE) including production insurances, completion guarantees, legal, audit and company fees, additional publicity and marketing costs, some distribution costs and carbon offsets.

The Government also provided Screen Australia with funds to re-instate the ABS survey of the screen production and post-production industry. The survey is a source of information about key business indicators such as income, expenditure, profit margin and employment for the entire Australian audiovisual industry and had not been conducted since 2006/07 (prior to the introduction of the ASPI in 2007/08).

The Government also increased the PDV Offset from 16.5 per cent to 30 per cent after lowering the threshold from $5 million to $500,000 the previous year, to make Australia more competitive in the international PDV marketplace.

The Location Offset was increased to 16.5 per cent.

11 Convergence Review and National Cultural Policy Call for Submissions

2012 saw two major Government initiatives with the potential to have a profound impact on the long-term future of screen production industry. The first was the Convergence Review, which examined the policy and regulatory frameworks that apply to the converged media and communications landscape in Australia. The Government also called for submissions towards the development of a National Cultural Policy, the first since the Keating Government's *Creative Nation* in 1994.

7 Senator the Hon Helen Coonan, 2007, Media Release: Backing the Australian Film Industry, http://www.minister.dcita.gov.au/coonan/media/media_releases/backing_the_australian_film_industry