

July 18, 2014

Graeme Mason  
Chief Executive Officer  
Screen Australia  
Level 7, 45 Jones Street  
ULTIMO NSW 2007

Dear Graeme,

### **Screen Australia Documentary Guideline Review**

Essential Media and Entertainment (*Essential*) welcomes the opportunity to comment on Screen Australia's draft Guidelines for **Documentary Programs: Stories that Matter** (the *Guidelines*).

We support Screen Australia's commitment to reviewing its guidelines from time to time to ensure it is responding to industry needs.

### **Executive Summary**

We believe this documentary funding review is timely but extremely complex. Care should be taken to guarantee the funding review meets the requirements of Australian documentary financing.

We recommend a delay in the introduction of the Guidelines to allow for a broader consideration of:

- transitional provisions that offer a degree of certainty for projects on the cusp of production;
- the Guidelines' editorial objectives and commitment to audience;
- practical implications of the abandonment of broadcaster allocations;
- how Screen Australia's existing terms of trade would work in practice with the proposed Guidelines;
- how the documentary funding strands ought to be distinguished (in terms of their discrete objectives, financial thresholds, allocations within the overall Screen Australia documentary fund); and

- the impact the Guidelines will have on production companies' business models.

## **1. BACKGROUND**

Since the last revision of Screen Australia's Documentary Guidelines in 2010, Essential has produced 32 hours of documentary content with the support of Screen Australia finance across the *National Documentary Program*; the *General Documentary Program*; the *International Documentary Program* and the *Producer Equity Program*.

These documentaries include *Dead Drunk: Lights Out In The Cross?*; *Good Job; Australia: The Time Traveller's Guide*; *The Grammar of Happiness*; *Waves of Anzac Cove*; *Afghanistan: The Australian War*; *Frank Gehry's Tree-house*; for the ABC, *The Great Australian Race Riots*; *What's The Catch?*; *Sales Seduction and Sex* for SBS and *Raising the Curtain* for Studio.

Essential has also been a beneficiary of Screen Australia's Enterprise Scheme between 2010 and 2012. The scheme meaningfully contributed to Essential's ongoing commercial sustainability and also enabled us to forward plan our documentary production slate.

Essential is an active member of the Screen Producers Association and has contributed to the submission made by SPA to the Guidelines. Given the diversity of views around some of the issues raised by the Guidelines and the disparate and diverse nature of the SPA membership, we are offering discrete comments on the draft Guidelines.

## **2. TIMING**

Screen Australia last reviewed its documentary funding guidelines via the *Blueprint* review in 2010. The *Blueprint* guidelines were subjected to considerable debate and rigor in terms of their potential impact on the Australian documentary landscape. The process was detailed and exhaustive.

Ultimately what was implemented (after many months of consultation) was an evolution of the documentary funding landscape that had existed under the progenitor agencies of Screen Australia, albeit with specific qualifications around licence fee thresholds and minimum terms of trade.

The current proposed Guidelines are a revolution rather than an evolution and our overriding concern is to avoid a situation that finds the entire Australian documentary sector thrown into uncertainty.

A complete overhaul of the documentary funding landscape is a complex process and one that should not be taken lightly. If Essential was to make one

recommendation it would be to make absolutely certain the Guidelines will work as intended in practice – not an easy thing to guarantee.

This exercise involves detailed modelling coupled with meaningful consultation with domestic and international broadcast partners; producers; distributors; emerging platforms; and the guilds and industry associations.

In the midst of this review, Essential (and we know we are not alone) is developing a wave of documentary content that we hope to produce for Australian and international broadcasters with the support of Screen Australia. It would be unfortunate if the process of the review itself stymies these efforts.

## **2.1 Recommendation**

Essential strongly recommends Screen Australia delays the introduction of the revised Guidelines to allow for a full and detailed analysis and consultation.

In the meantime, we would support a further round of Screen Australia documentary funding being assessed on the existing documentary guidelines.

Our comments below are indicative and are likely to develop further over the proposed period of consultation, with which Essential would be very happy to engage.

## **3. OBJECTIVES OF THE GUIDELINES**

As a general comment, Essential would like greater clarity in relation to the objectives of the Guidelines.

Focussing on *Stories That Matter* begs an important question: stories that matter to whom?

We are concerned that insufficient import and focus is being given to delivering to the Australian audience. Various commitments are referenced to demonstrating *pathways to audience* – but not necessarily an Australian audience.

Of course that is not the only objective, but Essential believes the content that Screen Australia supports must find the broadest possible Australian audience, in a platform agnostic manner.

## **4. SCREEN AUSTRALIA'S EDITORIAL VOICE**

Essential agrees that Screen Australia must, amongst other things, take responsibility for its investment decisions in the broad context of the type of programming it supports.

There is nothing particularly controversial about that. Screen Australia has, since its inception in 2008, consistently prescribed and curated the type of documentary programs it will support.

To date that curatorial function has manifested in the structure of its documentary strands. There is, for example, a clearly understood quality and intent of a documentary funded under the *National Documentary Program*, (inherited from the cultural function of Film Australia), that is absent from a documentary funded under the *General Documentary Program*.

Equally, under the new Guidelines, Screen Australia must have clear and identifiable (published) guidelines about what it will and will not fund. Such guidelines should include demonstrable and achievable metrics or performance indicators set against each funding strand.

Beyond that Essential believes editorial decisions should be left to the marketplace. To that end, Screen Australia should align its editorial voice with a licence fee-paying partner that can:

- (a) demonstrate a conduit to a wide audience;
- (b) meet the entry criteria which Screen Australia publishes; and
- (c) adhere to the broad editorial principles established (and published) by Screen Australia as a condition of finance under the strand to which it is applying.

For Screen Australia to delegate its editorial remit to the marketplace is appropriate and efficient. If Screen Australia seeks to introduce a framework whereby it retains responsibility for guaranteeing the execution of a particular editorial strategy, it must consider the following implications:

- Screen Australia's editorial ambitions must dovetail with the marketplace (for example the scheduling ambitions of a broadcaster) or nobody will ever see the program;
- importing a higher level of discretionary decision making will mean much more work and Screen Australia will have to employ more editorial staff to carry it out (effectively it will need to introduce Screen Australia commissioning editors). Inevitably this will mean less of the Screen Australia appropriation finding its way on screen;
- Screen Australia cannot legitimately prioritise one idea over another if it does not cede priority to programs supported by the market. In short it will find itself embroiled in disputes arising over rejected program proposals. Currently broadcasters reject countless proposals. Common reasons include: that they will not work for the schedule; similar ideas have floundered in particular spots; audience research; or simply because the idea does not resonate with the curator of a particular channel.

Screen Australia however will have to find an objective reason for turning down every idea and be prepared for producers to argue their case.

## **5. *PATHWAY TO AUDIENCE***

We agree that a pathway to audience should be a fundamental requirement of any program seeking Screen Australia finance.

Whilst we accept that pathways to audience have evolved over the past 10 years and Australian audiences now consume content on a variety of platforms, we disagree in the strongest possible terms that an audience can be manufactured via a mailing list.

Whilst there may be promotional value in the so-called “non-traditional attachments” set out in the draft Guidelines, classifying such attachments (for example philanthropic support) as an indication of market support is intellectually dishonest. It makes it possible for rich people with a cause (any cause) to tap public money to further their views. It is fundamentally undemocratic.

## **6. *BROADCASTER ALLOCATIONS***

### **6.1 *Strength of Television***

Notwithstanding the consistent prediction of the imminent death of television, statistics continue to demonstrate that Australians are consuming television documentary content in record numbers.

Given the reliance of Australians on broadcast television receivers, it is unsurprising that Australian television broadcasters continue to offer the highest licence fees for Australian produced documentary content.

In fact, owing to Screen Australia’s 2010 Blueprint Review, Australian broadcasters are paying higher licence fees than ever before in order to match Screen Australia finance.

Australia has two public broadcasters committed to broadcasting documentaries in prime time. To date the public service objectives in the documentary space of SBS and ABC have been largely synergistic with Screen Australia’s objectives.

Essential’s view is that this demonstrates a succeeding rather than a failing market – a productive co-operation between Government funded entities rather than a fundamentally flawed one. Compelling data would be required to demonstrate that this may change during the currency of the proposed Guidelines (noting Screen Australia is likely to review them again in the next 3-4 years).

Care should be taken not to dismantle a system that is currently delivering without good reason.

## **6.2. *Development of Commissioning Slates***

As foreshadowed by both the ABC and SBS in their initial submissions to the *Stories That Matter* review, the loss of certainty in terms of Screen Australia co-funding support will impact on how the public broadcasters go about their business.

It is reasonable to predict that the cost of developing a program will no longer be something broadcasters are willing to support for fear that the program might ultimately be rejected by Screen Australia (especially given the potential competition introduced by foreign presales triggering Screen Australia finance). That puts an onerous burden on producers (small and large alike) to assume responsibility for the cost of speculative development.

Compounding this burden is the possibility that broadcasters may over-commit support to documentary projects. This could mean broadcaster offering indicative letters of support for far more documentary programs than they ultimately finance in an attempt to preserve their relative proportions of Screen Australia funding support. The natural consequence will be that producers will be put to the expense of developing programs that cannot possibly be financed.

## **6.3 *Terms of Trade***

Since 2010 broadcasters have been compelled to pay broadcast licence fees mandated by Screen Australia's Terms of Trade. Those minimum licence fees have not been increased for the past 4 and there is an argument they are no longer competitive by international standards.

It is a symptom of the draft Guidelines and the proposed abandonment of any broadcaster allocations particularly within the *Meaning & Market* fund that broadcasters will no longer be held to minimum licence fees.

We think that strategy requires careful modelling.

Historically Screen Australia's mandated broadcaster licence fee floor has offered a potent negotiating platform, particularly when dealing with the public broadcasters. It also guarantees the best value return for Screen Australia's contribution (which often matches broadcaster licence fees).

What has been absent in the past is the possibility of a more flexible approach when the finance plan so requires. Broadcasters are increasingly more open to structured and multiple window licence deals whereby 2 (or more) broadcasters / licensees agree to share territorial rights. In those circumstances mandated and inflexible minimum licence fee thresholds would be counter-productive.

A flexible approach might be to mandate minimum licence fees but allow for the possibility that a producer that brings significant international finance for an Australian developed documentary project, could be allowed concessions on level of domestic licence fee.

#### **6.4 Ring-Fenced Funding**

A widely debated option in the industry, under the draft Guidelines presented, is to ring-fence a discrete allocation (perhaps smaller than the current split) to each of ABC; SBS and the remaining Australian broadcasters.

Under this model, broadcasters could be held responsible for guaranteeing the commissioning of documentaries of pre-determined quality. They would have to be *Stories That Matter* as prescribed and published. An annual review could determine whether, objectively, these quality standards have been met. If they have not, the allocation for particular broadcasters might be reduced or removed all together for the following year.

Once Screen Australia has established its expected cultural remit (via its published guidelines) and holds the broadcasters to account for delivering it there would be no requirement for Screen Australia to exercise specific editorial approvals in relation to each actual documentary.

The remaining funds (not allocated to the Australian broadcasters) should remain genuinely contestable (including by Australian broadcasters) allowing the marketplace to determine what should be funded provided:

- (a) Screen Australia's terms of trade are met by a licensee which can release the program to an Australian audience; and
- (b) "audience" is given the meaning it has enjoyed in the Australian film and television industry for almost a century;

there should be no platform automatically disqualified from being capable of triggering Screen Australia finance.

### **7. PROPOSED DOCUMENTARY FUNDING ALLOCATIONS**

In relation to the discrete funds mentioned in the draft Guidelines we have the following overarching observations. We hope to be able to contribute to more detailed discussions and analysis over the coming months.

Topics that should be debated include:

- the reasoning behind the proposed disqualification of documentary productions based on foreign formats (noting Screen Australia has previously supported Australian produced franchises of productions such as *Who Do You Think You Are*; *The Family*; and *Living with the Enemy*);

- the proposed disqualification of Screen Australia co-investing with the PEP scheme;
- eligibility of documentary series which run for longer than 12 commercial hours; and
- how to manage the practical implications of dismantling the existing *National Documentary Program* schemes such as Zero Fee Licensing

amongst many others.

## **7.1 Vision and Voice**

Essential has a long history in producing authored documentary films and we are passionate advocates for the art form.

However, as we have indicated elsewhere, we consider the paramount duty of federally funded agencies (including Screen Australia, the ABC and SBS) is to the Australian audience.

Whilst we support the ambitions of the *Vision and Voice* fund (and the *Signature* fund before it) in terms of it guaranteeing the creation of authored documentary stories, we feel the overall size of that fund must be proportionate to the available coffers and to the potential reach of those projects to the Australian viewers who are paying for them.

Given Screen Australia's financial restraints we believe this fund should be capped at 5-10% of the overall documentary allocation.

We accept even the existing \$1.4m ring-fenced by the *Signature* fund may be inadequate to fund all the authored documentary films vying for funding. We also recognise this means some important films might never be realised. However we believe this is an unfortunate symptom of an overall reduction in government arts subsidy and the low barrier to entry, in terms of production costs and affordable technology, which the documentary industry now exhibits.

We believe it is a disproportionate response to enrich the *Vision and Voice* fund at the expense of funding documentary programs that have demonstrated pathways to audience.

## **7.2 Meaning and Market**

Essential has several concerns with the proposed operation of the *Meaning and Market* fund including:

### *(a) Audience*

The Guidelines should mandate a pathway to audience with a *bona fide* strategy to reaching Australians. Whilst we support the possibility of



demonstrating market interest with international market attachments, we believe it should be a condition of funding that projects demonstrate a clear pathway to an Australian audience as well.

*(b) Foundations*

Essential supports the introduction of philanthropic support of the documentary industry. We do not accept, however, that philanthropic (or similar) support demonstrates marketplace attachment. By its nature philanthropy has a vested, non-marketplace, interest in issues explored by documentary production. Its involvement should therefore be encouraged to supplement budgets where appropriate, but we cannot support that involvement taking the place of *bona fide* marketplace attachment.

*(c) Eligibility criteria*

Essential would like greater detail around the proposed assessment criteria for documentaries it is seeking to support under the *Meaning and Market* fund.

Given the demarcation between *Vision and Voice* and *Premium* it is assumed that Screen Australia has a specific quality of documentary in mind for the *Meaning and Market* fund. Can Screen Australia offer, perhaps by reference to documentary films that have already been funded and / or produced, the sorts of films they are looking to support under this umbrella?

Thought should also be given to the eligibility of:

- linear or non-linear documentary films produced for the online market (which may or may not have been produced to support a linear documentary series);
- projects that have broadcaster (or other marketplace) support that are being re-submitted solely because the Screen Australia allocation had been exhausted at the time of original submission.

### **7.3 Premium**

Essential has fundamental concerns with the proposed introduction of a documentary fund whose primary point of distinction is the overall budget – especially with a proposed budget threshold of \$1m per hour. That figure is far in excess of the budget of every documentary we have ever made - bar two – which were both drama docs with large drama crews and expensive location fees. Where is the demonstrated need for budgets to suddenly rise to \$1m per hour?

Whilst we accept that budget threshold is a useful analytic tool we do not think it is appropriate to encourage higher budgets for their own sake.

Our principal concern is that the introduction of a budget threshold will incentivise an escalation of cost, but not necessarily quality.

In principle we do not necessarily disagree with the introduction of a fund ring-fenced for larger, more ambitious productions, but the point of entry insofar as the Screen Australia contribution is concerned should be twofold:

- (i) whether Screen Australia is asked to invest an amount over and above the \$600,000 cap mandated by the *Meaning and Market* fund; and
- (ii) whether the marketplace is prepared to increase its contribution to the budget over and above the range anticipated by the *Meaning and Market* fund.

On that basis we would have the following specific concerns:

(a) *Eligibility criteria*

It is assumed that Screen Australia has a qualitative ambition in mind for the *Premium* funded documentaries, aside from being relatively more expensive?

Can Screen Australia offer, perhaps by reference to documentary films that have already been funded and / or produced, the sorts of films they are looking to support under this umbrella?

(b) *Financial Thresholds*

For the reasons set out above we do not support the introduction of any overall cost per hour threshold and certainly not one as high as \$1m. Assuming Screen Australia is asked to contribute between \$600,000 and a suggested cap of \$1m (but see below) it should mandate a sliding scale of minimum broadcast licence fee required to trigger the investment.

(c) *Screen Australia Cap*

Essential does not support an overall cap on Screen Australia investments. Where possible we would encourage the ability for Screen Australia to retain the flexibility to accommodate the needs of a variety of financing structures.

We look forward to discussing the points raised above in more detail over the coming months.

Yours sincerely

A handwritten signature in black ink, appearing to read "Chris Hilton". The signature is fluid and cursive, with a long horizontal stroke at the bottom.

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