



Comments on Screen Australia Draft Convergent Television and All Media Guidelines

April 2011

This submission is made by the Australian Directors Guild (ADG), the industry association representing the interests of film and television directors, writer/directors, documentary filmmakers, animators and independent producers throughout Australia. Formed in 1980, the ADG has 500 full members nationally.

The ADG works to promote excellence in screen direction, to encourage communication and collaboration between directors and others in the industry, and to provide professional support for its members. It maintains a high profile and leading cultural and policy role through its efforts to address issues affecting the industry from a broad perspective.

The ADG is affiliated through the International Affiliation of English-Speaking Directors Organisations (IAESDO) with the Broadcasting, Entertainment Cinematograph and Theatre Union (BECTU), the Directors Guild of America (DGA), the Directors Guild of Canada (DGC), Directors UK, the Screen Directors Guild of Ireland (SDGI) and the Screen Directors Guild of New Zealand (SDGNZ)

Executive Summary

The ADG welcomes the opportunity to respond to the current draft of the Convergent TV and All Media Guidelines.

Our detailed comments will be limited to the Documentary Program Guidelines as this is the area regarding which the ADG has received the most feedback since the release of the guidelines.

In summary, the ADG's positions are as follows:

- We strongly support the increase to funding for documentary projects which are bold in form or content, with strong creative vision and which sit outside of the influence of broadcasters, through the Signature Documentary Program. We strongly urge that the reference to broadcaster pre-sales as desirable be removed to maintain the integrity of the positive aims underpinning this Program.
- We believe that the broad scope and potential of convergence for documentary content has not been fully embraced and in light of this, would like to see allocations of a third to domestic programs, a third to international programs and the remaining third to be contested between projects with other modes of distribution.
- We requests that if Screen Australia refers directors/smaller production companies to Enterprise/other larger production companies, that they support all members of the industry by ensuring that these companies deal in good faith towards third parties with less negotiating power and facilitate fair dealings between them.
- We would like to be provided with more information regarding the rationale behind the distinction between the National and General Documentary categories.
- We support more flexibility in terms of requirements for local marketplace attachments for International Documentary and the Documentary Development Program by the inclusion of recognised convergent media distributors which would provide greater opportunity for filmmakers.
- We requests that the more flexible eligibility requirements for directors in the Special Documentary Fund be reinstated for the Signature Documentary Program.
- We strongly urge that the requirement for credits to be no longer than seven years old be removed from the guidelines as it excludes many experienced filmmakers and is discriminatory.
- We strongly object to a limit being placed on the number of projects a director can be attached to while producers may submit multiple projects.

- We request that two rounds per year of the Signature Documentary Program be considered so that the waiting time for those with international pre-sales is minimised.
- We believe that in the current climate where opportunities for gaining broadcast credits for early career directors is limited, that the requirement for sole applicants to the Documentary Development Program to have three broadcast credits is unreasonably limiting.
- We requests that the reference to matching funding for further development funds include all arms length investments as well as industry marketplace funds.

Documentary Programs – General Comments

The ADG welcomes the preference given to Australian content over foreign formats

The ADG advocates for limiting funding to 26 broadcast episodes rather than hours of one program in the guidelines.

In regards to access to funding for the domestic programs and indicative allocations of 50% to the ABC, 40% to SBS and the remaining 10% to be contested between projects without broadcaster attachment, subscription television and the commercial broadcasters, the ADG questions how this split genuinely reflects considerations of convergence and criteria other than marketplace attachment alone (as stated as the investment decision-making notes). The ADG notes that \$500k of All Media funding has been allocated to documentary, however the proposed allocations for documentary itself suggest that the broad scope and potential of convergence for documentary content has not been fully embraced.

In light of this, the ADG advocates for allocations of a third to domestic programs, a third to international programs and the remaining third to be contested between projects with other modes of distribution.

The stated aim of Screen Australia is to create a vibrant and sustainable screen culture and business practice in Australia. To do this, it needs to support all members of the industry and facilitate fair dealings between them, even if their principle clients are understood to be producers.

The ADG has been alarmed at a number of reports of questionable dealings by several Enterprise funded and larger production companies towards Australian directors and concept originators bringing new projects to them. This includes but is not limited to:

- offering no or minimal recoupment,
- offering low or no fees for concepts,
- failing to guarantee roles or a job on the production,
- failure to guarantee payment of reasonable development costs,
- development of projects in forms contrary to the originators wishes, without their consent or in some cases without their knowledge,
- failing to declare where a producer has conflicts of interest in representing a project,
- agreeing to market a project and then failing to do so adequately.

- adding projects to their publicised slates without appropriate rights in place or proper agreements with their originators.

These types of behaviours would appear to contravene fair Terms of Trade, Codes of Practice and Screen Australia Charter requirements. In addition, they create a climate of distrust between directors/concept originators and production companies, which will lead over time to a decrease in projects put forward for consideration and weakening of the producer/director relationship.

Documentary projects often require considerable unpaid personal investment of time, resources and capital to develop to a professional pitch level. This investment needs to be recognised and compensated accordingly. Failure to do so, as evidenced by reports to the ADG, creates unsustainable conditions for directors already struggling to maintain their livelihood. In short, if directors and concept originators are not remunerated appropriately, there is no incentive for them to continue.

The ADG is aware that Screen Australia refers directors and smaller production companies to Enterprise funded and larger production companies. The ADG calls for Screen Australia to ensure that these companies deal in good faith towards third parties with less negotiating power by at a minimum:

- requiring that production companies receiving Screen Australia financial support must act in good faith when dealing with directors and other third parties as required by the current Terms of Trade.
- drafting or endorsing a Code of Practice containing clear published guidelines relating to third party dealings in consultation with appropriate parties.
- directing producers to relevant resources where best practice dealings with third parties are articulated. These include other industry Codes of Practice, rates cards and conditions as published by the industry Guilds.

Failure to support the creative individuals of the industry weakens Australian screen culture and business as a whole.

In addition, the ADG calls for a comprehensive and independent review of the Enterprise funding model in order to demonstrate that it is achieving its stated objectives of developing sustainable screen practice in Australia.

We would also like to remind Screen Australia of the issue we raised in December 2010 of SBS EP's micro- managing and interfering creatively to an unreasonable degree on Screen Australia funded projects. These concerns have been brought to the attention of SBS management, but the issue has not been resolved.

National Documentary Program and General Documentary Program

The ADG would welcome further information regarding the rationale behind creating the distinctions between these two programs.

International Documentary Production

The ADG acknowledges the need for Screen Australia funded projects to benefit Australian audiences, however holds the view that more flexible requirements in terms of

local marketplace attachments would still achieve these aims while enhancing opportunities for filmmakers.

The requirement for a local pre-sale from a local free-to-air or subscription television broadcaster can be limiting to Australian filmmakers whose projects contain international subject matter and do not fit easily within any local slots. As these projects generate more interest in the international than local market, filmmakers who wish to extend their skills and audience, or create innovative work which has a global reach, may find themselves with few options for local funding. If the local pre-sale requirements could be broadened to include recognised convergent media distributors also, then this would genuinely encourage and support convergent media content and offer Australian practitioners another avenue for exploiting projects with subject matter of a broader scope.

The ADG also believes that another door is required along with the Signature Documentary Fund for Australian filmmakers who have pre-sales in other territories and projects with international subject matter, due to the anticipated demand for Signature Documentary Program support.

Signature Documentary Program

The ADG strongly supports the increase to funding for documentary projects which are bold in form or content, with strong creative vision and which sit outside of the influence of broadcasters, through the Signature Documentary Program.

We note however that certain revisions to eligibility within the guidelines for this program have negative implications for our members. The new requirement for directors (in addition to producers) to have one broadcast credit precludes early career directors with strong, innovative projects from this Program. The ADG believes it should be adequate for the producer alone to have a broadcast credit to be eligible, as this would demonstrate a level of experience within the team while still leaving open greater opportunities for the realisation independent creative vision.

We note that some recent critically successful projects funded through the Special Documentary Fund were directed by filmmakers without previous broadcast credits including the AFI shortlisted documentary, *The Snowman*, and believe that the Signature Documentary Program should continue to identify talent and be as open as possible to supporting creative and bold work.

It is likely that the broadcast credit requirement for directors would also have an unfavourable impact on the more experimental and innovative filmmakers whose work is not slot driven, and may even be more organically suited to additional digital distribution platforms. If the intention is to genuinely identify and support excellence and innovation, then the more flexible criteria of the former Special Documentary Fund should be maintained in the Signature Documentary Program.

The ADG strongly urges that the reference to broadcast pre-sales being desirable be removed from the guidelines. If the intent of the Signature Documentary Program is to support and encourage strong independent vision outside of the influence of broadcasters, then this is weakened by the suggestion that pre-sales are nevertheless preferred. The taste and interests of the broadcasters are already well served by the

other Documentary Programs and for these to encroach upon a Program established to support bold creative work which does not easily fit within the parameters of broadcaster slots, would undermine the integrity of the Program's apparent aims.

The ADG strongly urges Screen Australia to reconsider the requirement for credits to be no more than seven years old. The ADG is of the view that this clearly discriminates against many experienced filmmakers, parents and particularly mothers who have taken time out of the workforce to raise children and wish to return to filmmaking. In addition such inflexible and arbitrary criteria would exclude some of the most high profile and successful documentary filmmakers in the country. We note as one example that there was a ten-year gap between Bob Connolly's films *Facing the Music* and *Mrs Carey's Concert* and had similar guidelines been in place when he was seeking funding for the latter film, he would have been rendered ineligible. There was also a nine year gap between Dennis O'Rourke's films *The Good Woman of Bangkok* and *Cunnamulla*. Both examples illustrate that the gestation period for visionary, culturally significant documentary projects can often be substantial, and the guidelines need to recognise this.

The ADG strongly objects to the limit on the number of projects directors can be attached to. This significantly disadvantages directors who may be put in the position of having to make a decision to withdraw from one project over another without a sense of which is the more competitive within a round. Producers are often also placed in difficulty when directors are required to remove themselves from projects at a late stage. Furthermore, this requirement diminishes the contribution directors make to projects by suggesting that they are replaceable or not integral to a project's development and realisation, and ignores the fact that directors are also often producers of their own work,

The ADG recognises that it is practical to limit the number of applications that can be submitted to a round, however we believe that a limit applied equally to directors and producers is more reasonable and equitable.

The ADG also strongly urges Screen Australia to consider holding two rounds of the Signature Documentary Program each year. With only a single round per year, it is possible that filmmakers with international pre-sales might have to wait for close to 12 months for local finance to be confirmed.

Development Funding

The ADG would like to see an increase in development funds to actively support and sustain a vibrant documentary sector.

ADG believes that the requirement for sole applicants to have three broadcast credits is unreasonably limiting, and would again exclude many talented filmmakers with successful alternative distribution models or with festival success. The broadcast landscape for independent documentary filmmakers has changed, with no half-hour slots for projects which are not series or arts/youth focused. This makes it increasingly difficult for early career directors with projects outside of these areas to gain credits. In this climate, a requirement for one broadcast credit or broadening the criteria for festival success would be more reasonable at the development stage. The highly competitive nature of the funding rounds are likely to create a natural filter based on the relative

strengths and quality of projects, which is preferable to excluding strong projects by setting parameters which are too narrow from the outset.

The ADG believes that if there is an expectation that early career directors and short form documentary should be supported by the state agencies, then scrutiny of what is actually offered by the states does not support this approach. NSW appears to be the only state which does not have credit pre-requisites for documentary development applications. All other states require broadcaster interest, and only SA and Victoria balance this with festival success. In WA for example, there is no opportunity for directors to develop or make projects without broadcaster attachment beyond the low-budget LINK program, It is also extremely unlikely for early career directors to secure broadcaster support if their projects are not series or produced by established teams so the scope of content is limited. The ADG request Screen Australia to reconsider these issues when finalising the guidelines.

The ADG would again ask Screen Australia to reconsider the requirement for credits to be no more than seven years old for the same reasons cited above.

We note that the requirement for series development to have a Letter of Interest from a domestic broadcaster would seem to favour Enterprise and larger production companies. The ADG would again suggest that this requirement be broadened to include recognised convergent media distributors.

The ADG requests that the reference to matching funding for further development funds should include all arms length investments as well as industry marketplace funds.

