Australian Government

SCREEN AUSTRALIA

Submission to the Australian Government's 2010 Review of the Independent Screen Production Sector

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- Page 50, amended Producer Offset Summary Statistics

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1. INTRODUCTION

Screen Australia provides the following information as part of the Australian Government's 2010 Review of the Independent Screen Production Sector (the Review) announced by the Minister for Environment Protection, Heritage and the Arts, the Hon Peter Garrett AM MP, on 22 March 2010.[1] Information is provided in response to the issues raised in the Discussion Paper issued by the Department of the Environment, Water, Heritage and the Arts (DEWHA) on the same date, including the terms of reference.[2]

Screen Australia is uniquely positioned to provide information to the Review as it:

- is the Australian Government's primary mechanism to deliver direct support to the independent screen production sector through investments, grants and other direct financial support as well as through marketing, research and strategy
- is the administrator of the Producer Offset under Division 376 of the *Income Tax Assessment Act 1997* (ITAA97) (the Act), specifically subsection 376-55(3)
- is the administrator of Australia's co-production program
- has a Strategy and Research Unit, which is the repository for significant knowledge and opinion about the Australian film and television production industry.

Submission content and structure

Screen Australia's submission addresses many of the issues raised in the Review's Terms of Reference (see Attachment E).

The submission is broken into three main parts. The first focuses on the sector and considers sustainability from this perspective. The second provides new analysis of individual production businesses and their strategies for achieving viability. The third provides extensive information about the operation and effectiveness of the Producer Offset.

Supplementary information and data is provided about the Location and PDV Offsets, co-productions (including Screen Australia's current review of its Co-production Guidelines), the games sector and state government funding alongside federal.

Screen Australia has also released a summary report of this submission, which is available on the Screen Australia website.

This submission addresses a number of critical issues that have arisen through the industry consultation process and as a result of Screen Australia's direct experience. While various considerations are discussed within the context of these issues, Screen Australia is consulting with the Government regarding specific recommendations.

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[1] Review of the Australian Independent Screen Production Sector *22 March 2010* http://www.environment.gov.au/minister/garrett/2010/mr20100322.html
[2] Discussion Paper: www.arts.gov.au/public_consultation

2. KEY ISSUES

Screen Australia has identified ten key issues through its consultation with industry and through its own administration of the Producer Offset. These issues are explained where relevant in the context of the information contained in this submission. They are listed here in the order in which they appear in this document.

1. **The Australian Bureau of Statistics has indicated it will not be continuing to survey the screen production sector, resulting in a lack of information about the industry.**

   The Australian Bureau of Statistics has indicated that it will not be continuing its Service Industry Survey (SIS): Television, Film and Video Production and Post-production Services. There is no adequate alternative source of information to inform decision-making.

2. **Screen Australia cannot use the Producer Offset data to inform decision-making and agency operations.**

   Due to tax secrecy laws, Screen Australia has limited ability to use the Producer Offset data to inform the decision-making and operations of the agency and limited ability to inform Government and industry as to particular aspects of its operations and effectiveness.

3. **Medium-budget films struggle to be made without Screen Australia funding.**

   The Producer Offset does not yet assist to generate enough revenue to fund medium-budget feature films without Screen Australia's assistance. This is due to the more complex financing structures of these films and the timing of the introduction of the Producer Offset, which coincided with the global credit crunch and a reduction in Screen Australia's appropriation. Additional funding is required to enable Screen Australia to lift its current funding cap from $2.5 million and invest in medium-budget films.

4. **There is a lack of support for innovative and entrepreneurial screen projects.**

   Innovative and entrepreneurial projects, which have low budgets or alternative distribution models are currently missing out on the support provided to more expensive projects or those with more traditional release strategies. Lowering the $1 million Qualifying Australian Production Expenditure (QAPE) threshold for feature films to $500,000 is one means to support innovative and entrepreneurial screen practitioners to bring films to market. Additionally, single-episode program (non-theatrical drama) QAPE thresholds are too high and stymie innovation. Reducing these thresholds will result in more lower-budget, innovative projects being eligible for the relevant Producer Offset. If this were to be combined with increased direct funding support for Australian content on emerging media platforms, this could assist to address the relatively small amounts of Australian content available on these platforms.

5. **The Producer Offset limits multi-episode projects to 65 episodes.**

   The Producer Offset for multi-episode non-feature projects is limited to the first 65 episodes rather than a standard unit of time such as hours. This means that programs with shorter episodes hit this limit after far less production activity than programs with longer episodes.

6. **The Producer Offset doesn't operate effectively for low-budget, one-off documentaries.**

   While working for documentary series, the Producer Offset is more problematic for low-budget, one-off documentary productions, which may not have sufficient marketplace support to be made without additional funding from Screen Australia. In order to receive the necessary Government support, a company must apply to Screen Australia for direct funding and for provisional and final certification for the Producer Offset, borrow against the Producer Offset to cashflow the production and incur substantial additional finance, administration and legal costs against an average rebate of only $50,000. In these cases, the Producer Offset is often not worth enough to producers to justify compliance costs, and Screen Australia incurs significant administrative costs. A direct payment in the form of a grant could substitute for the Producer Offset payment for one-off documentaries with an overall budget of $500,000 or less. Further, the 20 per cent cap on QAPE claimed on above-the-line items unfairly impacts on all documentary projects as they have a lower proportion of below-the-line costs compared with drama projects. Given this situation, documentaries could be exempt from the 20 per cent ATL cap.

7. **The timing of the acquittal of the Producer Offset affects the liquidity of production businesses.**

   The Producer Offset is paid via the tax return for the year the project was completed. If a project is completed early in a financial year, the timing of the acquittal of the Producer Offset affects the liquidity of production businesses by delaying repayment of debt. While the Commissioner of Taxation has a discretion to at any time during any year make an assessment of income derived, this discretion has been declined other than in the case of voluntary liquidation of Special Purpose Vehicles (SPVs). Therefore, in order for producers to receive an early payment of the Producer Offset claim, without the need to liquidate, a legislative amendment would be necessary.

8. **The integrity of the Significant Australian Content (SAC) test should be preserved.**

   The SAC test is based on legislation (Division 10BA of the *Income Tax Assessment Act 1936* (ITAA36)) that existed prior to the introduction of the Location Offset. The rather broad language in the SAC test suggests that it could be open to interpretation and result in uncertainty. The SAC test is intended to distinguish the Producer Offset from the Location Offset by requiring significant levels of Australian content. The SAC legislation could formally acknowledge the extent to which Australians contribute to the development and creative control of a project and the participation in recoupment or profits from exploitation of a project. Such an acknowledgement would be consistent with Screen Australia's decision-making to date.

9. **The definitions of QAPE need to be further considered.**

   Further consideration needs to be given as to what can and cannot be considered QAPE in order to achieve policy outcomes for Government and Screen Australia, administrative efficiencies for the agency and producers, and reduced compliance costs for industry. Subject to relevant caps, items eligible to be claimed as QAPE could include production insurances and completion bonds, distribution expenses of the production companies, and audit and legal fees.

10. **There is an opportunity to enable the games sector to achieve greater sustainability.**

    Without greater assistance from Government, Australia will struggle to build a sustainable games sector given the sector's current market structure and inability to retain intellectual property.

    A hybrid Location/Producer Offset governed by a modified SAC test which focuses on the mechanical criteria (development, creative control and source of concept) as opposed to the subject matter of the content (ie settings or characters) could provide opportunities for the games sector to achieve greater sustainability.

3. SOURCES AND DEFINITIONS

3.1 Definitions and scope

For the purposes of this analysis, the Australian independent screen production sector is defined as businesses that create feature film, TV drama (children and adult) and/or documentary content, *excluding* in-house productions (projects where a broadcaster is the only production company).

The 2010 Review and this submission focus on the delivery of support programs to drama (including feature films and television) and documentary. 'Innovative content' – for games and mobile phones, for example – is also considered broadly in the context of this submission.

3.2 Sources and methodology

For the section providing industry context, Screen Australia has drawn on published data from the ARC Centre of Excellence for Creative Industries (which provides a useful context for film, TV drama and documentary production in the wider economy) and from published and unpublished data from the 2006/07 Australian Bureau of Statistics (ABS) Service Industry Survey *Television, Film and Video Production and Post-production services* (which remains the most effective measure for the size and activity of the audiovisual content production) as well as data from Screen Australia's own production activity indicators: the *National Survey of Feature Film and TV Drama Production* and *Documentary Production in Australia* reports.

The information contained in the section on individual production businesses is drawn from new, original research conducted by Screen Australia's Strategy and Research Unit:

- analysis of the production credits (producers and production companies) for feature film, TV drama and documentary projects held in Screen Australia's databases
- a survey of production businesses (also drawn from Screen Australia's databases) which have made at least one feature film, TV drama or documentary project over the last 10 years.

The Producer Offset section draws on data collected by Screen Australia in the administration of the Producer Offset, contextualised by data from the *National Survey of Feature Film and TV Drama Production* and *Documentary Production in Australia*. It also incorporates information obtained through Screen Australia's consultations with industry and the *2010 Business Survey*.

The supplementary data draws on a range of sources including the *National Survey of Feature Film and TV Drama Production* and its accompanying PDV Survey, Screen Australia's annual Film Agency Funding Survey of state and federal agencies, and Screen Australia and Australian Film Commission annual reports.

3.2.1 Screen Australia's consultation with industry

In February and March 2010, Screen Australia hosted a series of forums across Australia to discuss the issues and challenges facing the independent screen production sector in the lead up to Minister Garrett's announcement of the terms of reference for the Review.

These forums provided an opportunity for industry to share with Screen Australia information, issues and ideas about the sector, which are outlined in Attachment A. Many of these issues are discussed within the main body of the submission, with key issues identified in Section 3.

3.2.2 Screen Australia database analysis

Screen Australia continues the research of the Australian Film Commission, tracking drama and documentary production activity from 1970. All projects are tracked, regardless of whether they have received funding from the agency or not. This data provides the basis for Screen Australia's annual benchmarking reports, the *National Survey of Feature Film and TV Drama Production* and *Documentary Production in Australia*.

Analysis of the companies and producers attached to the projects in the databases can also provide useful background on the number and range of businesses undertaking feature film, TV drama and documentary production in Australia, and some of the ways in which they operate in order to maintain viability.

Each business has been classified according to the following criteria:

- Whether it is **currently active:** 'Currently active' businesses are those that have made at least one project (feature film, TV drama or broadcast documentary) in the past three years, ie since 2006/07. These businesses form the basis of the analysis.
- Whether it produces features, TV drama and/or documentaries, exclusively or in combination. Because some types of projects (eg animated features) can have long production cycles (occasionally three years or more), production credits from the last five years have been referred to when categorising businesses according to **slate composition**.
- Whether **multiple producers** are involved with the business.
- Whether the business has **collaborated** on projects: 'Collaborative' businesses have worked with other production businesses and/or producers, including on international co-productions. Again, due to long production cycles, credits from the last five years have been referred to in this categorisation.
- Whether production activity is **'consistent'** or **'intermittent'**: Businesses have been classified as 'consistent' if they have had a series and/or at least two one-off projects in production during the last three years.

Due to the tendency of film and television producers to use SPVs for individual projects, this analysis cannot be based solely on the credited production companies, as the results would indicate a disproportionate number of companies working on only one title. The analysis is therefore based on the producer(s) involved in each project and their corresponding companies. This may result in multiple businesses being credited for a single title, where multiple producers were involved. Where a producer is not attached to a company, or has not nominated a company name, their projects are analysed by producer.

3.2.3 Survey of Australian screen production businesses (2010 Business Survey)

Screen Australia's survey of Australian screen production businesses (referred to throughout as the *2010 Business Survey*) was undertaken in April 2010 (see Attachment B). It aimed to explore issues of sustainability in relation to the screen production sector, and included questions about business activity, business culture, development activity, production activity, slate/catalogue and ownership structure, as well as employment and sources of income.

The survey was designed to complement Screen Australia's annual production activity indicators (the *National Feature Film and TV Drama Production Survey* and *Documentary Production in Australia*), which are focused on projects rather than the production businesses responsible for them. While the Australian Bureau of Statistics Service Industry Survey (*Television, Film and Video Production and Post-production Services)* does include business characteristics, the last survey was undertaken for 2006/07 (before the introduction of the Federal Government's Australian Screen Production Incentive).

A link to the online *2010 Business Survey* was sent via email to 829 businesses that have been involved in producing feature films, TV drama and documentaries over the last 10 years, identified from Screen Australia's project databases.

There were 320 respondents – a response rate of 39 per cent. The margin of error based on these respondents is approximately 4.3 per cent.[3]

3.2.4 Database analysis and 2010 Business Survey combined

For some indicators, a subset of businesses has been analysed, combining the results of the database analysis with the *2010 Business Survey* responses.

This subset comprises currently active businesses, according to the database analysis, that also responded to the *2010 Business Survey*. It allows for more in-depth analysis of particular issues.

A check of this subset indicates that it is a highly representative sample of all currently active businesses.

[3] Not every respondent answered every question. The margin of error changes depending on the number of respondents to the question concerned and the analysis taking place.

Comparison of currently active businesses by slate composition

Currently active businesses	**Total**	**Features only**	**TV drama only**	**Docos only**	**Features / TV drama**	**Features / docos**	**TV drama / docos**	**Features / TV drama / docos**
From database analysis	394	23%	12%	52%	2%	5%	4%	2%
2010 Business Survey respondents	194	25%	11%	49%	2%	5%	5%	3%

3.3 Information limitations

Screen Australia notes that there are limitations to the information and analysis it can provide to the Review (and therefore to Government and industry) due to:

- the requirements of section 16 of the ITAA36 which restrict Screen Australia's use of knowledge and information relating to the Producer Offset
- the absence of current Australian Bureau of Statistics (ABS) data that comprehensively surveys the industry. The last industry survey considered the 2006/07 financial year, which was before the introduction of significant industry policy reform.

There is no alternative for either source of information.

The information obtained from Screen Australia's *2010 Business Survey* is limited and should not be seen as a substitute for information obtained either through the administration of the Producer Offset or via the ABS.

3.3.1 The ABS Service Industry Survey

The most recent data on total audiovisual production and post-production in Australia is provided by the 2006/07 ABS Service Industry Survey (SIS): *Television, Film and Video Production and Post-production Services.*

The survey had been conducted every three years from 1993/94 to 2002/03, with 2006/07 published July 2008. At this point, another survey has not yet been scheduled.

Screen Australia remains a strong supporter of the survey as a crucial source of key business indicators (such as income, expenditure, profit margin and employment) for the Australian audiovisual industry as a whole, and for production and post-production activity in particular. The survey also helps to inform and monitor the effects of government policy at federal and state levels.

With the last survey being conducted prior to the introduction of the Federal Government's Australian Screen Media Support Package in 2007/08, the capability to measure the full effects of the package are limited without this fundamental ongoing indicator.

The ABS survey provides the only comprehensive data on the overall performance of the audiovisual industry, covering business characteristics as well as production and post-production activity. It gives the only complete picture of all film and TV production in Australia, by compiling total production costs for a wide range of genres produced in Australia from TV news and current affairs to commercials. In addition it provides an essential view of the business performance of companies by analysing each business sector (for example, television broadcasters, feature film producers).

As the national statistical agency, the ABS is in a unique position to collect this data. The survey cannot be undertaken outside the ABS as other entities do not have the ABS's authority to demand responses.

As a comparison, NZ Stats and Stats Canada undertake annual surveys of their film and television industries.

ISSUE: The Australian Bureau of Statistics has indicated it will not be continuing to survey the screen production sector, resulting in a lack of information about the industry.

ISSUE: Screen Australia cannot use the Producer Offset data to inform decision-making and agency operations.

4. BACKGROUND

4.1 Government's role in screen production

The Australian Federal Government plays a broad and comprehensive role in developing and stimulating the Australian screen production sector. This is largely achieved through funding and regulatory settings including the following:

- direct funding of screen content through Screen Australia
- funding of various screen bodies, festivals, publications, programs and guild activities through Screen Australia
- taxation incentives, in particular the Production, Location and PDV Offsets
- negotiation and administration of treaties and memoranda of understanding to establish and facilitate co-productions with other countries
- direct funding to, and/or provision of, spectrum to the ABC, SBS, NITV and community television broadcasters
- provision of spectrum to the commercial broadcasters
- direct funding of the Australian Film, Television and Radio School as well as other education institutional funding and support
- direct funding of Ausfilm and the Australian Children's Television Foundation
- direct funding of the arts, particularly through the Australia Council
- regulation, especially the Australian Content Standard administered by the Australian Communication and Media Authority
- immigration and visa regulation and administration
- export incentives.

These various components collectively influence the environment in which screen content is created.

State governments also play significant additional roles.

4.2 Screen Australia

Screen Australia came into being on 1 July 2008 by virtue of the *Screen Australia Act 2008* (SA Act), formed from the merger of the Australian Film Commission (AFC), the Film Finance Corporation Australia (FFC) and Film Australia Limited (FAL)[4]. Its primary functions are to:

(a) support and promote the development of a highly creative, innovative and commercially sustainable Australian screen production industry

(b) support:

(i) the development, production, promotion and distribution of Australian programs

(ii) the provision of access to Australian programs and other programs

[4] SA Act subsection 6(1)

(c) support and promote the development of screen culture in Australia

(d) undertake any other function conferred on it by any other law of the Commonwealth.

Its functions include administering the Producer Offset and the co-production program.

Screen Australia is therefore a key subject of the Review and a principal source of information.

Screen Australia's direct support of the industry is broadly provided through: development, innovation, investment, marketing, and research and strategy.

The Explanatory Memorandum to the Screen Australia Bill 2008 (the Bill) explained Screen Australia's aims in the following manner:

> *This clause[5] sets out SA's functions and how it may perform them. SA will have a strong cultural focus to its activities in recognition of the strong public value of Australian-made films, television and other screen content. It will be expected to nurture Australian creative and technical expertise as well as recognising the importance of building a sustainable industry base comprising viable screen businesses. This is because a strong industry base is essential to deliver strong cultural outcomes.*
>
> *Examples of ways that SA could carry out its functions include:*
>
> - *supporting and promoting the development of a commercially sustainable Australian screen production industry by developing filmmakers' skills through providing assistance to filmmakers and their projects, for example, business skills workshops (paragraph 6(1)(a));*
> - *engaging in the promotion of Australian films by marketing them at film festivals and markets in other countries and supporting filmmakers to attend festivals and industry markets and trade shows (subparagraph 6(1)(b)(i));*
> - *engaging directly in the development and production of Australian films, such as the National Interest Program documentaries previously produced by Film Australia (subparagraph 6(1) (b)(i));*
> - *supporting the development and production of Australian films by providing finance and other support to producers of Australian films which might include providing loans, guarantees, grants or investment (subparagraph 6(1)(b)(i));*
> - *exhibiting, or making available to others for exhibition, Australian or other programs (subparagraph 6(1)(b)(ii)); and*
> - *promoting the development of screen culture in Australia by supporting film festivals involving Australian programs or other programs (paragraph 6(1)(c)).*

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[5] Clause 6 of the Bill

4.3 Screen Australia and the Producer Offset

The Producer Offset is a refundable tax offset provided under Division 376 of the ITAA97 available to producers of projects that are issued with a certificate by the 'film authority' under section 376-65 of the ITAA97. As part of the assessment process for certification, the film authority will determine a project's qualifying Australian production expenditure (QAPE).

The certified company will then receive a refundable tax offset equal to 40 per cent for feature films or 20 per cent for projects other than feature films[6] of the determined QAPE in its tax return for the financial year in which the project is completed.

The Producer Offset is one of three tax offsets available under Div.376; the others being the Location Offset and the PDV (Post, Digital and Visual Effects) Offset, which are collectively called the Australian Screen Production Incentive.

Certification is governed by assessment against the following key legislative criteria, which are drawn from Div.376 ITAA97:[7]

- The film must be completed (paragraph 376-55(1)(a))
- The applicant must be an Australian resident company or a foreign resident company with a permanent establishment in Australia and an Australian Business Number (ABN) (paragraph 376-55(1)(d))
- The film must not have accessed other Australian Government film incentives (such as Div.10BA or the Location Offset) (subsection 376-55(4))
- The applicant must have been responsible for the making of the film (paragraph 376-65(1)(a))
- The film must have a 'significant Australian content' (paragraph 376-65(2)(a))
- The film must be an eligible format (paragraphs 376-65(2)(b)-(d); subsection 376-65(3))
- The company must meet or exceed the relevant QAPE threshold (subsection 376-64(6)).

Since its inception, Screen Australia has been the 'film authority' charged with administering the Producer Offset (ITAA97 subsection 376-55(3)). Prior to the creation of Screen Australia, the Producer Offset was administered by the then Film Finance Corporation.

Being an independent statutory authority with specialist knowledge about screen production, Screen Australia is able to expertly administer the Producer Offset and make decisions of eligibility outside a political context.

The policy intent of the Producer Offset, which received bi-partisan support, was outlined by the then Minister for the Arts and Sport, Senator the Hon George Brandis SC at the Producer Offset's announcement as follows:[8]

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[6] TV series, mini-series or telemovies, short-form animations, non-feature documentary, or direct-to-DVD or web-distributed programming.

[7] The term 'film' is used in legislation to refer to both feature films and project types listed in the note above.

[8] Sen the Hon Helen Coonan and Sen the Hon George Brandis SC, Joint Media Release, New producer incentive for Australian film and television productions, 8 May 2007. The Producer Offset was referred to as the 'Producer Rebate' at announcement.

> *The Producer's Rebate will help the film and television industry to become more competitive and responsive to audiences, and will be a major incentive for projects with significant commercial potential… The Rebate provides a substantial opportunity for producers to retain significant equity in their productions and build stable and sustainable production companies, both important for the long term growth of the film industry.*

Comments made publicly by both the then Government and the then Opposition highlighted the following key aims for the Producer Offset:

- dramatically increased production
- increased equity for filmmakers
- creation of sustainable businesses
- increased private investment.

Considering these aims in conjunction with those of the creation of Screen Australia, it appears clear that the Producer Offset was a 'marketplace' scheme. With a proportion of the budget covered, without external consideration of quality, producers are able to approach the market to secure the remainder.

Screen Australia's role as an investor in projects that receive the Producer Offset has been aimed, from the outset, at 'supplementing' or 'topping up' the Producer Offset, as it was assumed that a substantial proportion of projects would be able to achieve production through marketplace funding. As Minister Garrett outlined in his second reading speech on the Bill:

> *The degree to which Screen Australia should provide investment funding to projects which also receive the Producer Offset also needs close attention. It is important that the agency respond to this new incentive in a way which ensures better cultural outcomes and does not result in the agency simply replacing funding which should be provided by the marketplace.*[9]

[9] The Hon Peter Garrett AM MP, Screen Australia Bill 2008: Second Reading Speech, *House of Representatives Hansard*, 20 February 2008, p.832.

4.4 Screen Australia and co-productions

Screen Australia is the 'competent authority' for Australia's International Co-production Program. It is responsible for approving projects as co-productions under its co-production guidelines and for providing advice to the Australian Government on the operation of the program.

'Official' co-productions are made under one of the bilateral treaties or memoranda of understanding to which Australia is a party. Official co-productions are considered national productions of both parties to the agreement in question and are therefore accorded all benefits which flow to national films and television programs.

In the Australian context, such benefits may include:

- increasing financing opportunities given the potential for multiple sources of funds
- accessing local and foreign incentives and subsidies
- distributing financial risk
- increasing opportunities for audience engagement given potentially larger (multiple country) population appeal for product and multiple distribution channels
- assisting producers to achieve 'scale' in their production
- facilitating the Australian Government's ambitions of soft diplomacy.

Specifically, an official Australian co-production is considered to be an 'Australian' film or TV program, and as such:

- is eligible to apply for support from Australian, state and territory Government agencies
- is considered to be 'Australian content' for broadcasting quotas
- bypasses the significant Australian content (SAC) test for the Producer Offset.[10]

[10] See ITAA97, subparagraph 376-65(2)(a)(ii).

5. INDUSTRY CONTEXT

This section explores the context in which independent drama and documentary production operates in Australia. It provides a framework for Screen Australia's new research and analysis on individual production businesses in Section 6 and for Producer Offset data in Section 7.

5.1 The 'creative industries'

The Australian Research Council (ARC) Centre of Excellence for Creative Industries (CCI) has identified six segments that make up the 'creative industries':[11]

- film, television and radio
- software and interactive content
- advertising and marketing
- architecture, design and visual arts
- music and performing arts
- writing, publishing and print media.

The creative industries are complex, interconnected and interdependent. Generally speaking, the health of one of the segments affects many, if not all, other parts. The health of the creative industries as a whole is therefore important. Size is an important measure of this health.

5.1.1 Size of the creative industries

According to CCI, there are 155,000 registered creative businesses directly associated with creative industries in Australia. These businesses contribute $31.1 billion of gross domestic product and provide employment for around 315,200 people (3.5 per cent of the Australian workforce).[12]

However, there are also discrete creative skills embedded or employed in other industries such as finance, government, education and manufacturing.

When considering creative occupations across all industries, the creative workforce rises to more than 486,700.[13] The largest of these segments, software and interactive content, accounted for 35 per cent of the creative workforce, followed by architecture, design and visual arts (24 per cent) and writing, publishing and print media (15 per cent).

The film, television and radio segment of this overall industry represents around 33,000 people (7 per cent). Of these people, 21,000 were in specialist film, television and radio occupations – film and video editors, for example, or directors of photography – and employed either in one of the six creative industries (16,500 people) or in another industry (4,500 people). The remaining 12,000 people were employed by film, television and radio

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[11] Film and television data is not available from CCI separate to radio. Games development and interactive media may also be produced by businesses engaged in film, TV drama and documentary production and often draw on the same set of skills and resources. However, CCI classifies them under 'software and interactive content' and does not provide separate data.

[12] ARC Centre of Excellence for Creative Industries and Innovation, Creative Economy Report Card 2010, April.

[13] http://www.screenaustralia.gov.au/gtp/oewfsummary.html

businesses or service providers in a business support, rather than creative, role. This means that the health of the film and television industry is in part determined by the many other, much larger segments of the industry.

Based on the annual earnings declared in 2006, people employed in the creative workforce earned about $27 billion annually in wages and salaries, approximately 7 per cent of Australia's total employment earnings. The software and interactive content segment accounted for $12.2 billion of this total, while the film, television and radio segment made up $1.9 billion; the mean income for these segments was $70,800 and $56,200 respectively, compared to a national mean of $43,400. Only one segment – music and performing arts – earned below this amount ($36,820).

5.2 The industry

5.2.1 All film and video production

The 2006/07 Australian Bureau of Statistics (ABS) Screen Industry Survey (SIS) – *Television, Film and Video Production and Post-production Services* – provides a snapshot of *all* film and video production businesses, post-production businesses and creative service providers (such as producers, writers and directors) as well as other crew and screen resource providers. It does not include television broadcasters.

The results of the 2006/07 survey suggested that the film and video production sector was made up of 2,492 businesses employing 13,844 people at that time. In terms of the number of businesses, this represents growth of 15 per cent from the previous SIS survey (2002/03) when there were 2,174 businesses.

The majority of these businesses were small businesses (85 per cent), with little more than 1 per cent employing over 50 people. The total sector earned $2.208 billion in 2006/07[14] and had an operating profit margin of 8.8 per cent. (By comparison, the average profit margin across all industries in the Australian economy was approximately 10.8 per cent in 2005/06, according to the Australian Bureau of Statistics). Its 'industry value added' (the contribution by businesses in the industry to gross domestic product) was $886 million.

5.2.2 Drama and documentary production

The ABS SIS covers *all* film and video production and post-production businesses.

In order to gain an estimate of the size and characteristics of drama and documentary production businesses specifically, Screen Australia commissioned a cut of the ABS data from the 2006/07 survey, separating businesses involved in drama and documentary content creation from post-production and other businesses

[14] There is an absence of information about current sector earnings due to the decision of the ABS to not continue the SIS for television, film and video production

INDUSTRY SECTOR	Businesses	Income ($m)	Employment	Profit Margin	Industry Value Add[4]
Drama or documentary production businesses[1]	^373	636.6	4,692	^2.2%	$234.2m
Post-production services	^497	444.0	2,971	^11.1%	n.a.
Other businesses[2]	1,622	947.5	6,181	n.a.	n.a.
TOTAL[3]	2,492	2,028.1	13,844	^8.8%	

Based on unpublished data from Australian Bureau of Statistics, *Television, Film and Video Production and Post-production Services, 2006/07* (cat. no. 8679.0).

1. Includes businesses which reported production income in 2006/07 from feature films, documentaries, TV drama or TV children's drama, OR, that had reported any production costs for TV drama, TV children's drama, TV documentaries, feature films or documentaries. The figures may contain SPVs or businesses providing creative production services for the creation of Australian and/or foreign content.

2. Includes other non-drama and documentary production businesses, crew and creative services (Screen Australia estimates).

3. Includes all employing and significant non-employing businesses mainly engaged in film and video production and post-production services. Does not include television broadcasters or subscription television channel providers.

4. The contribution by businesses in the selected sector to gross domestic product

Notes:

^ Estimate has a relative standard error of 10–25 per cent and should be used with caution.

n.a. Data not available

5.3 Production activity

Businesses engaged in film and television are involved in the creation of a range of projects, with varying degrees of federal and state government support.

Government support for various production types

Type of project	Government support
Feature films	Direct federal and state funding. Producer Offset. Drama quotas on commercial free-to-air TV and drama expenditure quotas on subscription TV.
TV dramas (including children and comedy)	Direct federal and state funding. Producer Offset. Drama quotas on commercial free-to-air TV and drama expenditure quotas on subscription TV.
Documentary and factual	Direct federal and state funding. Producer Offset. Documentary quota on commercial free-to-air TV.
Commercials	Quota on commercial free-to-air TV.
Light entertainment and variety	Included in overall Australian content quota on commercial free-to-air television.
Corporate/marketing/ education	No.
Music videos	No.
News and current affairs	Included in overall Australian content quota on Australian commercial free-to-air television.
Sports	Anti-siphoning regulations. Included in overall Australian content quota on Australian commercial free-to-air television.
Short films	Direct federal and state funding. Included in overall Australian content quota on Australian commercial free-to-air television.
Quiz/panel/game shows	Included in overall Australian content quota on Australian commercial free-to-air television.

In addition, some projects attract other forms of direct support (such as the Australian Government's export marketing development grants) or indirect support (through mechanisms like the state payroll tax and rebate schemes).

Games development and interactive media may also be produced by businesses engaged in film and television production and often draw on the same set of skills and resources. These forms of innovative content have received direct funding from Screen Australia and other state government agencies.

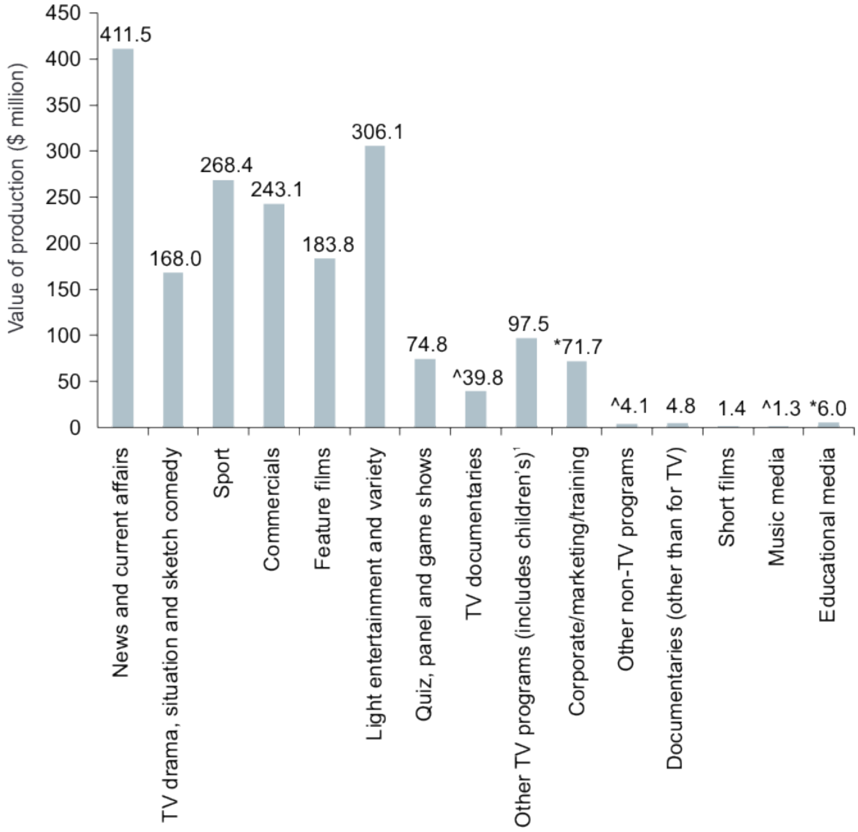
For information on Australian Government support, both direct (through Screen Australia development and/or production funding) and indirect (through the Producer Offset) accessed by individual businesses, see 7.5 Direct and Indirect Support of Production Businesses. See also Supplementary Data 8.3 State Support.

5.3.1 Television, film and video production activity, including broadcasters

To provide a full picture of production activity, the ABS SIS totals the production costs incurred not just by film and video production businesses, but also by television broadcasters (commercial and public free-to-air, and subscription), as well as subscription television channel providers with in-house production.

According to this analysis, news and current affairs was the top production category in 2006/07, as it has been for the past three surveys, accounting for 22 per cent of all production costs. This was followed by light entertainment and variety at 16 per cent and sport at 14 per cent. Feature film production appears to have increased significantly to $183.8 million in 2006/07. This represents almost 10 per cent of total costs, almost double the 2002/03 share. Television drama (including situation and sketch comedy) was sixth highest, at 9 per cent of total production costs. Documentary production (both for television and other mediums) was valued at $44.6 million (around 2–3 per cent of the total).

Value of production activity by production type, 2006/07



Source: Australian Bureau of Statistics (ABS), *Television, Film and Video Production and Post-production Services, 2006/07* (cat. no. 8679.0).
Notes:
^ Estimate has a relative standard error of 10–25 per cent and should be used with caution.
* Estimate has a relative standard error of 25–50 per cent and should be used with caution.

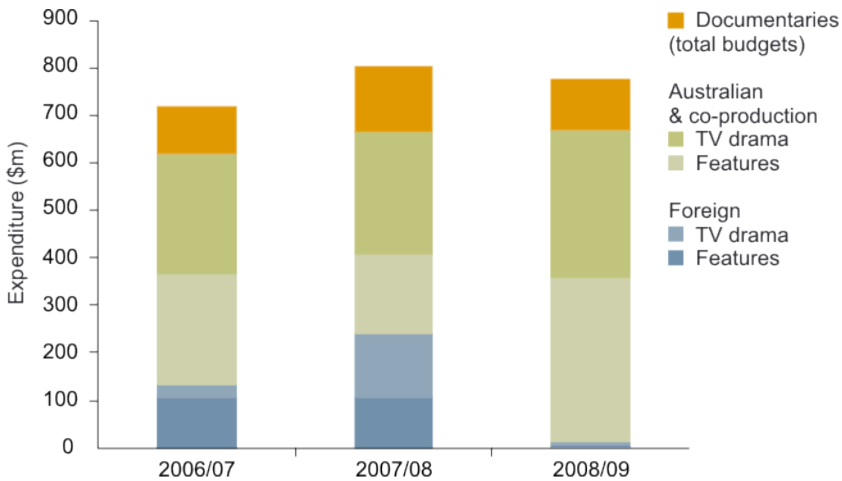
5.3.2 Independent documentary and drama production activity

Feature film, television drama and documentary have been identified as areas requiring government support, given their significant cultural value, high cost and generally low commercial returns.

Given the interdependence of all parts of the content creation industry, the success or failure of one aspect of the industry impacts upon all other parts. In particular, the success of the feature film, television drama and documentary industries strengthens and supports the broader film and television production sectors; and augments and develops the wider creative industries.

Total expenditure in Australia on drama and documentary, both local and foreign, has averaged around $766 million per financial year over the last three years.

In 2008/09, production of Australian feature films increased markedly, coinciding with the introduction of the Producer Offset. Prior to this, feature production had been relatively steady. Year-to-year levels of documentary and television drama had also remained relatively steady, partly due to the content quotas applying to free-to-air broadcasters.



Source: *National Survey of Feature Film and TV Drama Production*, and *Documentary Production in Australia*. All project expenditure is allocated to the year principal photography commenced.

Foreign production in Australia augments local activity, ensuring ongoing employment and the continued expansion of skills and infrastructure within screen companies. However, foreign production activity can be volatile due to fluctuating exchange rates and attractive incentives from other territories. 2008/09 saw the lowest level of foreign production on record. Contributing to this was declining interest from United States (US) studios. While the US has historically accounted for the majority of foreign drama expenditure in Australia, no US productions occurred in 2008/09 for the first time since tracking began in 1988. (See also Supplementary Data 8.1 Location Offset.)

Screen Australia notes the recent announcement by Government of changes to the Location and PDV Offsets aimed at making Australia a more attractive destination for filmmaking. These changes remove the current requirement under the Location Offset for productions valued between $15 million and

$50 million to spend a minimum of 70 per cent of their production budgets in Australia and reduces the PDV threshold from $5 million to $500,000. Both changes apply from 1 July 2010.[15]

A flexible approach to stimulating local production support assists to mitigate against unpredictable foreign expenditure levels. This is particularly relevant in Government support of and for the local production of Australian drama and documentary content.

A range of issues and impacts associated with the Australian Screen Production Incentive have been identified as affecting drama and documentary production activity, and these are discussed in detail in later sections of this document.

[15] http://www.environment.gov.au/minister/garrett/2010/budmr20100511e.html

5.4 Challenges to sustainability

There are inherent structural challenges to sustainability in the independent screen content industry which make it difficult for some participants who generate and own creative assets to extract profit from their activities. These include:

- a large number of potential producers that must compete for access to limited finance (small amounts from the private sector, some from marketplace pre-sales, but mostly from government); branded talent often poached by studios with deep pockets (eg stars, successful directors or cinematographers); and distribution channels, both domestic and international
- a concentration of distributors, broadcasters and exhibitors, who often buy in volume, have supply contracts with foreign competitors, and can, at times, utilise significant bargaining power
- barriers to entry – either natural or artificial – such as high fixed costs of production (most of which are unrecoverable) or the need for an 'established track record'
- a strong emotional connection to the outcomes of production and its processes ('art for art's sake'), which can set up significant psychological exit barriers where businesses continue to operate despite not being able to generate an income
- participants from other sectors of the industry who can credibly integrate into production
- a myriad of cultural and leisure alternatives for consumers to choose from (such as theatre, music, sport)
- high levels of demand uncertainty (audiences don't know what they like until they have experienced it)
- a production process that is grounded in creative experimentation where the intended outcome is not always the actual outcome and where (like the prototype in research and development) a single product is produced and then distributed into the commercial marketplace.

Section 6 of this submission considers some of the specific strategies and obstacles for building sustainability at a business level.

6. INDIVIDUAL PRODUCTION BUSINESSES

6.1 Towards an understanding of business sustainability

Section 6 examines the characteristics of Australian documentary and drama screen production businesses as this is the focus of the Review. It includes two major new pieces of research:

- analysis of the production credits (producers and production companies) for projects held in Screen Australia's databases
- a survey of production businesses (*2010 Business Survey*).

The source data and methodology for this research is outlined in Section 3.2.

Detailed information on the overall characteristics of businesses, generated from these sources, is presented in Section 6.3.

Following that, in Section 6.4, two indicators of business sustainability have been investigated:

- consistency of production activity
- business profitability.

Data from the analysis of production credits and the *2010 Business Survey* has been examined to provide profiles of the range of businesses that display each of these indicators.

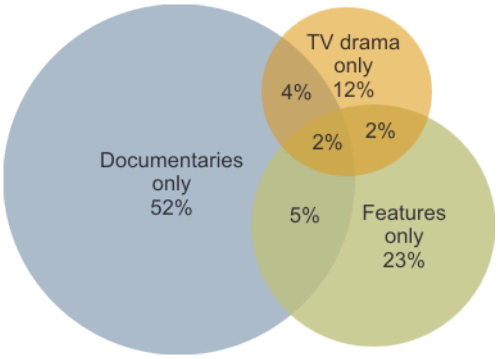
Strategies utilised by businesses to achieve viability are outlined in Section 6.5, and obstacles to achieving viability in Section 6.6.

6.2 Feature film, TV drama and documentary: specialisation or crossover?

Screen Australia's project databases indicate that there are 394 currently active production businesses (ie have made one project in the last three years). Most businesses specialise in one type of output:

- 52 per cent of businesses made documentaries only
- 23 per cent made features only
- 12 per cent made TV drama only
- 13 per cent made various combinations of these project types.

Analysis indicates that, within these businesses, producers often work in teams: 23 per cent have multiple producers and 46 per cent have worked with other producers or production companies on at least one project, including international co-productions.



Source: Screen Australia database analysis; 394 currently active businesses. Although these businesses are defined by the last three years of production activity, categorisation and data on collaboration draws on credits for projects from the last five years.

6.3 Characteristics of surveyed businesses

Screen Australia's *2010 Business Survey* provides an insight into the current composition of the independent production sector. The key characteristics outlined here have been drawn together from responses to various survey questions. Not all 320 respondents answered every question; the percentages given are based on the number of responses to the relevant question.

6.3.1 Business structure

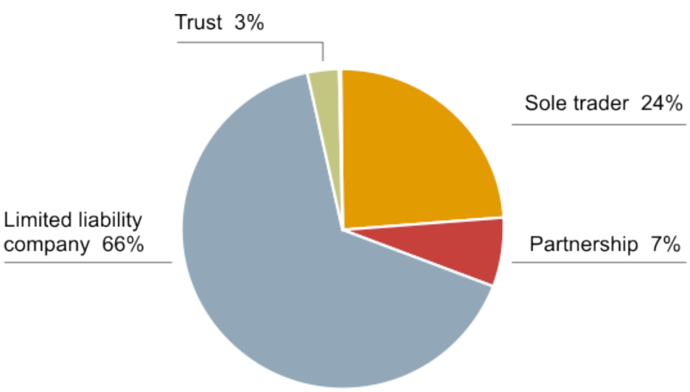
The majority (66 per cent) of respondents are structured as limited liability companies, followed by sole traders (24 per cent).

Nearly all businesses (96 per cent) are owned by the founder. Family and friends have equity in 13 per cent of businesses, and 10 per cent of businesses have some sort of professional private investment, either through 'business angels', venture capital or a private equity firm, or by the general public (through an initial public offering.)

Four businesses (1 per cent) stated that broadcasters owned equity in their production company; four stated that another production company owned equity in their venture; and two said that a philanthropic organisation owned equity.

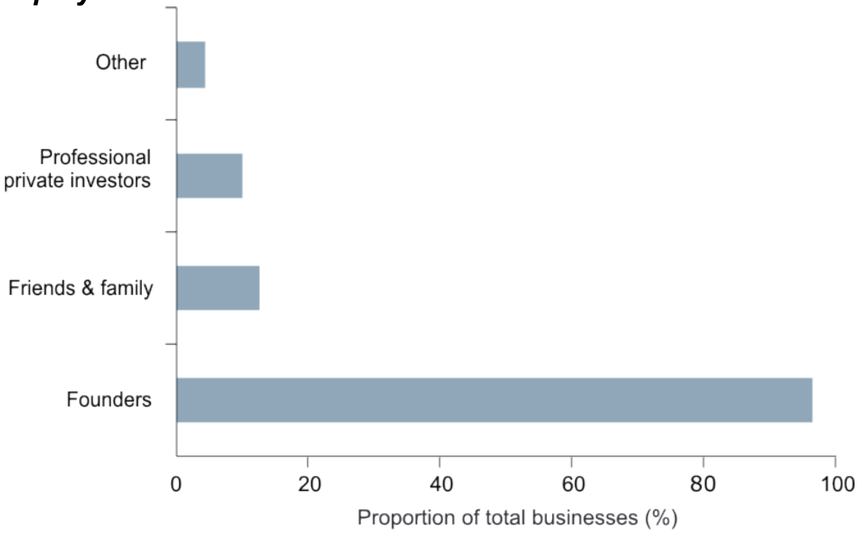
Some businesses (2 per cent) operated under an employee share scheme.

Structure of the business



Source: *2010 Business Survey*; 318 respondents to this question

Equity in the business



Source: *2010 Business Survey*; 297 respondents to this question

6.3.2 Size of business, employment

Based on income, around 91 per cent of respondents are likely to be classified by the Australian Tax Office as ‘small businesses’ (ie turnover of less than $2 million).

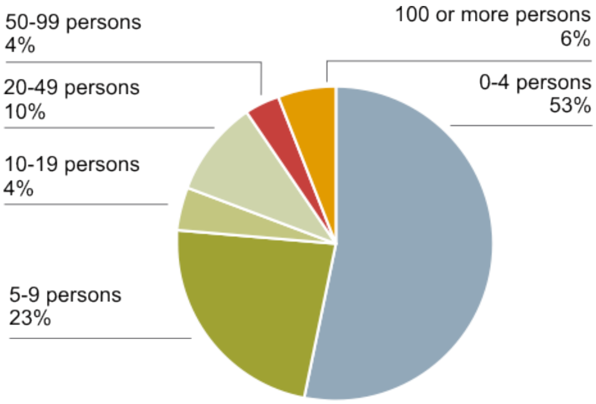
Three-quarters of respondents reported employing less than 10 staff with around 10 per cent reporting over 50 staff.

The majority (64 per cent) of employees reported were employed on a casual basis. This is no doubt due to the project-driven nature of content production and perhaps the general lack of cashflow needed to sustain a more full-time workforce. Only four businesses had significant numbers of non-casual employees. These were diversified businesses that also engaged in activities other than content creation.

In addition, 85 per cent of businesses that reported an employment breakdown also reported employing freelancers with their own ABN (who are not included in the employee figures here).

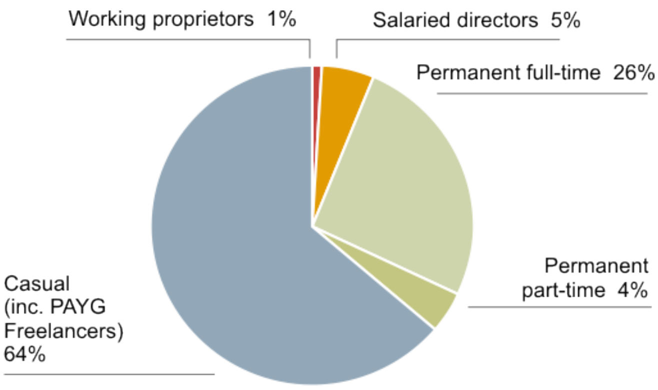
Labour costs account for around half of the businesses’ total expenditure.

Size of business



Source: *2010 Business Survey*; 225 respondents to this question

Employees by type



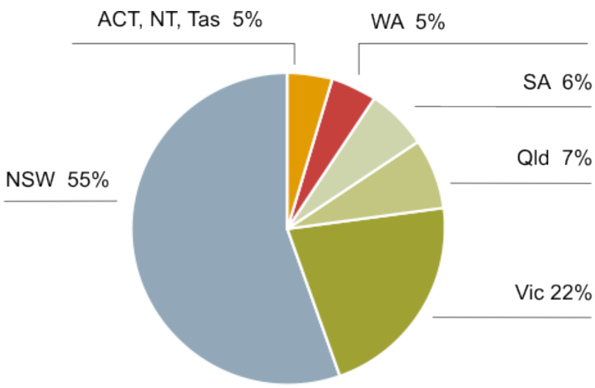
Source: *2010 Business Survey*; 224 respondents to this question

6.3.3 Location

Just over half of respondents are home-based. Around 40 per cent have leased business premises but only six per cent have purchased business premises.

Although the *2010 Business Survey* did not canvas location by state, analysis of respondents who are currently active businesses in the Screen Australia databases shows that just over half of businesses are based in NSW, followed by Victoria and Queensland respectively. These proportions are similar to those for all currently active businesses, and other state-based data on the production sector[16].

Location of businesses, by state



Source: Screen Australia database analysis of 154 currently active businesses among the *2010 Business Survey* respondents

[16] Including the 2006/07 ABS Service Industry Survey, *Television, Film and Video Production and Post-production Services* and drama and documentary production figures reported in Get the Picture on Screen Australia's website http://www.screenaustralia.gov.au/gtp/production.html

6.3.4 Type of business activity

Projects in development

For 2009/10, 71 per cent of respondents reported that they had at least one feature in development and 61 per cent were developing at least one documentary/factual project, with an average, in both cases, of three.

Projects in development	% of businesses	Average no. projects	Median no. projects	Max no. projects
Features	71%	3	2	19
Adult TV drama	36%	2	2	15
Children's TV drama	20%	2	1	5
Documentaries / factual	61%	3	2	25
Other TV	26%	2	2	15
Short films	16%	2	1	5
Websites	41%	2	1	9
Mobile content	19%	1	1	5
Games	10%	2	1	8
Other	17%	2	1	8

Source: *2010 Business Survey*; 296 respondents to this question

Projects in production

For 2009/10, 53 per cent of respondents reported at least one documentary in production and 39 per cent reported at least one feature in production. It should be noted that some of these businesses are operating at an international level and one business accounted for a large proportion of the total value of features in production in 2009/10, resulting in the large difference between the average and median figures for the value of the features slate per business.

Projects in production	% of businesses	Value of slate per business ($'000)	
		Average	Median
Features	39%	17,960	3,450
Adult TV drama	14%	6,819	2,500
Children's TV drama	6%	4,125	1,800
Documentaries / factual	53%	1,533	400
Other TV	12%	1,496	500
TV commercials	13%	1,039	400
Corporate / marketing	19%	163	53
Music videos	3%	15	10
Mobile content	6%	65	50
Games	1%	525	525
Other	9%	366	220

Source: *2010 Business Survey*; 159 respondents to this question

New media

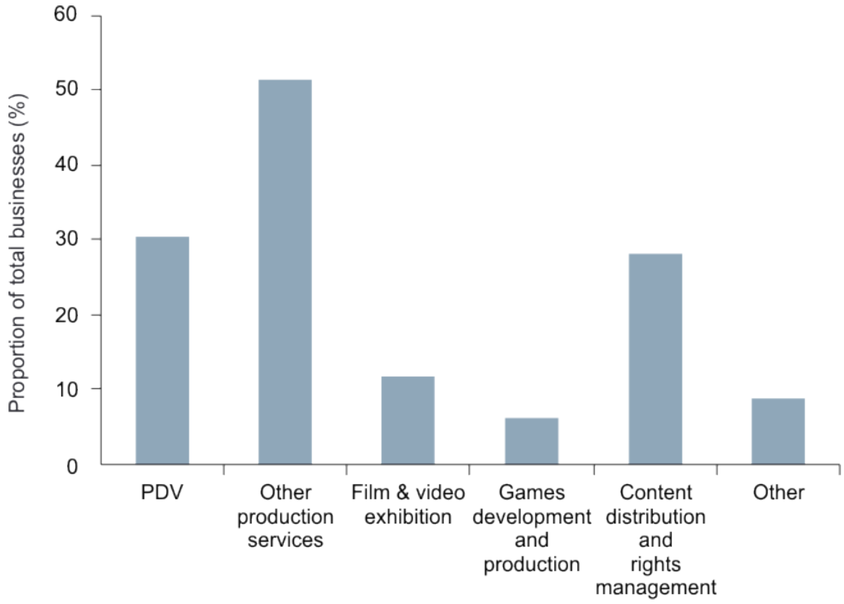
The *2010 Business Survey* was directed at drama and documentary businesses. Aggregated responses to several questions indicate that around 18 per cent of respondents had some involvement in new media (such as interactive media, games or mobile content).

Activities other than content creation

Eighty-four per cent of respondents to the *2010 Business Survey* engage in income-generating activities other than film and video production.

Around half of the business reported engage in providing production services, almost a third in providing PDV services, and slightly fewer in content distribution and rights management.

About 9 per cent engage in diversified activities such as consultancy, teaching, financing (cashflowing the Producer Offset), and theatre/arts exhibitions.



Source: *2010 Business Survey*; 309 respondents

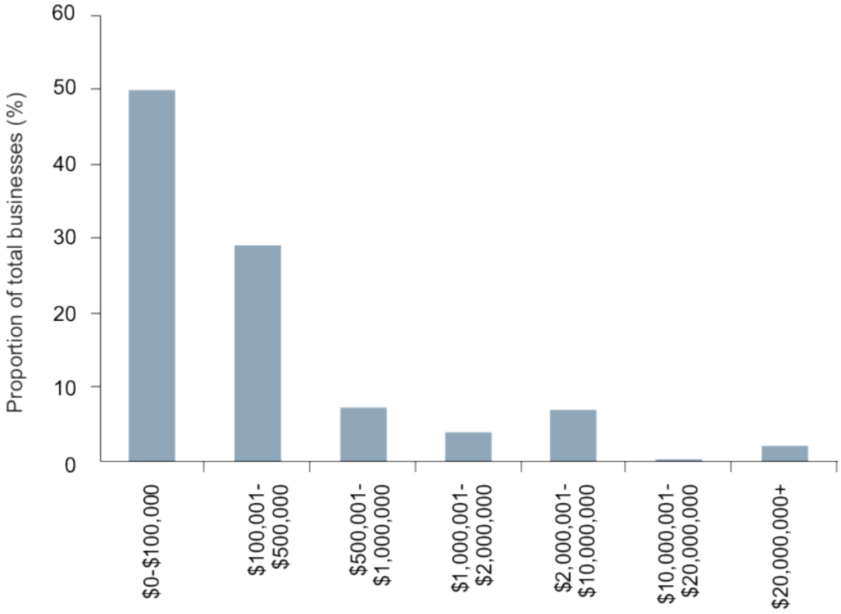
Note: categories are not mutually exclusive. A business involved in PDV services may also be undertaking content distribution and rights management, for example.

6.3.5 Level and sources of income

Most respondents (79 per cent) expect to earn less than $500,000 in revenue in 2009/10, with only 9 per cent anticipating that they would earn over $2 million.

Of businesses reporting a profit in 2009/10, the typical profit margin was 5 to 20 per cent (profit as a percentage of revenue).

Estimated total income in 2009/10



Source: *2010 Business Survey*; 230 respondents to this question

Sources of income

The vast majority of businesses (89 per cent) generated income from combinations of sources, predominantly producer fees, royalties, development fees and provision of production services. Just over half reported 3 to 4 sources of income.

Of the 11 per cent that earned their total income from one source only, the source varied between all those listed, with the exception of export market development grants, which were never the sole source of income.

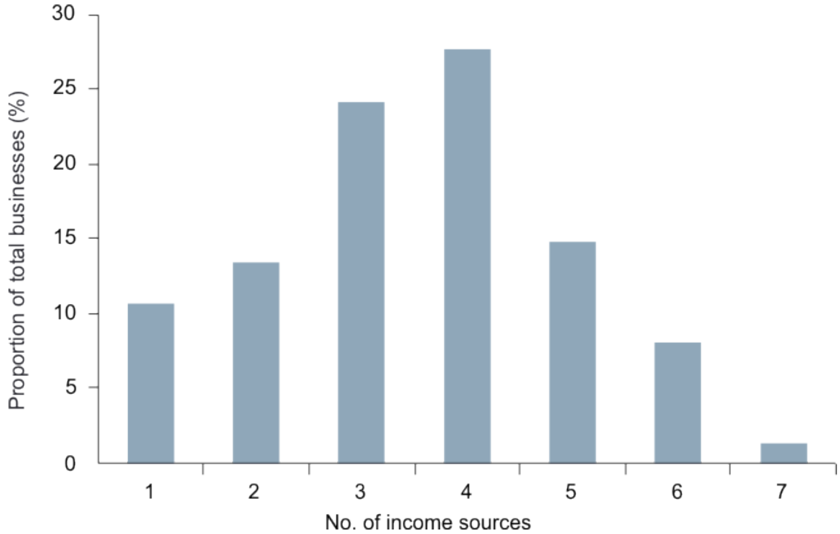
Producer fees were the primary source of income for most businesses, averaging 47 per cent of total income for those businesses in 2009/10.

While many businesses (66 per cent) reported income from royalties, it formed a small proportion of their total income (on average, 16 per cent).

Income source	**% of businesses**	**Average % of their total income**
Producer fees	78%	47%
Screen royalties	66%	16%
Development fees	65%	22%
Production services fees (incl. PDV)	51%	38%
Distribution rights income	47%	19%
Export market development grants	18%	12%
Other	30%	31%

Source: *2010 Business Survey*; 223 respondents to this question

Number of income sources in 2009/10



Source: *2010 Business Survey*; 224 respondents to this question

Australian and foreign income sources

Just over half (56 per cent) of the respondents indicated they had earned some income from overseas.

However, Australia provided the largest source of revenue, with half the businesses generating between 80 and 100 per cent of their income locally. A small number (1 per cent) reported all of their income from overseas, either from screen royalties, from the provision of production services to overseas companies, or a mix of income from different overseas sources.

North America and Europe were the main sources of international revenue.

Source of income	**% of businesses**	**Share of total income**	
		Average %	**Median %**
Australia	99%	83%	95%
North America	31%	25%	14%
Europe (incl. UK)	33%	16%	10%
Asia	16%	10%	5%
Rest of the world	25%	12%	10%

Source: *2010 Business Survey*; 222 respondents to this question

Sources of producer fees

Production companies tend to earn a greater proportion of their producer fees from feature films, documentaries/factual and children's TV drama than other sources.

Source of producer fees	% of businesses	Share of producer fees income	
		Average %	Median %
Features	46%	71%	90%
Adult TV drama	16%	50%	50%
Children's TV drama	7%	58%	80%
Documentaries/ factual	54%	72%	90%
Other TV	8%	41%	30%
TV commercials	9%	51%	50%
Corporate	15%	33%	20%
Mobile content	3%	9%	5%
Games	<1%	50%	50%
Other	9%	36%	30%

Source: *2010 Business Survey*; 201 respondents to this question

Sources of royalty income

Most businesses that earned royalty income from feature films or documentaries reported receiving between 85 and 100 per cent from that specific format. This is not surprising given that the majority of businesses have chosen to specialise in either of these two formats.

Children's TV drama also provides a significant source of screen royalties for the businesses that engage in this format.

Source of royalty income	% businesses	Share of royalty income	
		Average %	Median %
Features	40	85	100
Documentaries/ factual	58	84	100
Adult TV drama	13	51	30
Children's TV drama	8	65	88
Interactive media	5	28	5
Games	<1	2	2
Other screen content	9	66	88

Source: *2010 Business Survey*; 150 respondents to this question

6.4 Indicators of sustainability

Screen Australia has examined two possible indicators of sustainability – consistency of production activity and profitability – and analysed the characteristics of currently active businesses from the *2010 Business Survey* displaying these indicators (see table in Section 6.4.1).

Consistency of production activity

A business that moves from one project to the next or overlaps projects not only reflects sustained business activity in the production sector but also increases its potential to support itself through this ongoing activity.

For this analysis, a *consistent* business is defined as having a TV series or two or more one-off feature, TV drama or documentary titles in production since 2006/07, according to Screen Australia databases. Businesses undertaking less production activity are categorised as *intermittent*.[17]

Profitability

A business that achieves profit is more likely to remain financially viable than one that does not.

A profitable business, for this analysis, is one that reported a profit in 2008/09 and/or 2009/10 in the *2010 Business Survey*.

Based on these definitions:

- 40 per cent of businesses could be defined as consistent and 62 per cent as intermittent
- 56 per cent of businesses could be defined as profitable, while 44 per cent did not report profit in either year
- 29 per cent of businesses could be defined as both consistent and profitable.

In addition to these indicators, Screen Australia has also looked at the means by which businesses are seeking to achieve viability, including access to royalties and other business strategies: see Section 6.5.

Length of time in business

Length of time in business is not a reliable indicator of sustainability for this study. Analysis of credits in the Screen Australia databases shows a tendency in the screen production industry for mobility between companies. It is quite common for producers to work in teams, which can vary from project to project and year to year. This fluidity can mean that an experienced producer who has worked continuously for many years may currently be attached to a newly formed business. In addition, time in business does not necessarily indicate time of active production. Business may continue to exist while their principals work elsewhere.

[17] These follow the definitions applied to production companies in the 1992 report, *Independent Film and Television Producers: Who's Making What and How They're Surviving*, by Garry Maddox for the Australian Film Commission.

6.4.1 Characteristics of consistent and profitable businesses

Analysis of businesses in the survey revealed a correlation between the two indicators: consistency and profitability.

Consistent businesses were more likely than intermittent ones to have earned a profit (69 per cent compared to 46 per cent), and profitable businesses were more likely than unprofitable ones to have worked consistently (52 per cent compared to 30 per cent).

Compared to businesses categorised as intermittent and unprofitable, those that were consistent and/or profitable shared the following characteristics:

Teamwork

- were more likely to collaborate with other businesses/producers
- tended to engage in more joint ventures
- were more likely to have multiple producers.

Activity

- were more likely to have slates including more than one production type (documentaries, features, TV drama)
- did not appear to undertake a significantly different range of activities other than content creation, such as provision of production services, PDV, distribution and rights management
- were more likely to be involved in producing new media.

Income and employment

- were more likely to earn over $2 million a year and less likely to earn under $500,000 a year
- were more likely to earn income from producer fees and royalties, although these sources accounted for similar proportions of total income
- were more likely to have accessed the Producer Offset
- tended to employ more people.

Business assets and tools

- were more likely to have business assets and tools such as a dedicated website, a formal business plan, a board of directors, a line of credit, more than 25 per cent equity in other businesses, annual marketing budget of over $200,000 (other than project-specific expenditure), and to be based outside of the home.

Audience engagement

- were more likely to have produced a title that reached $1 million at the Australian box office and/or one million viewers on free-to-air television in the last five years (see Attachment D).

Characteristics of consistent and profitable businesses

Characteristic	Consistency of activity[1]		Profitability[2]	
	Consistent	**Intermittent**	**Profit**	**No profit**
Slate composition	*194 respondents*		*147 respondents*	
Documentaries only	46%	53%	48%	44%
Features only	13%	31%	16%	38%
TV drama only	12%	11%	13%	8%
TV drama / documentaries	13%	0%	8%	3%
Features / documentaries	6%	4%	7%	6%
Features / TV drama	4%	0%	2%	0%
Features / TV drama / doco	6%	1%	5%	2%
Business structure	*148 respondents*		*145 respondents*	
Limited liability company	80%	63%	74%	67%
Other	20%	27%	21%	33%
Employment	*150 respondents*		*147 respondents*	
Median number of employees	8	4	6	4
Typical range[3]	4–43	2–8	3-35	2-10
Activity other than content creation	*191 respondents*		*123 respondents*	
PDV	34%	30%	37%	33%
Production services	52%	50%	54%	52%
Film and video exhibition	8%	13%	10%	13%
Content distribution and rights management	31%	27%	29%	40%
Games development/production	5%	4%	6%	2%
Other	5%	8%	6%	10%
New media	*148 respondents*		*145 respondents*	
Involved with new media production	26%	17%	24%	17%
Teamwork	*194 respondents*		*147 respondents*	
Collaborative	60%	37%	53%	41%
Multiple producers	44%	21%	39%	20%
Income	*149 respondents*		*147 respondents*	
Income under $500,000	27%	56%	28%	67%
Income over $2m	22%	6%	22%	5%
Income sources	*147 respondents*		*145 respondents*	
Earn royalties	74%	66%	79%	57%
av. % of income	*13%*	*14%*	*12%*	*18%*
median % of income	*5%*	*10%*	*5%*	*10%*
Earn producer fees	90%	79%	84%	79%
av. % of income	*54%*	*47%*	*53%*	*46%*
median % of income	*60%*	*50%*	*60%*	*45%*
Earn development fees	66%	69%	65%	71%
av. % of income	*14%*	*19%*	*12%*	*23%*
median % of income	*10%*	*10%*	*10%*	*10%*

	Consistent	Intermittent	Profit	No profit
Earn production services fees (incl. PDV)	59%	50%	56%	51%
av. % of income	*38%*	*35%*	*40%*	*30%*
median % of income	*25%*	*25%*	*25%*	*25%*
Earn distribution and rights income	46%	46%	49%	44%
av. % of income	*11%*	*21%*	*15%*	*21%*
median % of income	*6%*	*10%*	*10%*	*10%*
Accessed Producer Offset	80%	45%	70%	47%
Business assets and tools	*147 respondents*		*133 respondents*	
Dedicated website	82%	74%	78%	62%
Registered trademark and trading name	45%	58%	53%	43%
Production/PDV equipment valued > $500,000	10%	7%	10%	6%
Leased business premises	59%	34%	51%	35%
Purchased business premises	7%	5%	9%	2%
> 25% equity in other businesses	22%	9%	18%	11%
Annual corporate marketing expenditure > $200,000	10%	4%	9%	3%
Line of credit	33%	25%	35%	22%
Formal business plan that is updated periodically	48%	36%	54%	38%
Board of directors that meets regularly	30%	18%	31%	14%
Output deal	3%	8%	5%	5%
First-look deal	15%	10%	13%	11%
Non-executive director with financial/business expertise	16%	11%	17%	11%
Joint ventures (domestic)	38%	34%	40%	21%
Joint ventures (international)	36%	23%	33%	19%
Overseas office	10%	12%	18%	6%
Audience engagement	*193 respondents*		*147 respondents*	
Box office / ratings success[4]	26%	14%	26%	11%

Source: Screen Australia databases and *2010 Business Survey*

Notes:
Includes only currently active businesses (those that made at least one feature film, TV drama or documentary since 2006/07 according to Screen Australia databases) that responded to the *2010 Business Survey*.
Percentages indicate what proportion of consistent/intermittent/profitable/not profitable businesses display the particular characteristic. The number of businesses varies depending on the number of respondents to each question. Percentages are calculated on the numbers of respondents indicated.
1. Consistent businesses are those that have had a TV series or two or more one-off feature film, TV drama or documentary titles in production during the last three years, according to Screen Australia databases.
2. Profitable businesses are those that have reported a profit in at least one of the last two years, according to *2010 Business Survey*.
3. 50 per cent of responses fell within this range.
4. Businesses reaching $1 million at the Australian box office and/or one million viewers on free-to-air television in the last five years, according to Screen Australia databases.

6.4.2 Profitability, budgets and income

Profitable businesses amongst all those who responded to the *2010 Business Survey* showed some additional associations with budget and income levels.

Profitable businesses tended to work with higher budget levels for titles in production in 2009/10, although there seems to be little significant difference in development expenditure.

Businesses that reported profit in:	
Neither year	49%
At least one of the last two years	51%
Both 2008/09 and 2009/10	*27%*
2008/09 only	*18%*
2009/10 only	*11%*

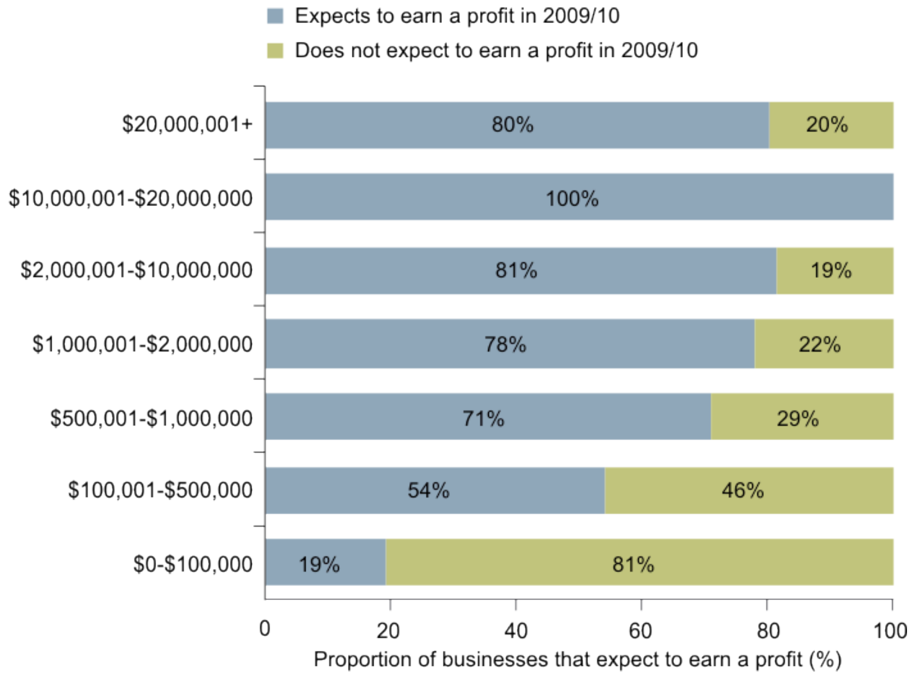
Source: *2010 Business Survey*; 227 respondents to the question

Average budgets for projects commencing production in 2009/10

	Business will earn a profit in 2009/10			
	Yes		**No**	
	Average ($'000)	**Median ($'000)**	**Average ($'000)**	**Median ($'000)**
Features	34,746	6,500	7,358	2,850
Adult TV drama	4,365	3,100	11,800	1,000
Children's TV drama	4,920	1,600	2,775	1,500
Documentaries / factual	3,062	790	409	250
Other TV	2,056	1,100	536	120
TV commercials	1,473	750	231	55
Corporate / marketing	197	55	119	50
Music videos	15	5	15	15
Games	50	50	1,000	1,000
Mobile content	50	45	75	50
Other content	406	200	336	270

Source: *2010 Business Survey*; 156 respondents to the question

Proportion of surveyed businesses that expected to earn a profit in 2009/10, by estimated income



Source: *2010 Business Survey*; 226 respondents to the question

TV series in production

Having a TV series in production could enhance sustainability due to the long production cycle and, if successful, the possibility of subsequent series.

In the *2010 Business Survey*, 25 businesses (9 per cent) had a TV drama series in production in 2009/10 and 54 businesses (20 per cent) were producing a documentary series.

Based on those that answered the question on income (20 businesses and 40 businesses respectively), a high proportion earned royalties (75 per cent and 71 per cent) when compared to survey respondents overall (66 per cent) but this accounted for a slightly smaller proportion of their total income (in most cases between 3 and 10 per cent, compared to 5 and 20 per cent for all businesses).

The proportion reporting income from producer fees was also high (95 per cent for TV drama series and 93 per cent for documentary series compared to 78 per cent overall), with these fees accounting for a higher proportion of the total income of the TV drama series producers (61 per cent) than it did for survey respondents overall or for documentary series producers (both 47 per cent).

6.5 Strategies for business viability

6.5.1 Ownership of creative assets

Access to royalties provides a long-term opportunity for a business to continue to receive payment beyond a 'fee-for-service' arrangement.

Just over half (56 per cent) of businesses in the *2010 Business Survey* that reported royalties as a source of income have made a profit in at least one of the last two years.

Businesses that have worked consistently in the last three years were more likely to report royalties as a source of income than those only working intermittently (74 per cent to 66 per cent). A similar relationship applies for profitable businesses compared to unprofitable ones (79 per cent reported royalty income compared to 57 per cent).

However, Screen Australia analysis indicates that for most businesses creative assets are currently not enough in themselves to ensure ongoing viability, no matter how many of them a business owns and exploits.

While most surveyed businesses (66 per cent) report royalties as a source of income, this represents a small proportion of overall income (16 per cent).

See 6.3.5 Level and Sources of Income.

Businesses therefore appear to be engaging in a range of other strategies to ensure their long-term viability, primarily through diversification and collaboration. How these activities are combined or prioritised represent different business models.

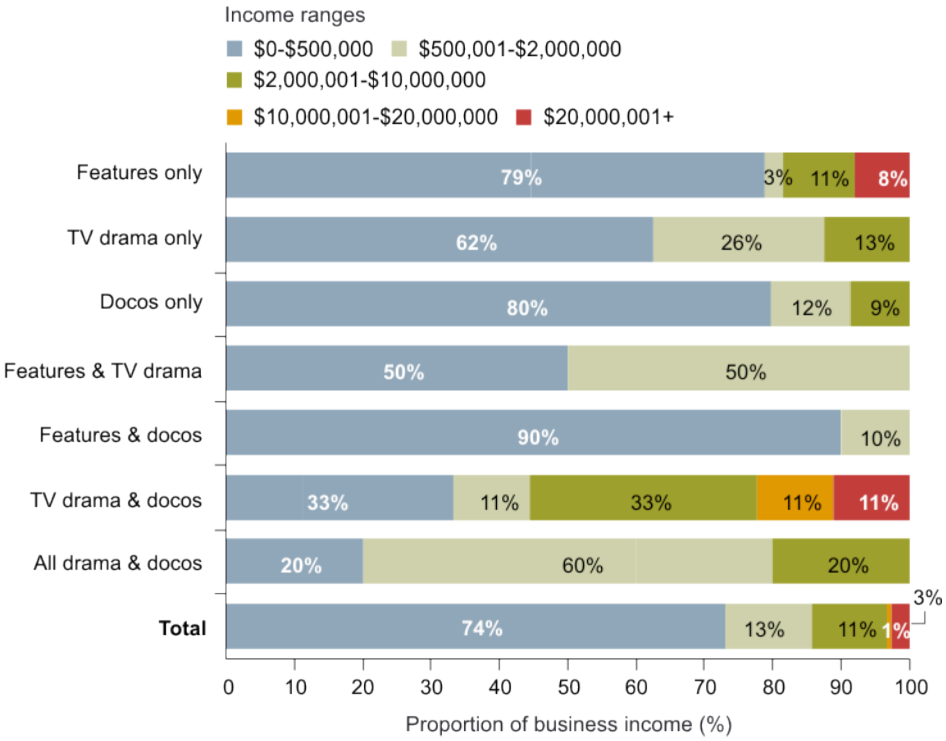
6.5.2 Diversity of content

Percentage of currently active businesses in the 2010 Business Survey, by slate composition, that are consistent, profitable and produce new media

	Total no. businesses	% consistent[1]	% profitable[2]	% produce new media
All businesses	194	40%	56%	21%
Docos only	97	37%	59%	17%
Features only	46	22%	35%	16%
TV drama only	22	41%	69%	20%
Docos & TV drama	10	100%	78%	44%
Docos & features	10	50%	60%	40%
Features & TV drama	3	100%	100%	0%
Features, TV drama & docos	6	83%	80%	40%

Note: Only 147 of the 194 currently active businesses among the survey respondents answered the question on profit and 148 answered questions on new media; profitability and new media percentages are calculated on these figures.
1. Consistent is defined as having had a TV series or two or more one-off feature film, TV drama or documentary titles in production during the last three years, according to Screen Australia databases.
2. Profitable is defined as having reported a profit in at least one of the last two years, according to *2010 Business Survey*.

Income of currently active businesses in the 2010 Business Survey for 2009/10, by slate composition



Notes: Figures may not total due to rounding.

Analysis of the credits in the Screen Australia projects databases indicates that most drama and documentary businesses specialise in the type of productions they create (see Section 6.2), and some of these specialist businesses report results that would indicate a degree of viability.

Among the currently active businesses in the *2010 Business Survey*, the largest proportions of consistent businesses and or profitable businesses are the documentary specialists (see table in Section 6.4.1). However, this is due to the fact they comprise most of the businesses overall.

As the table in Section 6.5.2 (above) demonstrates, businesses that combine types of production are proportionally more likely to have been consistently active in production in the last three years and to have earned a profit in at least one of the last two years.

All three businesses producing a combination of features and TV drama were consistent and profitable. Among the other businesses, the strongest results against these indicators were from those that combined features, TV drama and documentary or TV drama with documentary. Both these groups were also more likely to be involved in new media production, and to report higher levels of income.

Businesses that combined documentaries with either features or TV drama (or both) were also much more likely to have been involved in producing new media, such as interactive media, games, or mobile content, than the businesses that specialised.

Of the 31 businesses across the board that reported involvement with new media production, 52 per cent could be categorised as consistent and 65 per cent as profitable.

This would suggest diversifying across a myriad of content platforms is one strategy associated with viability, particularly in the area of new media where potential growth and new audience engagement opportunities lie. However, specialisation, when done well, may also offer its own opportunities – allowing proven businesses to charge a ‘premium’ on their fees, for example.

6.5.3 Diversity of business activity

The vast majority (84 per cent) of all respondents to the *2010 Business Survey* engage in activities other than film and video production (see 6.3.5 Type of Business Activity).

The most common of these activities were the provision of production services (51 per cent of businesses), provision of PDV services (30 per cent) and content distribution/rights management (28 per cent).

Of the currently active businesses undertaking these activities, most of those providing production and PDV services reported a profit in one of the last two years (58 and 60 per cent respectively) as did just under half of those in content distribution/rights management (49 per cent).

Most respondents to the survey (89 per cent) reported income from combinations of sources in 2009/10 (see 6.3.5 Level and Sources of Income).

Production and PDV service fees were the second most significant source of income for production businesses (after producer fees), generating 38 per cent of total income for the businesses that engage in this activity. Distribution rights income accounted for 19 per cent of total income for the businesses involved.

Within the sector, there is evidence of companies using vertical integration as an active business strategy. The PDV service providers Animal Logic and Cutting Edge Post, for example, have expanded into production while some distributors have moved into production, either by establishing their own company (in the case of Hopscotch) or by buying into a venture (in the case of Transmission and SeeSaw films). Some production companies have established their own distribution business (as is the case with Arena Films).

Further diversity

Twenty-three businesses responding to the *2010 Business Survey* indicated that they earned income from sources that are not directly related to the provision of traditional media and which often fall outside of the direct skills unique to content creation – for example, consultancy and teaching, or interest and dividends from investments, including interest from loans (cashflowing the Producer Offset). A handful noted royalties from software licensing or music. Some indicated they were earning income from a wage or salary in a non-content industry. Others reported providing services for other arts-based organisations, such as theatres and museums.

6.5.4 Collaboration

Analysis of credits in the Screen Australia projects databases shows a tendency in the independent sector for a fluidity of production teams (see Length of Time in Business in Section 6.4). Producers often work in teams which can vary from project to project and year to year, with SPVs commonly used for individual projects (increasingly, for accounting purposes, since the introduction of the Producer Offset).

Nearly half (46 per cent) of the 394 currently active businesses in the databases have collaborated with other businesses and/or producers on at least one project in the last five years, including international co-productions. And 23 per cent have multiple producers.

While collaboration was fairly common across all business types, those that combined production types were also proportionally more likely to have collaborated: 78 per cent of those combining documentaries with TV drama, 68 per cent of those combining documentaries with features and 63 per cent of those combining features with TV drama had collaborated, compared with 40–49 per cent of specialists.

Businesses that collaborated were more likely to have worked consistently (52 per cent) and have recorded a profit (63 per cent) compared to non-collaborative businesses (32 per cent and 50 per cent respectively).

The *2010 Business Survey* results reinforced this tendency towards collaboration, with 33 per cent of respondents joint venturing with domestic partners and 26 per cent with an international partner.

Private investment

What aspects might characterise a production company that is ‘investor ready’?

Usually, this is when the investor is confident in the management team, the market potential, and the technology/product offering.

In this analysis, we consider a business to have been ‘investor ready’ when they have had at least one professional private investor, ie a business angel, venture capitalist or private equity firm, and/or general public offering. The assumption is that these entities make investments in companies for a living and/or undertake (or require the undertaking) of a significant due diligence process.

Of the 322 respondents to the *2010 Business Survey* question on equity ownership, 32 had some sort of professional private investment. While this sample size is small, figures do suggest some association between this form of equity and business income. A larger proportion of businesses with professional private investment expected to earn more than $20 million (14 per cent) and a smaller proportion expected to earn less than $100,000 (18 per cent) compared to businesses that did not have investment from this source (where 1 per cent and 54 per cent expected earnings in these brackets).

It is theorised that private investment can lead to improved business performance due to the due diligence process, greater levels of capitalisation and, in some cases, additional business skills brought by the investors. Surprisingly, in this survey, businesses with professional private investment did not appear to perform any better in terms of profitability: only 45 per cent of businesses with these investors earned a profit in at least one of the last two years, compared to 51 per cent without. It may be that two years of profit data is not long enough to assess the impact of professional private investment. Additionally, the survey did not collect data on the level of private investment, which may be a contributing factor if the financial capital provided was low.

6.6 Observations of survey respondents

6.6.1 Factors important to growth

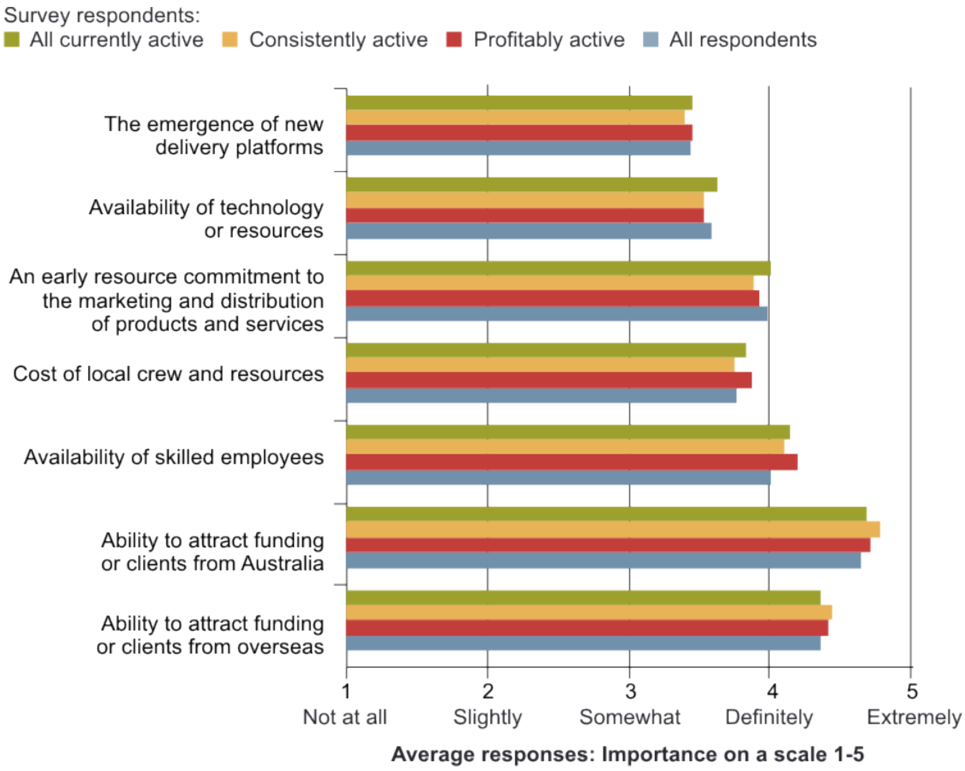
Respondents to the *2010 Business Survey* were asked to rate factors they considered as important to the growth of their business.

Attracting funding or clients, both domestically and internationally, were seen as important factors influencing the future growth. Having access to skilled employees and the early commitment of resources to marketing and distribution were also important.

There was little difference between the perceptions of all businesses, regardless of whether they could be defined as profitable or as working consistently.

In accompanying comments, some respondents said access to good bandwidth speed, business expertise or talented scriptwriters and leading talent (such as directors) was important. Another respondent called for a broader definition of distribution and distribution methods in the Producer Offset.

In the opinion of the principal/founder, how important are the following factors to the future growth of your business?



Source: *2010 Business Survey*; 273 respondents to this question; 174 active, 73 consistent and 83 profitable

6.6.2 Significant barriers to growth

Respondents to the *2010 Business Survey* were asked to rate factors that could be considered significant barriers to growth for their business.

Access to an ongoing source of cashflow was seen as the most significant barrier for most businesses. This is not surprising since production has large fixed costs, usually spent up-front and over a relatively small period of time (6–12 months), whilst returns flow in over a very long period. Cashflow is therefore usually reliant on whether a business has another production starting soon after one finishes or whether income is available from sources other than those directly associated with the phsyical creation of the content asset itself (ie other than producer fees and royalties).

In relation to the Producer Offset, issues included:

- timing of the Producer Offset, causing bunching (one business noted that they were taking work to New Zealand to help overcome this problem)
- compliance requirements of the Producer Offset (particularly high for small businesses)
- the minimum Producer Offset threshold for features being $1 million
- limited definition of eligible marketing costs under QAPE.

Many of these are discussed in Section 7 Producer Offset.

Within the broader taxation environment, the following were specified:

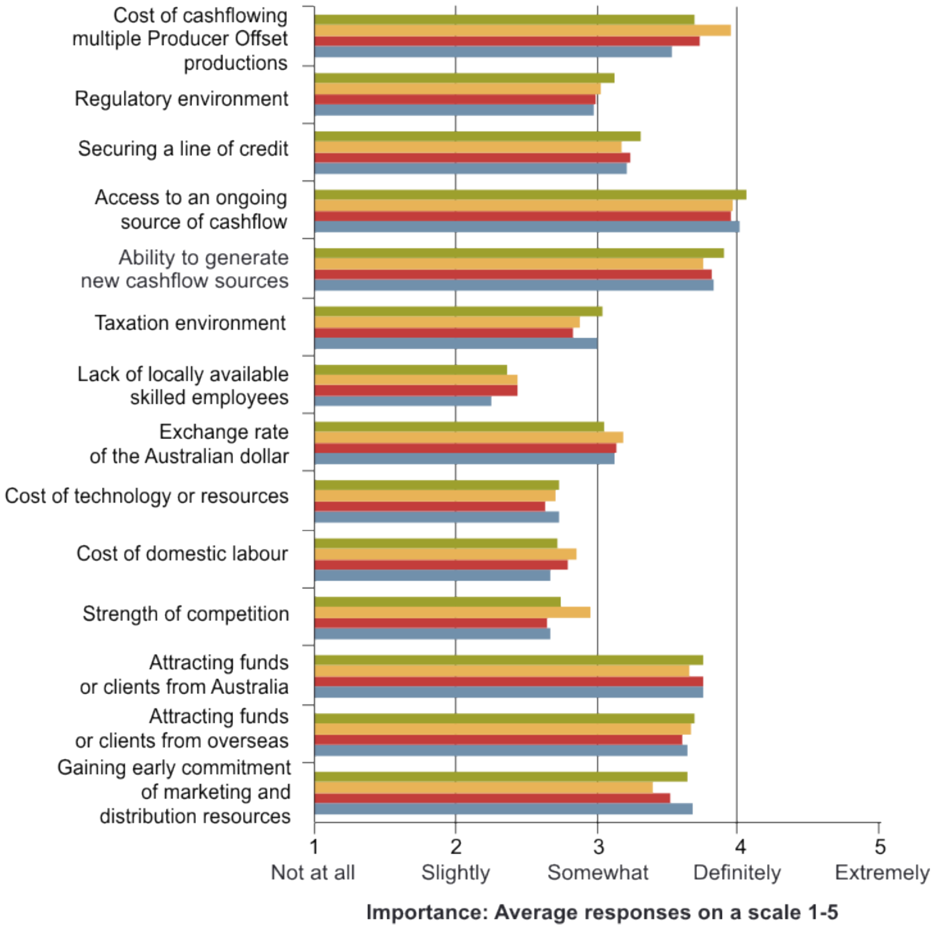
- PAYG tax instalments based on tax years where Producer Offset was paid, which is quite different to years where the Producer Offset had to be cashflowed/pre-financed; PAYG tax instalments further reduce internal cashflow
- company tax and personal income tax rates are not internationally competitive
- lack of tax recognition for research and development
- foreign withholding tax and payroll tax; tax on returns from foreign sources.

The lack of concessions specifically geared towards private investors was the issue most frequently cited in this section of the survey.

Being able to attract funding or clients from Australia or abroad was also a significant barrier as was the cost of cashflowing multiple offset projects.

In the opinion of the founder/principal, to what extent are the following factors significant barriers to future growth of this business?

Survey respondents:
All currently active   Consistently active   Profitably active   All respondents



Source: *2010 Business Survey*; 273 respondents to this question; 173 active, 73 consistent and 83 profitable

7. PRODUCER OFFSET

This section provides comprehensive data on the operation of the Producer Offset – part of the Australian Screen Production Incentive (ASPI) – since the Producer Offset's inception in July 2007. It also examines some of the initial impacts on production, and some of the issues that have emerged.

7.1 Summary statistics

From Producer Offset inception, 1 July 2007 to 30 June 2010

	Feature	Documentary	TV/other	TOTAL
Provisional				
No. certificates issued	145	180	81	**406**
No. co-productions	9	0	6	**15**
No. SPVs	48	31	25	**104**
% SPVs	33%	17%	31%	**26%**
Final				
No. certificates issued	34	91	47	**172**
No. co-productions	3	0	4	**7**
No. SPVs	22	12	16	**50**
% SPVs	65%	13%	34%	**29%**

Projects issued with final certificates

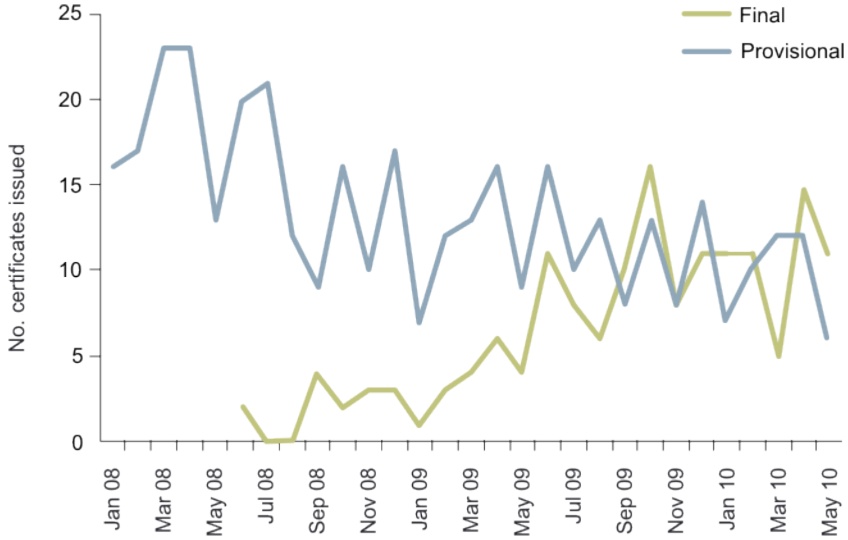
	Feature	Documentary	TV/other	TOTAL
Total no.	34	91	47	**172**
Total budgets ($m)	492	85	290	**867**
Total QAPE ($m)	346	75	248	**669**
Total rebate ($m)	139	15	50	**203**
Rebate as % of budget				
Average	28%	18%	17%	n.a.
Median	34%	18%	18%	n.a.
Range	10%–39%	10%–20%	4%–20%	n.a.
Av. cost/ep (30 min) $m	n.a.	0.160	0.310	n.a.
Av. cost/ep (60 min) $m	n.a.	0.378	1.034	n.a.
No. by state of applicant				
NSW	20	54	28	**102**
Vic	8	18	13	**39**
Qld	4	2	0	**6**
SA	2	2	1	**5**
WA	0	12	4	**16**
ACT/NT/Tas	0	2	1	**3**

Source: Screen Australia Producer Offset Unit

7.1.1 Number of certificates issued by month

The dates when certificates were issued do not show any particular bunching.

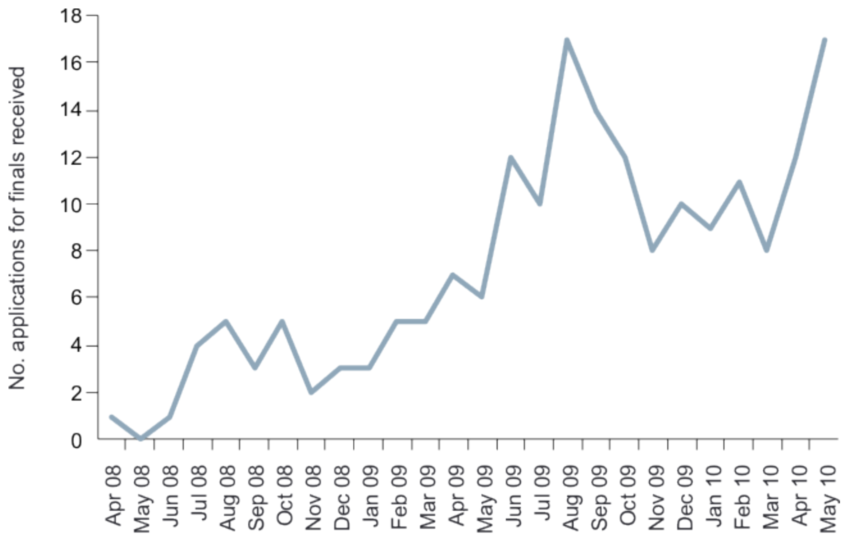
The numbers of provisional certificates issued started off quite high when the Producer Offset was first introduced, and have since levelled out. The dates for final certificates increased as the first titles qualifying for the Producer Offset started to complete, and have also levelled out.



Source: Screen Australia Producer Offset Unit

7.1.2 Number of final certificate applications received by month

The dates that applications for final certificates were received have also increased, as qualifying projects started to complete. There appears to be a peak in receipt of applications between June and October 2009 and in May 2010. This would suggest a peak in the completion of films around the end of financial years.



Source: Screen Australia Producer Offset Unit

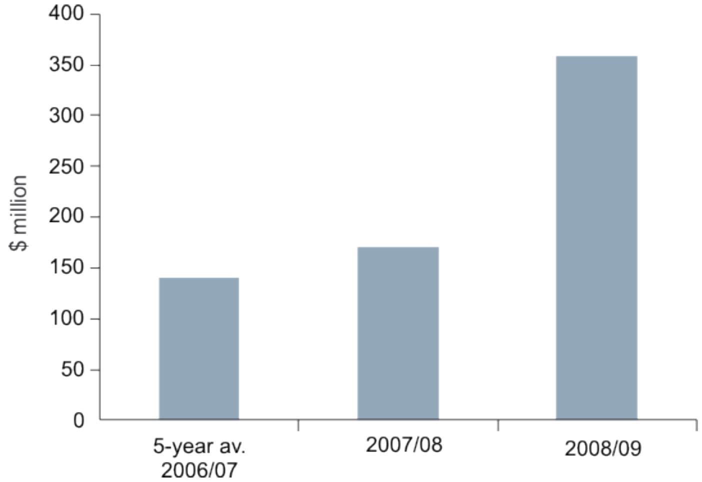
7.2 Impact of the Producer Offset on feature films

Total expenditure on Australian and co-production feature films has increased since the introduction of the Producer Offset.

The very high result for 2008/09 is due to two high-budget features (*Guardians of Ga'Hoole* and *Happy Feet 2*), but even when those two titles are excluded, the trend is still upward.

Assuming all eligible features qualified and eventually accessed it, the Producer Offset would account for $30–35 million in the 2007/08 slate and $110–120 million in the 2008/09 slate.

Expenditure by Australian and co-production feature films



Source: *National Survey of Feature Film and TV Drama Production.* All project expenditure is allocated to the year principal photography commenced. Includes both official and unofficial co-productions.

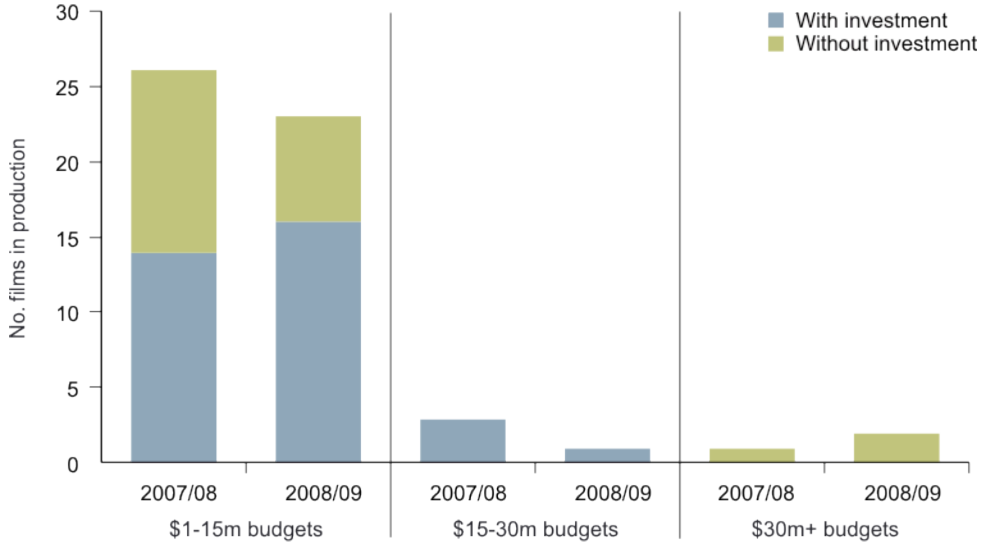
7.2.1 The importance of diversity across budget ranges

It was the intention of the Producer Offset to be the primary support for commercial projects with higher budgets, wider release potential and international appeal.

However, the introduction of the Producer Offset has coincided with the global credit crunch. This has meant that funds previously available to productions via equity investment, debt finance and marketplace pre-sales have dried up.

This has been particularly damaging to medium-budget films because projects in this range tend to have quite complex financing structures. Lower-budget films are mainly financed via investment from federal and state film agencies while films at the high end are studio financed. But in the middle it's a mixture, which increases the likelihood that one piece of the puzzle can fall out at any time, increasing uncertainty and risk.

Consequently, although the Producer Offset is working for some productions (notably television drama and high-budget films financed by studios), it is not yet working by itself for medium-budget films (those in the $15–30 million range). For example, in 2007/08–2008/09, there were no medium-budget feature films that went into production without Screen Australia investment.



Source: *National Survey of Feature Film and TV Drama Production.* All projects are allocated to the year principal photography commenced. Includes official and unofficial co-productions

In the last two decades, over two-thirds of Australian and co-production films have been produced with budgets of less than $15 million. These films are often targeted to niche audiences or made by less established practitioners. They are a calculated risk, embracing experimentation and new talent.

High-budget feature films also play an important part of the Australian film industry, albeit less frequently. However, their production is largely reliant on established production companies drawing studio investment on the back of a proven track record in the international marketplace.

Increased production of medium-budget films will help address local audience demands while generating greater international interest and attracting early buzz. Such films are testament to Australia's capacity to engage audiences on the world stage by attracting marquee cast and crew, encouraging foreign talent to our shores, drawing local talent back and reversing the industry's brain drain.

They are an aspirational motivator for filmmakers who otherwise would have reduced the scale of their projects due to funding constraints or shied away from grander stories. Production techniques, such as CGI employed on foreign productions shot in Australia like films from the *Star Wars* and *The Matrix* series, could be increasingly utilised. They enable experimentation, skill development and the acquisition of new technologies such as 3D. James Cameron's *Sanctum*, shot by Australian director Alex Grierson who previously made *Kokoda* or the Screen Australia–funded *Bait*, directed by Russell Mulcahy are two examples.

Medium-budget films are important to the development of sustainable production enterprises and the overall industry, permitting a stepping-stone from low- to high-budget production and allowing talented filmmakers to become established. In their absence, talented professionals are likely to relocate overseas in order to increase the scale of their productions due to a lack of opportunity to do so in Australia.

ISSUE: Medium-budget films struggle to be made without Screen Australia funding.

7.2.2 Innovative and entrepreneurial filmmaking

Low-budget films are important to the development and future of the independent screen production sector. Films made for under $1 million are often innovative and entrepreneurial in nature and permit young and up-and-coming filmmakers the opportunity to learn their craft and achieve 'runs of the board'. This in turn helps to grow and rejuvenate the screen sector with new ideas and energy.

There are two issues connected to accessing the Producer Offset and therefore support for this category of content:

- dramatic content where the QAPE expenditure is less than $1 million is ineligible to receive the benefits of any form of Government offset
- there is little direct Government support for the creation and provision of Australian content on emerging media platforms.

Solving these issues will generate considerable benefits for the Australian screen industry.

7.2.3 Theatrical distribution and QAPE thresholds

In the early days of the operation of the Producer Offset, cashflow lenders raised concerns that in order to cashflow a full 40 per cent offset for a feature film, they required some certainty that the project would be considered a 'feature film' by Screen Australia; ie that it would receive a 40 per cent offset, rather than the 20 per cent offset for non-feature film projects.[18]

As a result, Screen Australia developed a process by which it commits itself to a film being considered a feature film when assessing the provisional application. If and when the final application is received, regardless of what happened during production, Screen Australia will certify the project as a feature film; the exception being if there is evidence of fraud.

The relevant provision of the ITAA97 is subparagraph 376-65(2)(b)(i), by which Screen Australia must be satisfied that:

> 'the film was produced for … exhibition to the public in cinemas or by way of television broadcasting (including broadcasting by way of the delivery of a television program by a broadcasting service within the meaning of the *Broadcasting Services Act 1992*)'

Further, pursuant to subparagraph 376-65(2)(c)(i), Screen Australia must also be satisfied that the project is 'a feature film'. 'Feature film' is a defined term in the ITAA97, but the definition only provides that it includes an animated feature film.[19]

The Explanatory Memorandum that accompanied the Tax Laws Amendment (2007 Measures No.5) Bill 2007 provides the following guidance:

> *10.30 A feature film is the only format which receives a 40 per cent offset. The term feature film is intended to mean a film of at least one hour in length that is screened as the main attraction in commercial cinemas. Where a feature film is designed for release in a large-*

[18] ITAA97, section 376-60
[19] ITAA97, section 995-1.

> *format cinema, such as IMAX, it is intended that the film be at least 45 minutes in length. For the purposes of the Producer Offset, it is expected that a feature film would need to show evidence of its release or proposed release in an Australian cinema (see paragraph 10.130). A feature film may be an animated feature film and may be a documentary.*
>
> *…*
>
> *10.130 To be satisfied that a film is a feature film, the film authority will require evidence of an Australian commercial agreement that provides a feature with a theatrical release in a commercial cinema. Such an agreement would be expected to be a bona fide arrangement for the theatrical release of the film, and would not be justified by a contrived arrangement, for instance for release on one, or a very small number of screens.*
>
> *…*
>
> *10.133 The key concept is that distribution must be on a commercial basis. Distribution guarantees for similar must be provided to the film authority in order for a film to be certified for the Producer Offset.*

On the basis of the above, Screen Australia's procedures at provisional certificate stage are based on assessing whether an applicant has demonstrated that it has a bona fide intent to make a feature film (for theatrical release); referred to as 'theatrical intent'. If the applicant is able to satisfy Screen Australia of theatrical intent, Screen Australia specifically raises the issue in the letter covering the provisional certificate, determining that the project *is* a feature film and committing itself not to consider the question of format in the context of a final certificate application, unless there has been any change in relevant circumstance (eg fraud).

As Screen Australia is effectively binding the Government to a 40 per cent offset payment prior to a film being made, a relatively high threshold is set to satisfy that the theatrical intent is demonstrated. Based on the wording of the Explanatory Memorandum, Screen Australia has not to date approved the theatrical intent of a feature film at provisional certificate stage without the applicant supplying an executed distribution agreement (or deal memo) for Australian/New Zealand theatrical distribution with a recognised theatrical distributor.

As a result of this procedure, it is unlikely that a film will reach the point of submitting a final application without Screen Australia having considered its theatrical intent at provisional stage, since the producer will find it very difficult to finance the film. This, in itself, is a limiting factor in the administration of the Producer Offset and Screen Australia is aware that some producers have been frustrated in Screen Australia's procedure in this regard.

There is one case of note where a film received a provisional certificate before Screen Australia developed its theatrical intent procedure. The completed film had been unable to secure domestic theatrical distribution for many months. As a result, it was not certified for a substantial period despite its application being lodged. The project was recently certified after it was sold to a distributor.

Aside from this case, no applicant as a feature film has had much difficulty in being certified as a feature film at final stage. There are, however, a number of cases where the domestic distribution arrangements presented to Screen Australia at provisional stage have not satisfied Screen Australia as to the theatrical intent of the film.

Some sectors of industry have suggested that Screen Australia has created an unnecessarily strict interpretation of what it will consider to be a 'theatrical release'. Screen Australia's view, however, is that this threshold is justified, given the large amount of the Producer Offset (40 per cent) provided for theatrical feature films in comparison to that provided to other forms of content (20 per cent) and the need to clearly distinguish the beneficiaries of these differing Producer Offsets.

QAPE Thresholds

The relevant QAPE thresholds for access to the Producer Offset are:

- $1 million for feature films
- $1 million and $800,000 per hour for single-episode programs (non-theatrical drama).

These thresholds create a high barrier of access to the Producer Offset for low-budget drama content. This can encourage budgets to be raised and at the same time discourages innovative projects.

Lower-budget projects are often made by innovative and entrepreneurial filmmakers; and provide the ideal opportunity for the next generation of filmmakers to develop their craft. Lower-budget projects would have been eligible for indirect support under previous taxation incentives (such as Division 10BA of the ITAA36). However there is no current equivalent mechanism for this form of support.

There may be some scope for Government to consider reducing the feature film QAPE threshold to $500,000 as a means to support innovative and entrepreneurial screen practitioners to bring films to market.

Additionally, single-episode program (non-theatrical drama) QAPE thresholds could also be lowered to $500,000 allowing more lower-budget, innovative projects with alternative distribution models to be eligible to receive the 20% Producer Offset. Lower-budget projects would then be eligible for a 20 per cent offset.

Screen Australia considers that a reduction of these thresholds could encourage innovative and entrepreneurial filmmakers to bring a range of content to audiences.

7.2.4 Direct support for Australian content on emerging media platforms

There are opportunities for increasing direct support for the creation and provision of different types of Australian content on emerging media platforms including 'film'. This support will increase the (currently) small relative levels of Australian content available on emerging media platforms.

Combined with the 20 per cent Producer Offset, total Government support becomes significant for this content.

This will become increasingly important as the Government develops and realises ambitions for Australia's digital economy. A broad range of support strategies for innovative online content need to be developed in order to support the creation of and access to Australian productions of various formats and styles using distribution opportunities made possible via the building of the National Broadband Network.

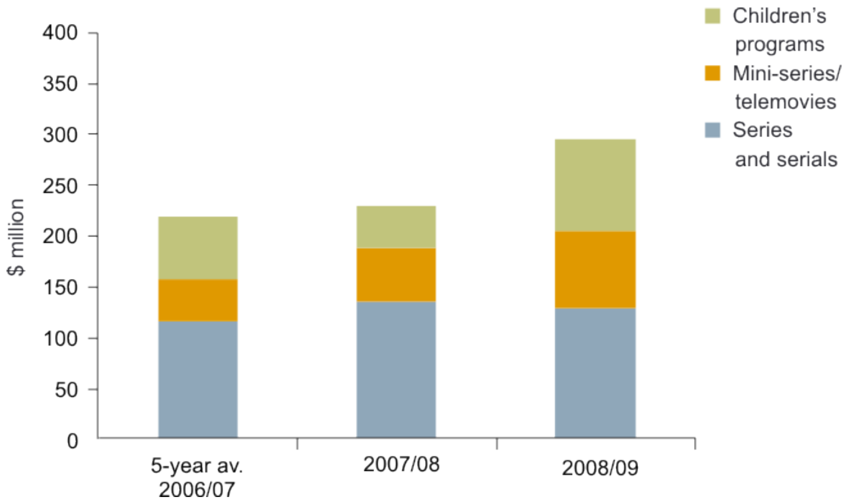
ISSUE: There is a lack of support for innovative and entrepreneurial films and other media projects.

7.3 Impact of the Producer Offset on TV drama

Production expenditure by the TV drama slate increased in 2007/08 – the first year of the Producer Offset's operation – largely because of increased spending in children's drama. Mini-series production also increased, with the highest expenditure on record (ie since 1990).

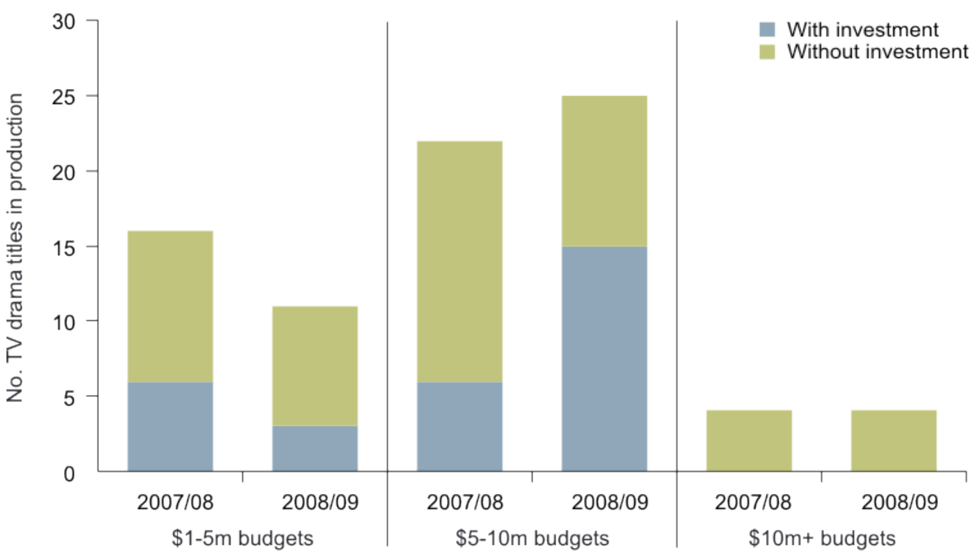
Assuming all eligible TV drama projects qualify and eventually accessed it, the Producer Offset would account for $10–20 million in the 2007/08 slate and $30–40 million in the 2008/09 slate.

Expenditure on Australian TV drama



Source: *National Survey of Feature Film and TV Drama Production.* All project expenditure is allocated to the year principal photography commenced.

Number of TV drama titles in various budget ranges, 2007/08–2008/09



Source: *National Survey of Feature Film and TV Drama Production.* All projects are allocated to the year principal photography commenced.

7.3.1 The 65-episode cap

Industry has raised concerns via Screen Australia's consultation with the sector that a series (any multi-episode program other than short-form animation) is only eligible for the Producer Offset up to and including its 65th episode, regardless of whether the project is certified as one series or as a number of seasons of the series.[20]

Screen Australia understands that this limitation was established on the assumption that at a certain point in longevity, a series should be sufficiently successful to be made without Government support. Screen Australia supports the policy intent. However, the length of episodes is not taken into account in this 65-episode cap. Most series or seasons thereof must have episodes of at least one commercial half-hour. However, animated series may qualify for the Producer Offset with episodes of commercial quarter hours (effectively 11-minute episodes).[21]

This can mean that while 65 commercial hours of a standard one-hour television drama may qualify for the Producer Offset, if a producer is making an animated children's series, only 13 hours of content can qualify (65 x 15 minute episodes).

A 'season' of animation targeting children is usually made up of a greater number of episodes than adult drama (typically 52 episodes of 11 minutes). Further, animated children's series are often delivered differently to different broadcasters worldwide depending on the broadcaster's needs. For example, 30-minute episodes are often required for an Australian broadcaster while 15-minute episodes are required for a Canadian broadcaster.

This provision impacts significantly on shorter-episode projects as they receive substantially less support overall than projects with longer episodes. Government could amend the 65-episode cap to ensure a more equitable treatment by, for example, focusing on time rather than the number of episodes.

ISSUE: The Producer Offset limits multi-episode projects to 65 episodes.

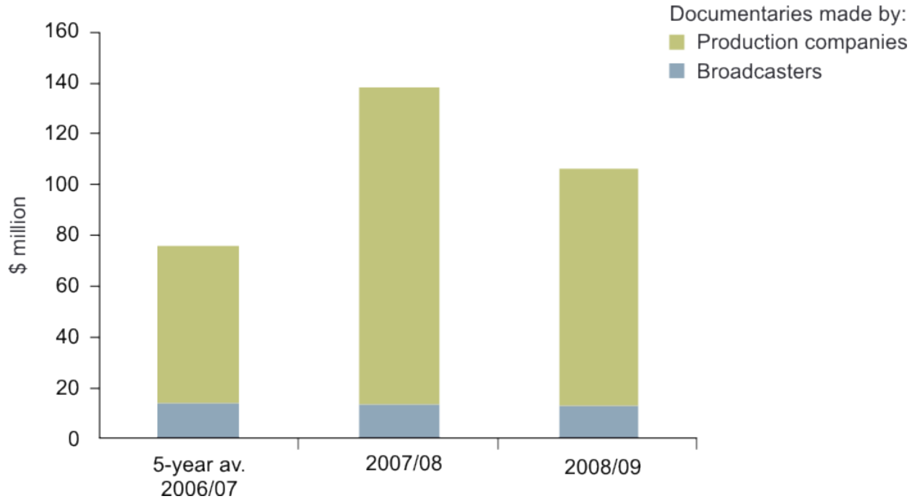
[20] Paragraphs 376-55(2)(b) and (c) deem a series to be completed at the completion of the 65th episode of the series. Further, paragraph 376-170(4)(c) excludes for QAPE all expenditure on any episode of a series after the 65th episode.

[21] Subparagraphs 376-65(5)(a)(ii) and (b)(ii).

7.4 Impact of the Producer Offset on documentary

Documentary production increased in 2007/08 and 2008/09 compared to the previous five-year average.

Expenditure by Australian documentaries

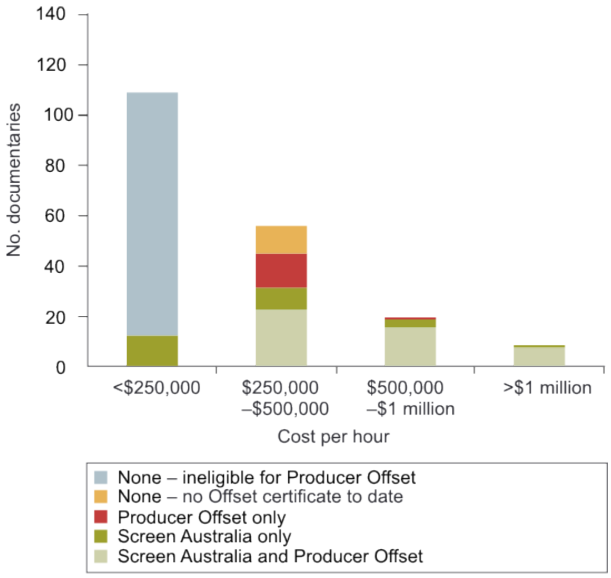


Source: *Documentary Production in Australia*

2008/09 is the first full year of simultaneous operation of Screen Australia and the Producer Offset. Below is a snapshot of the number of documentary titles starting production in 2008/09 (including titles made in-house by broadcasters), broken down by cost per hour, indicating those with direct funding via Screen Australia and indirect funding via the Producer Offset.

Many of the titles under $250,000 per hour with no government funding are documentaries made in-house by broadcasters. Titles with the Producer Offset comprise those that had applied for provisional or final certificates by 17 February 2010 rather than all eligible titles. As some producers don't apply for a provisional certificate, ultimately, the number of titles in the 2008/09 slate with the Producer Offset may be higher.

Federal funding to the 2008/09 documentary slate



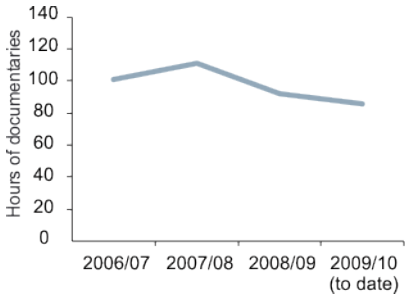
Source: *Documentary Production in Australia*

Total budgets for documentaries financed by Screen Australia have remained stable over the period of the introduction of the Producer Offset and the formation of the new agency. Hours have dipped slightly, pointing to an increase in cost per hour.

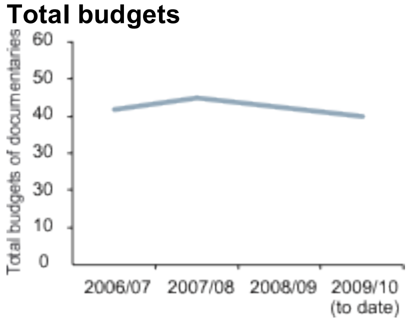
It is clear that as the Producer Offset has become available, it has enabled direct agency funding to decrease without a significant reduction in overall production levels. However with the Producer Offset fully in place by 2007/08, its contribution to total budgets has reached its maximum level under the current conditions. Any further reduction in direct agency funding to documentaries is likely to result in a drop in documentary production levels unless conditions change.

Documentaries financed by Screen Australia and its former agencies.

Hours

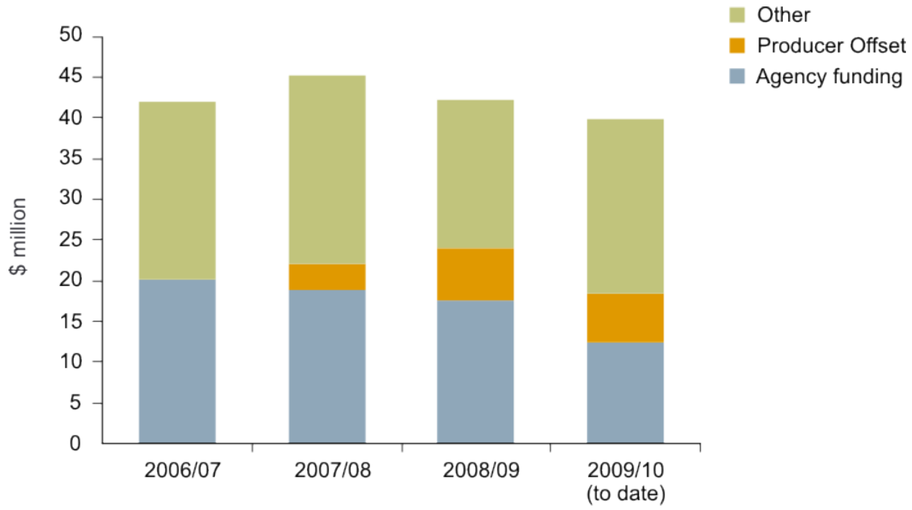


Total budgets



Source: Screen Australia
Note: the 2009/10 slate will increase by the end of the financial year.

Sources of finance for documentaries financed by Screen Australia and its former agencies, 2006/07–2009/10



Source: Screen Australia
Note: the 2009/10 slate is only to April 2010, full-year slate will be higher.

7.4.1 Difficulties for documentary makers

Administrative inefficiency

The documentary sector has raised concerns with Screen Australia regarding its use of the Producer Offset for supporting one-off, low-budget (up to approximately $300,000) documentaries as these projects are not able to be made unless they receive funding from both Screen Australia's investment arm as well as being processed through the Producer Offset Unit.

This doubles the administrative production processes for the filmmaker. The expense of using the Producer Offset has increased financing costs and substantially increased the cost of compliance and cashflow loans for low-budget documentaries, which are difficult and expensive to secure.

In many cases, private sector cashflow lenders are not available for loans for amounts under $500,000. This is significantly higher than the $50,000–$60,000 that one-hour documentaries would typically seek to borrow.

Responses to Screen Australia's *2010 Business Survey* seem to indicate the impact of delays in acquitting the Producer Offset may also be more keenly felt by the documentary industry given the nature of the businesses involved in the sector.

Overall, the amount of the Producer Offset in relation to the effort involved in accessing it can sometimes appear disproportionate.

However, the documentary sector has also indicated to Screen Australia its support for the benefits of the Producer Offset including the ability to retain equity in its productions.

It would be preferable for lower-budget one-off documentaries to source the entirety of Australian Government support through one mechanism, thereby minimising administration and compliance costs and maximising the proportion of the budget that is put towards production.

This could either be achieved by:

- implementing an 'overall' $500,000 threshold on documentary access to the Producer Offset and diverting the resources to Screen Australia to provide to producers

  or

- increasing the value of the Producer Offset for documentaries.

- **ISSUE: The Producer Offset doesn't operate efficiently for low-budget, one-off documentaries.**

20 per cent above-the-line cap

The Producer Offset legislation (paragraph 376-170(4)(b)) caps the Qualifying Australian Production Expenditure (QAPE) claimed on 'above-the-line' (ATL) costs at 20 per cent of the film's total expenditure (budget). Screen Australia understands that the cap was imposed to restrict the level of Australian Government support of excessive executive producer fees charged to a given production. As such, the cap is wholly supported by Screen Australia and has been operating well in the context of the Producer Offset's administration. However, the cap operates on all eligible content formats.

Many Australian documentaries have disproportionately higher ATL costs, when compared with dramas. The reasons are:

- documentaries are typically more 'authorial' in that one or two people are producer/writer/directors, who often perform several 'below-the-line' (BTL) functions too (such as camera work, sound recording or editing)
- budgets are typically very tight, forcing minimal costs in post-production
- BTL costs like legal, finance and accountancy fees are relatively low (such work is often undertaken by ATL personnel)
- several BTL costs often do not exist in the documentary sector, such as visual effects, cast fees, costuming or hair and makeup, but most ATL fees still remain.

These factors collectively result in documentaries being disproportionately impacted by the 20 per cent ATL cap when compared to the sorts of films the ATL cap is aimed at: higher budget feature films.

Screen Australia has attempted to ameliorate the problem by allowing documentary producers to allocate a reasonable proportion of their fee below-the-line as it is remuneration for work that would usually be carried out by BTL personnel. However, this approach is distorting budget design in the documentary sector and has resulted in some feature film producers seeking to do the same. It would be far more preferable if Government could exclude documentaries from the operation of the 20 per cent ATL cap.

Short-form animated documentaries

One of the formats eligible for the Producer Offset is 'short-form animated drama' (subparagraph 376-65(2)(c)(v)). This format covers a relatively high-budget series of animated content, the episodes of which collectively exceed 15 minutes in duration.

The ITAA97 and Explanatory Memorandum make it clear that an eligible 'animation [must] be a drama, which may include a comedy and/or children's animation'.[22]

Considering that the legislation provides for documentaries to qualify as feature films, single-episode programs, series and seasons of series, there appears to be little justification to limit the eligible format to 'drama'. Government could delete the word 'drama' to enable short-form animated documentaries to be eligible. This would encourage innovative documentaries to utilise animation to connect with audiences and tell their stories.

Short-form animation is an ideal format for web-delivered content and it seems incongruous to limit the format to drama only, given the variety of delivery channels likely to open in the coming years.

[22] Explanatory Memorandum to the *Tax Laws Amendment (2007 Measures No.5) Act 2007*, para 10.36.

7.5 Direct and indirect support of production businesses

7.5.1 Producer Offset

Around half of respondents to Screen Australia's *2010 Business Survey* reported having used the Producer Offset. Internal cash reserves were reported as the most common means of cashflowing, followed by loans from screen agencies, private loans from a company principal, bank loans, loans from Producer Offset-specific credit providers and loans from private investors.

The businesses with higher numbers of employees showed a stronger tendency to have accessed the Producer Offset.

	Size of business (number of employees)						
	0–4	**5–9**	**10–19**	**20–49**	**50–99**	**100+**	**All**
Has accessed offset	30%	60%	78%	76%	100%	71%	50%
Has NOT accessed offset	70%	40%	22%	24%	0%	29%	50%

Source: *2010 Business Survey*; 204 respondents

7.5.2 Screen Australia funding

Analysis of survey respondents who had been active in production in the last three years shows that 60 per cent received development and/or production funding from Screen Australia (or its former agencies) between 2007/08 and 2009/10.

46 per cent received production funding, an average of $1.3 million per business, ranging from $10,000 to $6.5 million.

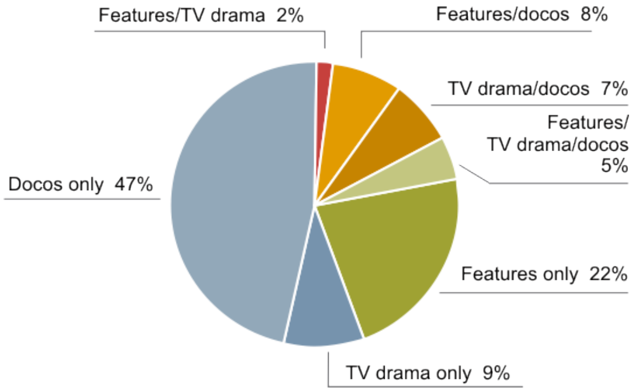
32 per cent received development funding, an average of $42,000 per business, ranging from $5,000 to $316,000.

The overall proportions were roughly similar to the breakdown of total businesses by slate composition (see Section 6.2), although the proportions of documentary-only and TV drama-only businesses with funding were lower and the proportions of businesses making features only or a mix of outputs were higher. This may indicate that there are more documentary-only and TV drama-only businesses operating independently of Screen Australia funding than the other business types.

When analysis of businesses receiving Screen Australia development and/or production funding is applied to currently active respondents to the *2010 Businesses Survey*, it's possible to get a picture of how direct funding is assisting small through to large scale businesses (categorised in terms of number of people employed).

It's clear that businesses of all sizes are benefiting from direct project funding.

Businesses that received development and/or production funding from Screen Australia (or its former agencies), 2007/08–2009/10, by slate composition

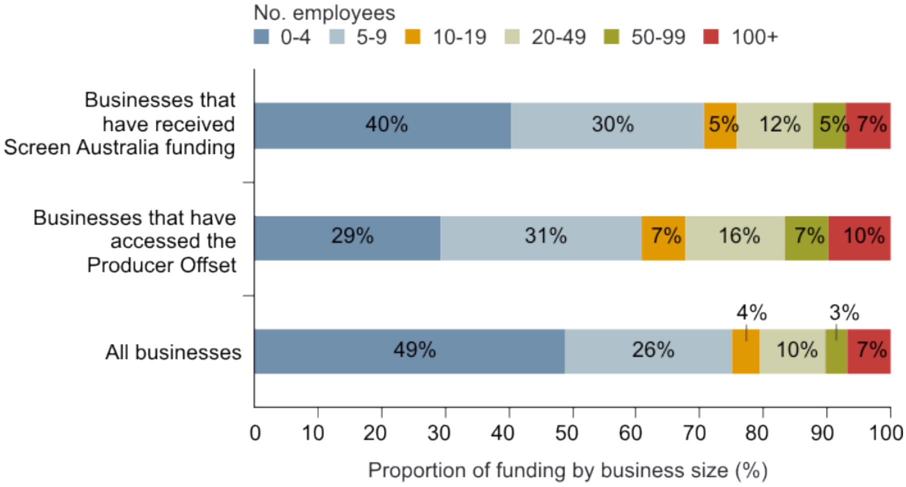


Source: Screen Australia database analysis of 114 currently active businesses among the *2010 Business Survey* respondents that were identified as having received Screen Australia funding 2007/08–2009/10

7.5.3 Producer Offset and Screen Australia funding

Access to Australian Government support, both direct (through Screen Australia development and/or production funding) and indirect (through the Producer Offset), is spread across production businesses of various sizes (in terms of the number of people employed), albeit unevenly. However, compared to the overall spread of business size, there is a stronger tendency for larger businesses to have accessed the Producer Offset. Businesses with less than five employees are under-represented in both direct and indirect support, more markedly in indirect.

Comparison of all active businesses, those accessing the Producer Offset and those accessing Screen Australia funding, by size of business



Source: Screen Australia database analysis of 147 currently active businesses among the *2010 Business Survey* respondents

	Size of business (number of employees)						
	0–4	**5–9**	**10–19**	**20–49**	**50–99**	**100+**	**Total**
Businesses	49%	26%	4%	10%	3%	7%	100%
Accessed Offset	29%	31%	7%	16%	7%	10%	100%
Received Screen Australia funding	40%	30%	5%	12%	5%	7%	100%

Source: Screen Australia database analysis of 147 currently active businesses among the *2010 Business Survey* respondents

7.6 Certainty and the Producer Offset

Over the course of its administration of the Producer Offset, Screen Australia has identified a number of issues related to the certainty of applicant's access to the Producer Offset.

7.6.1 Timing of the acquittal

The timing of the acquittal of the Producer Offset affects the liquidity of production businesses. The interim solution to the problem has been the use of SPVs that are liquidated once the production has been completed.

SPV

The SPV structure is not the optimal production structure for all projects. It can operate well for feature films. However, television and documentary production companies with cash reserves and multiple projects in production often seek to use the Producer Offset received from one project to assist with the budget of another.

While such companies – and smaller documentary producers – could utilise SPVs for this, it is inefficient, as multiple SPVs would need to be formed and liquidated in a given year. This increases non-production expenses and diverts a greater proportion of budgets off-screen towards accountants, lawyers and liquidators.

Screen Australia does not consider liquidating SPVs to be a permanent solution. However, Screen Australia emphasises that one of the most valued aspects of the Producer Offset is the certainty gained from it being a refundable tax offset (rather than support provided as a grant, for example). The fact that the Producer Offset is calculable and uncapped is invaluable in providing producers and financiers (including cashflow lenders) with confidence that the Producer Offset will be returned to the production company on completion.

Amendments to address issues associated with problems created by the timing of the acquittal has the potential to remove current benefits associated with the Producer Offset being uncapped and certain. If this were to occur the effect would be likely to distort the production industry by encouraging productions to be rushed in order to receive available funding. The flow-on-effect would be a reduction in the quality of films – counter to the policy aim of the Producer Offset in encouraging a secure, reliable and certain market-based mechanism of Government support.

Early assessment

Under section 168 of the ITAA36, the Commissioner of Taxation (the Commissioner) has discretion to assess a tax return at any time. The Australian Taxation Office (ATO) has made it clear that this discretion will be exercised for companies in receipt of a final certificate for the Producer Offset so long as it is satisfied that the company in question will not incur any additional tax liabilities after the assessment. The required method to satisfy the Commissioner of this is to place the company into voluntary liquidation. This is not ideal.

Legislative amendment to the tax law could be considered by Government to provide companies early access to the Producer Offset in a broader set of circumstances other than where a company is under voluntary liquidation.

There could also be scope for Screen Australia to work with the ATO to develop an accreditation regime for film tax specialists. Accredited specialists could then recommend to the ATO that the company has ceased operations and that the Commissioner could assess a tax return. Such an accreditation regime could replace – and strengthen – the current audit requirements for the Producer Offset and decrease administration costs for Screen Australia and the ATO, with minimal risk to revenue.

Substituted accounting periods

The Commissioner also has discretion to allow a company that anticipates receipt of a Producer Offset to utilise a substituted accounting period (SAP) so that the company's financial year would finish at the most appropriate time for the film. The ATO has indicated that the fact that a company apprehends receiving the Producer Offset is an insufficient reason to justify the exercise of this discretion.

However, the use of substituted accounting periods in the context of the Producer Offset should be further explored.

Issue: The timing of the acquittal of the Producer Offset affects the liquidity of production businesses.

7.6.2 Significant Australian Content

The key criterion for certification of a film for the Producer Offset is that Screen Australia must be satisfied that the film has a significant Australian content;[23] the 'SAC' test. Pursuant to subsection 376-70(1), in making this decision, Screen Australia must have regard to:

a) the subject matter of the film

b) the place where the film was made

c) the nationalities and places of residence of the persons who took part in the making of the film

d) the details of the production expenditure incurred in respect of the film

e) any other matters that Screen Australia considers to be relevant.

The Explanatory Memorandum that accompanied the introduction of the Producer Offset legislation[24] provided the following guidance to Screen Australia and industry on this issue:

> *10.126 This test is the same as the test previously applied to applicants for certification under Division 10BA of the ITAA 1936, with the exception that the film does not have to be wholly or substantially made in Australia and the following two matters are no longer specified as matters to which regard must automatically*

[23] ITAA97, subparagraph 376-65(2)(a)(i).
[24] Explanatory Memorandum to the *Tax Laws Amendment (2007 Measures No.5) Act 2007.*

> *be had:*
> *- the holder of intellectual copyright in the film; and*
> *- the source of finance for the film.*
>
> *10.127 While these two matters are not specific factors requiring consideration, it is intended that they may still be able to be considered as particular factors in the certification test, especially where consideration of other matters does not result in strong grounds for or against certification.*
>
> *10.128 Subject to these changes, the matters detailed in the test are intended to be interpreted in the same way as the Division 10BA test, which was previously under the authority of the Arts Minister, and delegated to the Department of Communications, Information Technology and the Arts [DCITA].*

Historically, this has caused some issues for Screen Australia in that it is not privy to the decisions or decision-making process of the Arts Minister under Division 10BA. As a result, Screen Australia has received correspondence from some applicants alleging that the agency's decision-making process in relation to the SAC test is 'stricter' than that of the Arts Minister and the then DCITA.

Screen Australia has rejected only one application for a final certificate on the grounds that it was not satisfied that the film in question had a significant Australian content.

Screen Australia's interpretation of the SAC test is outlined in its 'SAC Guidance'.[25] It is clear from the Guidance that Screen Australia considers the subject matter of the film to be paramount. This is because subject matter is the key difference between the Location and Producer Offsets. As the Location Offset is a production attraction incentive, it could be described as a manufacturing incentive; the Producer Offset, however, should be considered a cultural incentive. If one was to apply the SAC test to a typical Location Offset project, one would likely find that the project would have a strong claim in relation to three of the five matters prescribed in the SAC test:

- the place where the film was made
- the nationalities and places of residence of the persons who took part in the making of the film
- the details of the production expenditure incurred in respect of the film.

These matters are purely manufacturing elements. It is only the subject matter and 'other matters' that would be substantially different between a Location and Producer Offset project.

Further, since the Explanatory Memorandum specifically refers to the removal of copyright and source of finance as relevant (although it notes that Screen Australia may consider them to be 'other matters'), there is a perception that they should not be considered as important as the other matters prescribed by the SAC test. Referring to the SAC Guidance, the only 'other matter' that would differ between a Location and Producer Offset project is the extent to which recoupment and profit participation rights are held by Australians.

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[25] http://www.screenaustralia.gov.au/producer_offset/offset-documents/sac_guidance.pdf

The issue, in Screen Australia's view, is that the basis of the SAC test (ie the 10BA test) was designed before the introduction of the Location Offset (or its predecessor, the Refundable Film Tax Offset (RFTO)). Therefore, while the SAC test is the distinguishing factor between the Location and Producer Offsets, it does not take account of the existence of the Location Offset in its construction. While Screen Australia does not consider that this has made any difference to its decision-making to date, the agency is concerned that the language of the SAC test in legislation is open to interpretation and is uncertain.

Screen Australia considers that there would be merit in providing greater certainty in the legislated SAC test in order to provide greater certainty and to protect its integrity, Government could provide this certainty by inserting a new paragraph into the SAC test. The new paragraph could specify that Screen Australia must have regard to:

> *Without limiting paragraph (c)* [ie the 'nationalities and places of residence' paragraph]*, the nationalities and places of residence of the persons:*
>
> *i. who were principally involved in development of the film;*
>
> *ii. under whose creative control the film was made; and*
>
> *iii. who are entitled to receive revenue derived from the exploitation of the film.*

ISSUE: The integrity of the Significant Australian Content test should be preserved.

7.6.3 Qualifying Australian Production Expenditure

Screen Australia has identified a number of issues related to the definition and interpretation of Qualifying Australian Production Expenditure (QAPE) that cause issues of administration and application.

Many of these issues create inefficiencies at administrative level and introduce costs of application.

Generally, the design of Subdivision 376-C of the Act operates as follows:

- Production expenditure is expenditure on production *minus* specific exclusions.
- QAPE is production expenditure incurred in Australia *plus* specific inclusions *minus* specific exclusions.

Each exclusion imposes an additional cost on industry and Government as it must be separately identified and excluded from a budget for the purposes of the QAPE claim.

The number of applications received means that every minor rule in QAPE calculation places a large administrative burden on Screen Australia, which in turn increases the cost of administration and slows down the application process. It also follows that, as the Producer Offset is deficit-financed, any delay in the processing of applications adds to the cost of financing a project for applicants.

Screen Australia raises a number of specific issues for Government's consideration – some of which could be addressed by Legislative Instrument – in relation to the definitions of QAPE.

Addressing these would decrease compliance and administration costs and would collectively direct a greater proportion of the ultimate Producer Offset received by applicants towards production, rather than professional services. They would, therefore, better support the ultimate aims of the ASPI legislation. In some cases, caps – like those used for above-the-line costs and overheads – may be an appropriate mechanism to limit the claimable proportion of some items.

Screen Australia notes that adjusting the definitions of QAPE in line with the suggestions below may amount to additional costs to Government. In this context, Screen Australia notes that GST paid on QAPE items is – itself – QAPE, regardless of whether the GST is subsequently refunded or not. This is administratively inefficient. In addition, as film budgeting and cost reporting is generally undertaken exclusive of GST, it is complex for applicants to calculate the QAPE GST in the context of applying for a final certificate, further raising the cost of compliance. The administrative cost on Screen Australia in ensuring that this is correctly undertaken is also significant.

If GST was excluded from QAPE, in relation to the Producer Offset, it would compensate for the increased costs created by adopting the following amendments.

Foreign currency

Currently, when calculating QAPE, expenditure in a foreign currency must be converted into Australian dollars utilising two rates of exchange (items 9 and 9B in the table in subsection 960-50(6)).

For smaller projects, particularly international documentaries which shoot in multiple countries, this is particularly burdensome. Such projects incur expenditure in a foreign currency on a small transactional basis (such as on credit cards), rather than a large contractual basis. Such projects do not have the ability to hedge expenditure.

Government could seek to provide applicants with the ability to utilise the *actual* rate of exchange for transactions where the total QAPE for the film in question is less than a threshold level (potentially $15 million).

This would not impact on cost to Government as any foreign exchange benefit would be countered by losses on other projects.

Screen Australia anticipates this would require legislative amendment to items 9 and 9B in the table in subsection 960-50(6).

Carbon offsets

Expenditure on carbon offsets for carbon emissions does not currently meet the legislative test for production expenditure, although it would in the event that a carbon-trading system is implemented.

Screen Australia considers that providing for reasonable carbon offsets as QAPE would have a clear public policy benefit at minimal cost.

This could be implemented through legislation or regulation.

Production insurances and completion bonds

Currently, certain standard production insurances and completion guarantees are considered financing costs and the premiums on them are therefore excluded from production expenditure (paragraph 376-125(4)(b) and item 1 in the table in section 376-135). This is based on the ATO's decision TD2006/02 which related to the RFTO, but, as the legislative provisions are identical, has application for the ASPI.

From a practitioner point-of-view, production insurances are not financing costs and industry has difficulty understanding how some types of insurances are considered financing and some are not. The completion bond, similarly, is considered to be a standard production cost.

These are considered by industry to be fundamentally different from genuine financing costs such as interest on loans, application fees and bank charges.

There could be scope for Government to clarify that insurances and the completion bond are not considered to be financing expenditure for the purposes of section 376-135. Such expenditure could, therefore, be considered QAPE where the service is provided by an Australian resident (including where an Australian broker links an applicant with a foreign insurer).

Audit and legal fees

As financing costs are excluded from production expenditure, it is accepted that costs that flow directly from financing costs are similarly excluded. This includes expenditure on:

- legal services associated with financing, such as preparation of production investment agreements
- accountancy services, such as the now ubiquitous 'QAPE opinion' services provided by production accountancy firms
- auditing services provided to satisfy financiers that the project was made according to the budget.

However, it is also generally accepted that expenditures associated with applying for the Producer Offset, such as preparation of the audit at Schedule 3 to the *Producer Offset Rules 2007* are valid production costs, rather than financing costs.

This creates administrative problems.

Audits and legal services are usually 'package deals' and Screen Australia relies on the service provider estimating the proportion of the expenditure to services pertaining to QAPE. This is less than satisfactory as it requires service providers themselves to make assessments of what is and is not QAPE, which should be the job of the producer and Screen Australia.

A typical audit for an offset project includes a 'financing audit' to acquit investors' funds, and a 'QAPE audit' to provide the formal estimation of claimed QAPE. The QAPE audit is a requirement of a final application for the Producer Offset, and relies largely on work undertaken for the financing audit. Generally, applicants that have completed both audits claim 50 per cent of the total audit expenditure as QAPE. However, applicants that do *not* have a financing audit completed can appropriately claim the entire amount as QAPE, as the entire audit was undertaken for the purposes of applying for the Producer Offset (ie not for financing).

Because most of the work in the financing audit is done for the QAPE audit, it would be administratively easier and more equitable to permit all audit, legal and accountancy expenses to count towards QAPE.

Company fees

Company fees associated with setting up a SPV are also financing costs, or alternatively are considered to be ‘expenditure that the incoming company incurs in order to be able to take over the making of the film’. Therefore, these fees are not considered to be production expenditure by virtue of paragraph 376-180(1)(c).[26] As the Producer Offset’s structure encourages the use of SPVs, it seems unfair to penalise producers by not allowing these costs to be claimed as QAPE. Relevant costs include set-up fees and annual Australian Securities and Investments Commission company statement fees.

In order for a lender to cashflow the Producer Offset acquittal to a production company, a producer is usually required to receive a ‘QAPE opinion’, which is an independent, detailed assessment of the likely QAPE (and therefore offset) for the project. These are financing costs incurred not from the creation of the project but from the process of applying for the Producer Offset. They also make Screen Australia’s task in assessing provisional certificate applications easier, as the QAPE claim has been tested by an experienced accountant before the application is lodged. There are policy grounds to consider these assessments (which range from $500 to $1,500 per project and are provided in Australia) to be counted towards QAPE.

Distribution expenses

Subsection 376-155(4) excludes costs associated with distributing and promoting a project from being included in the costs incurred in making the project. In the absence of a ‘specific inclusion’, this effectively excludes such expenditure from QAPE. Although generally this poses no issue, there are a few small low-cost items of expenditure that are normally budgeted and expended by the producer which are usually considered by industry to be production costs, even though legislatively they may not be. These are outlined here.

Censorship certificate

All feature films and DVD releases must be classified by the Office of Film and Literature Classification. For feature films, fees for classification range from $600 for a title change to $5,090 for a film exceeding four hours in length. Most Australian productions incur a fee of around $2,000 when theatrically released. However, this lowers to around $1,000 for assessment for DVD release.[27]

[26] Section 376-180 operates when one company takes over the making of the film from a prior company. In that case, the expenditure of the prior company is deemed to have been incurred by the subsequent company. However, costs incurred in the takeover are not relevant to the Producer Offset. This section usually applies when a producer’s own company develops a film, but the film is then given to an SPV for production for the purposes of securing the Producer Offset.

[27] See http://www.classification.gov.au/www/cob/classification.nsf/Page/IndustryFees_for_Classification

In most cases, production companies, rather than distributors, incur these fees as distribution agreements and usually specify the 'highest' classification the film will receive. Yet legislatively, such expenditure is a distribution expense and therefore is excluded.

Screen Australia considers that such expenditure could be specifically included as QAPE, by either legislative amendment or regulatory action.

Dolby licence

Similar to the censorship certificate, feature films generally need to be processed and assessed by a qualified Dolby technician to enable them to be screened in most cinemas. Part of this assessment involves acquiring a Dolby licence from a non-Australian entity. This is clearly a distribution expense but a necessary one, which is usually incurred by the production company and is a requirement for delivery to distributors.

Previously Screen Australia has allowed for the proportion of the fee that is paid to an Australian Dolby technician to be considered QAPE, but not the Dolby licence. This is complex, unwieldy and difficult to calculate. Legislative or regulatory clarification could specify that costs associated with Dolby licences are QAPE for Producer Offset films.

Reversioning

Expenditure on producing additional content for a subsequent release of a project (such as DVD special features) is considered QAPE so long as the expenditure is incurred before the first version of the project is completed.[28] Producers have utilised this provision to claim QAPE on 'reversioning costs' associated with the delivery of a project to a secondary market, such as revoicing animated series for a foreign sale or recutting a 90-minute documentary for foreign television broadcast.

However, the requirement that expenditure be incurred prior to the completion of the first version artificially rushes this work and forces it to be undertaken in conjunction with the main post-production work. It would be preferable if the timing requirement was relaxed.

Other distribution materials

Certain other distribution costs are incurred by the production company as production costs but are considered distribution expenses, specifically the freighting of deliverable items required under distribution agreements and so-called film vaults (the storage of film assets in controlled conditions). The freight of contractually required deliverables and reasonable costs of film vaults could be specifically included as QAPE as a reasonable production expense.

Ongoing production expenses

Publicity costs

Expenditure on publicity that is claimable as QAPE is limited to expenditure for services which:

- are provided in Australia

[28] Item 4 in the table in subsection 376-150(1).

- are provided before the project is completed
- directly result in copyright held by an Australian resident.

Screen Australia bases these limitations upon item 3 in the table in subsection 376-150(1) and paragraph 10.93 of the Explanatory Memorandum. However, Screen Australia notes that the second of these criteria is present only in the Explanatory Memorandum and not the legislative provision, creating a potential inconsistency.

The limitations could be extended to cover all work provided in Australia that results in Australian copyrighted promotional material where the service is provided up to the end of the financial year in which the film is completed (consistent with the general rules of QAPE).

This is because on policy grounds, Screen Australia generally considers it imperative that producers are encouraged to expend a greater proportion of a project's budget on connecting the screen content with its audience. Currently, the legislative provisions encourage producers to rush promotional material to be completed prior to the project's completion, or to maximise their QAPE by focusing the budget on production.

Neither of these outcomes is ideal. Government could provide for extra promotional expenditure to be considered QAPE, which would uphold a key policy aim of the Producer Offset in connecting films with audiences and remove the disincentive for producers to spend on marketing.

Study guides

It is a requirement for many Screen Australia funded projects (particularly documentaries) that budgets allow for the preparation of accompanying educational materials. This requirement enables projects to be included in students' syllabi, thereby exposing young Australians to Australian content.

However, this work is not claimable as QAPE as it cannot be undertaken until the completion of the project.

Screen Australia's view is that such expenditure be considered QAPE where:

- the preparation of the study guide is undertaken in Australia
- the expenditure is incurred before the end of the financial year of the completion of the project
- copyright in the study guide is held by an Australian resident.

If Government were to include expenditure on study guides as QAPE, it would be consistent with the recommendation on promotional material.

Issue: The definitions of QAPE need to be further considered.

7.6.4 Co-production access to the Producer Offset

Access to the Producer Offset is a clear and intended incentive to producers to create 'official co-productions'.[29] However, Screen Australia has identified a potential issue related to the necessary structure of official co-productions and the legislative requirements for certification for the Producer Offset.

Paragraph 376-65(1)(a) requires Screen Australia to be satisfied that the company (ie the applicant for the Producer Offset certificate):

> *…either carried out, or made the arrangements for the carrying out of, all the activities that were necessary for the making of the film.*

The fundamental idea behind a co-production is that it is 'co-produced' by two (or more) producers, each producer being responsible for 'their side' of the budget. This means that, in theory, the applicant company only 'made the arrangements' for the carrying out of the *Australian side* of the making of the project.

To date, Screen Australia has been able to certify official co-productions for the Producer Offset because the applicant company has been a party to the 'co-production agreement', which outlines the various rights and responsibilities of each party. As such, the company can be said to have 'made the arrangements' for the making of the project.

However, if the applicant company is an SPV and is not a party to the co-production agreement, there would be no direct link between the SPV and the 'non-Australian' side of the project. In such a case, it would be difficult for Screen Australia to be satisfied that the applicant has 'made the arrangements…' and certify the film.

Government could fix this potential issue by specifying in the legislation that, for official co-productions, the relevant requirement is that the company '…either carried out, or made the arrangements for the carrying out of, all the activities that were necessary for Australian proportion of the making of the film' or similar.

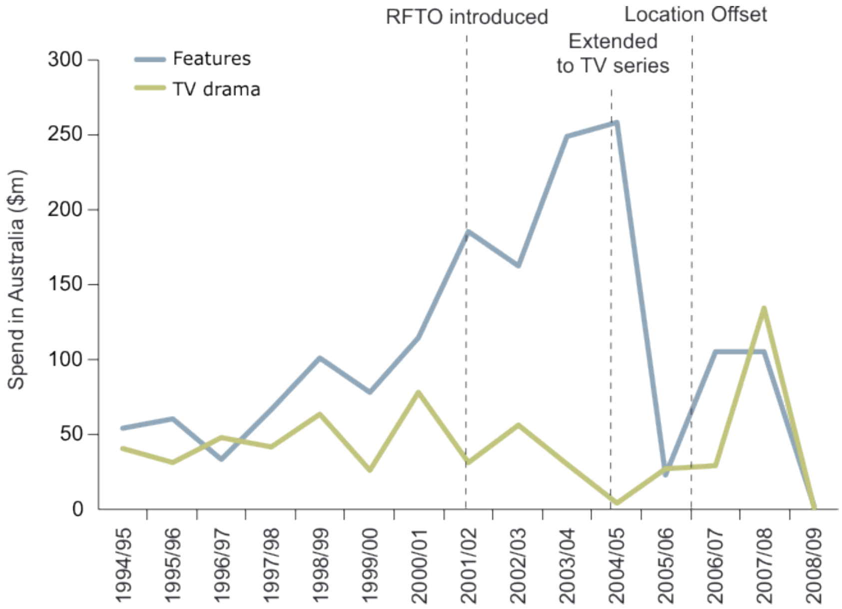
[29] See, for example, subparagraph 376-65(2)(a)(ii) of the ITAA97 and paragraph 10.124 of the Explanatory Memorandum, which specifies that an official co-production 'bypasses' the SAC test.

8. SUPPLEMENTARY INFORMATION

8.1 Location Offset

The Refundable Film Tax Offset (RFTO) was introduced by the Federal Government in September 2001, as a financial incentive for producers of Australian and foreign large-budget films, to use Australian locations, cast, crew and service providers and to provide 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 drama series in August 2005. In May 2007, the RFTO was renamed the Location Offset and increased to 15 per cent.

Foreign drama production in Australia 1994/95 to 2008/09



Source: *National Survey of Feature Film and TV Drama Production.* All project expenditure is allocated to the year principal photography commenced.

US exchange rate, July 1994 to December 2009

Source: Reserve Bank of Australia

Spending in Australia by foreign drama productions, particularly features, grew from the late 1990s through to 2004/05. Titles made during that period include *Star Wars: Episodes II* and *III, Superman Returns,* the *Matrix* films*, Son of the Mask, Peter Pan, Ghost Rider, Charlotte's Web* and *Stealth.*

In 2005/06 spending by foreign dramas dropped to just $49 million. It grew again in the following two years (with *Fool's Gold, Where the Wild Things Are, The Pacific* and *X-Men Origins: Wolverine* contributing). However in 2008/09, foreign drama spending fell to its lowest level on record – just $3 million – with foreign feature activity restricted to just six Indian titles. These titles spent less than a fifth of their budgets in Australia (the first time on record that no US feature production has taken place here). Two major foreign titles commenced production in 2009/10 – *Don't Be Afraid of the Dark* and *The Chronicles of Narnia: The Voyage of the Dawn Treader.*

With the US accounting for the majority of foreign drama production in Australia since the 1990s, it's likely that the fluctuating US exchange rate has impacted strongly on annual production levels. The Australian dollar was around 50 US cents throughout 2001, and has since increased to 90 US cents in the first half of 2008, and again at the end of 2009, after dropping to around 65 US cents in late 2008/early 2009.

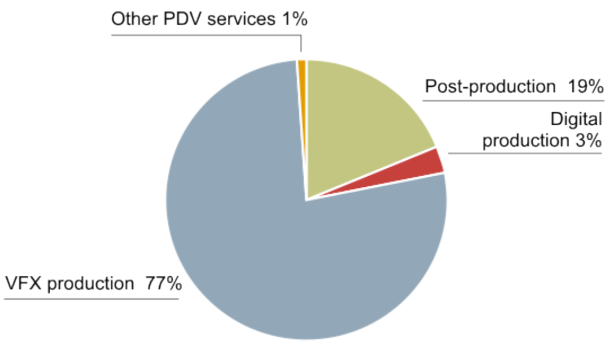
Competition from other territories offering production incentives to international projects may also account for some of the volatility in foreign production levels in Australia. Examples of current production incentives can be found in *Screen International's Global Soft Money Guide 2010*.

8.1.1 Foreign drama production: PDV with location shoot

Screen Australia's annual PDV survey indicates that virtually all the projects that shoot here also undertake some form of PDV with Australian PDV facilities, so there is a follow-on benefit to the PDV facilities from the attraction of foreign location shooting.

Some PDV facilities, including The Post Lounge, Newmarket Studios, and Cutting Edge Post, have worked on foreign projects that have shot here but not on projects that have only undertaken PDV in Australia. However most of the larger PDV businesses tend to work on both types of production.

Over the period 2005/06 to 2008/09, the majority (77 per cent) of expenditure on PDV by foreign projects with a location shoot in Australia has been on visual effects (VFX). Traditional post-production accounts for 19 per cent and digital production for 3 per cent.



Source: Screen Australia PDV Survey

The bulk of VFX expenditure (55 per cent) was spent on computer graphic (CG) character animation. This included work on *Charlotte's Web*, *Superman Returns*, *The Ruins* and *Where the Wild Things Are* – all projects that require specific CG characters to interact with the location.

Another 17 per cent of VFX expenditure went on CG effects, and 6 per cent on CG matte painting or set extensions. Compositing accounted for 21 per cent and pre-visualisation 1 per cent. CG modelling and match moving work was negligible or non-existent.

Telecine accounted for the largest category of post-production expenditure by projects, followed by traditional laboratory services (31 per cent). Editing made up 11 per cent (predominantly off-line), and duplication 9 per cent. Audio post-production accounted for 8 per cent.

Digital production work comprised digital scanning and recording (71 per cent), digital colour grading 25 per cent and motion control 4 per cent.

This expenditure breakdown within PDV categories contrasts with spending by foreign projects in Australia when no location shoot was involved: see 8.2.3.

8.2 PDV Offset

The PDV Offset, which supports work on post, digital and visual effects production, has been available to eligible companies since 1 July 2007. The 15 per cent offset is available for PDV projects that commenced PDV production work in Australia on or after 1 July 2007, and spend at least $5 million in qualifying PDV expenditure (QAPE incurred in relation to PDV production) in Australia, regardless of where the film is shot. As of 1 July 2010, qualifying PDV expenditure will be reduced to $500,000.

The production must be in an eligible format, which includes features, telemovies, mini-series and television series (including documentary and reality television). PDV is considered to include tasks including, but not limited to, visual effects, audio and visual editing and mixing, orchestration, and green-screen photography.

Companies identified by Screen Australia as providing PDV services for features and TV drama have been surveyed annually since 2005/06.[30]

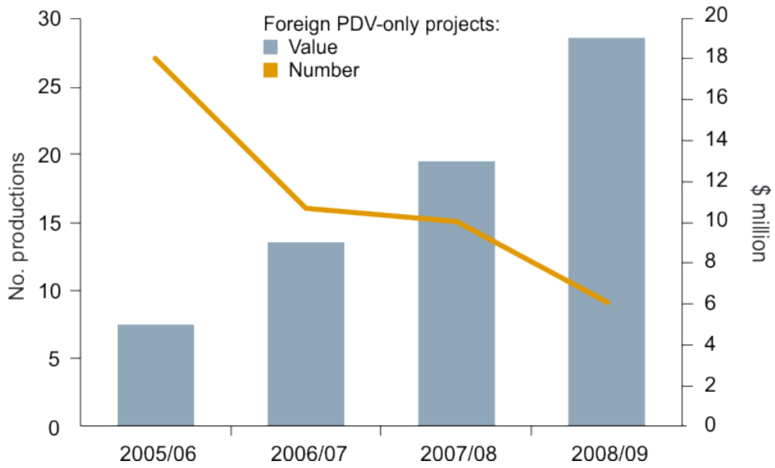
8.2.1 Levels of PDV-only production

Between 2005/06 and 2008/09, a total of 56 foreign feature projects and 11 foreign TV drama projects commenced PDV work in Australia, utilising Australian PDV companies, without a location shoot.

The four-year trend suggests a decrease in the *number* of productions coming to Australia for PDV-only work. A significant drop occurred in 2008/09, coinciding with the global financial crisis and an increasingly strong Australian dollar against the greenback. As of March 2010, there were at least five PDV-only projects being tracked; three of these are new (*The Sorcerer's Apprentice, Sucker Punch* and *Iron Man 2)* and two of these are continuing from the previous year.

By contrast, the *value* of PDV work has increased over the period, from $5 million in 2005/06 to $19 million in 2008/09 (an increase of 280 per cent). The total income earned over this period from PDV-only projects is an estimated $46 million. 2009/10 is also likely to be a significant year in terms of the value of PDV-only projects, including the bulk of PDV work carried out on *Harry Potter and the Deathly Hallows*, as well as work on Peter Weir's *The Way Back*.

[30] Note that this data relates to the production of features and TV drama only and so does not cover all PDV activity in Australia. To provide a sense of the ongoing business activity of PDV companies, income has been assigned to the years it was earned, from the time PDV work commenced to the project's completion, whereas data from the *National Survey of Feature Film and Drama Production* cited elsewhere in the submission allocates production income to the year principal photography commenced.



Source: Screen Australia PDV Survey

8.2.2 Cost to government

As of 2008/09, only three projects have reached the $5 million expenditure threshold for eligibility for the PDV Offset since it was introduced. Screen Australia estimates that the cost to government based on reported expenditure figures (value of payouts from the PDV Offset) would be in the vicinity of $3.5 million.

In addition to these projects, three projects have spent between $2 million and $5 million, and 11 have spent more than $1 million. Another six have spent between $500,000 and $1 million. The total value of expenditure of the 17 titles that had PDV expenditure over $500,000 was $41.3 million.

8.2.3 Type of services provided

Post-production	**21%**	**Digital production**	**3%**	**VFX**	**72%**
Traditional lab services	*17%*	*Motion control services*	*13%*	*Title design*	*<1%*
Off-line editing	*11%*	*Digital film scanning & recording*	*28%*	*Compositing*	*30%*
On-line editing	*6%*	*Digital colour grading*	*58%*	*CG character animation*	*7%*
Telecine	*1%*			*CG effects/effects animation*	*45%*
Duplication	*1%*			*CG matte painting /sets*	*14%*
Audio post-production	*64%*			*Match moving*	*2%*
				CG modelling	*1%*
				Previsualisation	*1%*

Source: Screen Australia PDV Survey

Expenditure on PDV services has mostly been in visual effects production (VFX). Seventy-two per cent of the total income PDV facilities have earned from PDV-only projects between 2005/06 and 2008/09 was generated from the provision of VFX services.

Post-production contributed 21 per cent, digital production 3 per cent and other services (such as facilities hire) accounted for the remaining proportion.

8.2.4 Impact on PDV businesses

Screen Australia estimates that four facilities have provided services to the three projects eligible for the PDV Offset. However, the reduction in the threshold is likely to expand this benefit to more PDV facilities, although the number is unlikely to be high given the relatively small number of businesses that operate in this market.

The overall benefits include support for businesses that:

- *are actively engaged in export*: Of the 25 businesses that had reported income from PDV-only projects between 2005/06 and 2008/09 in Screen Australia's PDV Survey, seven earned a combined 70 per cent of the total income from PDV-only projects. These seven businesses had also worked on a PDV-only project each year for the last three or four years.
- *employ the majority of people in the PDV sector*: Many of the companies providing services to PDV-only projects appear to be relatively significant employers. In 2007/08, 21 companies from the PDV Survey reportedly employed 1,970 people. The following year, 14 companies reported 1,172 employees. The seven that have been actively involved in PDV-only projects employed 706 people in 2007/08 and 790 people in 2008/09. According to the 2006/07 Australian Bureau of Statistics Service Industry Survey, the entire post-production sector employed 2,971 people.
- *employ a significant proportion of younger people*: Facilities providing services to PDV-only projects also employ a relatively young workforce, according to the PDV Survey. In 2007/08, 38 per cent of the employees of the seven businesses actively involved in PDV on a regular basis were under the age of 29 years; in 2008/09 it was 29 per cent.
- *engage in ongoing training of their staff*: Businesses that responded to questions in the PDV Survey relating to training indicated that they undertook 24,269 hours in training (in-house and external), valued at an estimated $1,534,903 in 2008/09. A large proportion of this was undertaken by facilities that provided services to PDV-only projects.
- *engage in research and development to produce proprietary software and production techniques*: Four of the seven businesses actively engaged in PDV-only projects reported $6,300,355 in R&D business expenses in 2008/09 (as defined by Australian Tax Office guidelines). This was up from three businesses and $3,441,000 in 2007/08. Another two PDV businesses that had worked on foreign productions but not on PDV-only projects spent an additional $2,246,445 in 2007/08 and $2,315,000 in 2008/09 on R&D. In 2008/09, PDV facilities that contributed to the PDV Survey had spent not less than $8 million in R&D.

8.3 State support

This section looks at how state government support complements Australian Government support programs.[31] The following table reports the relative spends on various programs in 2008/09.

	2008/09			
	Federal $m	State $m	% Total Federal	% Total State
Project development	4.51	7.92	3%	11%
Production	68.32	23.33	38%	33%
Pre-production	0.00	0.00	0%	0%
Marketing support	1.42	0.85	1%	1%
Distribution	1.61	0.01	1%	0%
Production attraction - location promotion[1]	1.70	0.58	1%	1%
Production attraction - incentives[2]	0.00	6.32	0%	9%
Training	27.85	0.25	16%	0%
Professional development	2.74	2.74	2%	4%
Screen culture	7.64	6.23	4%	9%
Archival activities	23.28	0.04	13%	0%
Research	0.72	0.00	0%	0%
Interactive media (other)[3]	0.23	0.10	0%	0%
Other (incl. admin)[4]	37.85	21.62	21%	31%
TOTAL	177.87	69.98	100%	100%

Source: Screen Australia Film Agency Funding Survey

Notes:

1. Location-based production incentives, not including payroll tax and/or salary rebate schemes operating independently of the state agencies. Ausfilm reports administration expenses as location promotion.
2. This category is likely to be understated because not all agencies report figures, especially those agencies where this expenditure is paid from a third party such as Treasury.
3. Other than for development or production; includes market support, training, culture, research and administration for interactive media.
4. Includes administration for agencies reporting expenditure in this area as a separate line item, as well as losses on the sale of assets, capital expenditure and purchase of financial instruments (such as certificates of deposit), other employee-related expenses and other program-related expenses not able to be classified in other categories.

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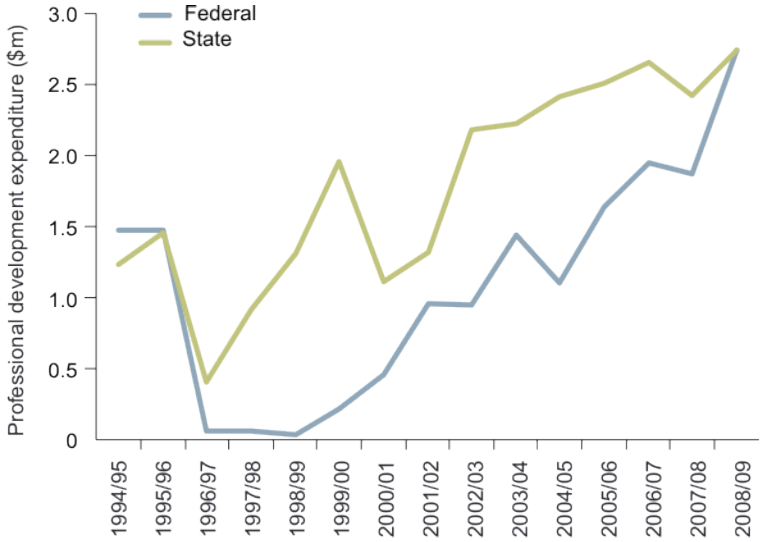
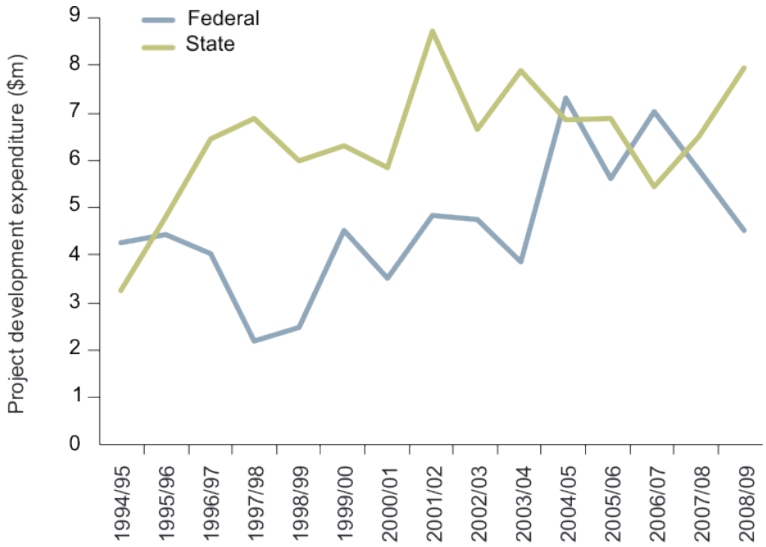
[31] Participating federal agencies are Ausfilm (1994/95–2008/09), Australian Film Television and Radio School (1994/95–2008/09), Australian Children’s Television Foundation (1994/95–2008/09), Australian Film Commission (1994/95–2007/08), Commercial Television Production Fund (1995/96–1997/98), Film Finance Corporation (1994/95–2007/08), Film Australia (1994/95–2007/08) and SBS Independent (1994/95–2007/08). Screen Australia is included from 2008/09 when it began operations following the merger of the AFC, FFC and Film Australia. National Film and Sound Archive is also included, although it was part of the AFC from 2003/04 to 2007/08, before being re-established as a separate agency in 2008/09.
Participating state/territory agencies are ArtsACT (tracked from 2007/08); ACT Department of the Environment and Cultural Heritage (until 1996/97); Arts Tasmania; Screen Tasmania (established in 1998/99); NSW Film and Television Office; Pacific Film and Television Commission; ScreenWest (including Lotterywest); South Australian Film Corporation; Northern Territory Film Office (from 2004/05); and Film Victoria (from 2001/02). Before this, the following Cinemedia agencies: Digital Media Fund, Film Victoria, Melbourne Film Office.

Federal and state government direct support reached a parity in 2008/09 for professional development funding. The bulk of federal expenditure comes from Screen Australia and its predecessor organisations, however, it may also include a small contribution from the Australian Children's Television Foundation.

Meanwhile, the states are now providing significantly more project development funding (in aggregate) than the federal agencies.

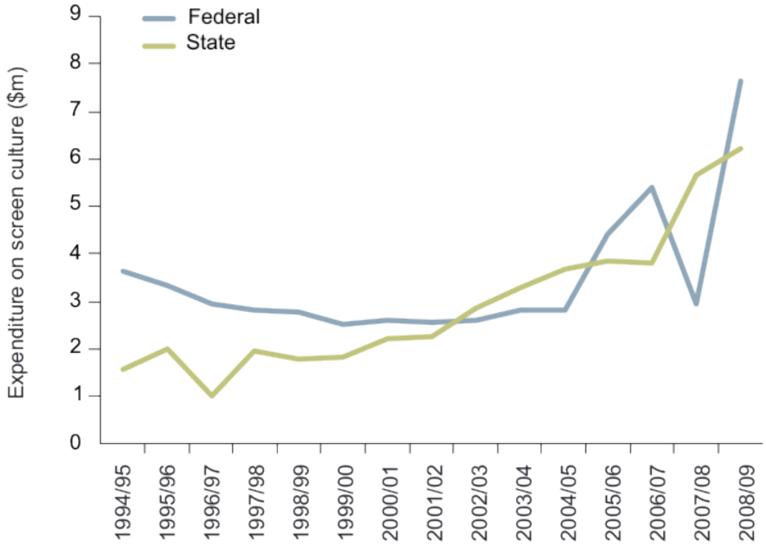


Source: Screen Australia Film Agency Funding Survey



Source: Screen Australia Film Agency Funding Survey

State government expenditure on screen culture (such as support for festivals, publications, service organisations and awards) has trended upwards since the beginning of the decade. The spike in 2008/09 federal expenditure on screen culture is due to expenditure by the National Film Sound Archive and the differences in reporting between the new organisation and the AFC administration. Screen Australia spending for activities that could be defined as screen culture in 2008/09 was approximately $3.37 million.



Source: Screen Australia Film Agency Funding Survey.

8.4 Co-production

While enquiries to Screen Australia regarding official co-productions have increased since the introduction of the Producer Offset in July 2007, this has not resulted in an increase in completed applications, approvals or production of official co-productions to date. See also Section 4.4 Screen Australia and Co-productions.

Number of projects granted provisional co-production status (by year of approval)

2009/10 (to date)	6
2008/09	6
2007/08	14
2006/07	7
2005/06	15
2004/05	10

Source: Screen Australia and Australian Film Commission annual reports

Number of official co-productions starting production (by start date of principal photography)

2009/10 (to date)	7
2008/09	6
2007/08	10
2006/07	10
2005/06	8
2004/05	7

Source: *National Survey of Feature Film and TV Drama Production*

Factors likely to have contributed to an increase in interest in official co-productions include:

- the introduction of the Producer Offset which offers a rebate for all qualifying Australian titles – official co-productions automatically qualify as Australian
- the shortage of international finance resulting from the global financial crisis, combined with the new offset, may have increased the attractiveness of Australia to overseas partners
- the points test used to assess official co-productions provides a high level of certainty regarding qualification as Australian for the purposes of the Producer Offset.

Factors likely to have contributed to enquiries not progressing to actual applications include:

- co-productions generally require high budget levels which can be hard to raise
- the lack of international finance resulting from the global financial crisis has made it difficult in some cases to get full finance in place

- official co-productions have a high level of complexity, requiring a balance between the elements from the two countries in order to qualify in each territory (ie not necessarily always the easy alternative to the SAC test).

In response to this last point, in late 2009 Screen Australia commenced reviewing its Co-production Guidelines, with the aim of ensuring that the program is forward thinking, flexible and takes into account the realities of the contemporary financing market, whilst ensuring that the administration of the program is consistent with the terms of the treaties to which we are a party.

Some of the modifications are outlined below.

8.4.1 Points test

The points test will be retained. However, Screen Australia is looking at introducing some flexibility, including:

- providing producers with the ability to nominate which production personnel Screen Australia should consider are the creatives for their particular film
- recognising the contributions of creatives which previously have not been allocated points, such as in visual effects and sound design
- recognising the creative impact of the source of the underlying work by including a point for the nationality of the source material (such as where a script is based on an Australian novel), where relevant.

8.4.2 Non-credited writers

Screen Australia will explore whether it can relax the current guidelines requirement that 'the screenplay and all drafts of the screenplay' are to be written by nationals/permanent residents of the co-producing countries. Screen Australia will rather seek to require all credited screenwriters (according to industry standard practice) to be from the co-producing countries. This is subject to whether the current treaties and memoranda of understanding permit such a change.

8.4.3 Indicative approval

Screen Australia's review of Australia's International Co-production Guidelines identified that financiers were cautious about committing funds before receiving some indication that the film would qualify as a co-production. However, in order to consider an application for provisional co-production approval, Screen Australia requires all finance to be firmly committed.

So it is proposed that before finance is committed, Australian co-producers would be able to apply to Screen Australia for an (optional) indicative approval letter. Based on the planned structure of the financing and of the film, this letter, which would indicate that the film would meet the treaty and guideline requirements.

8.5 The games sector

While not directly the subject of the Government's Review, the games sector is an increasingly significant component of Australia's screen content industry and the success of the sector has the potential to contribute substantially to the overall sustainability of the screen content industry. Game developers are not only at the forefront of innovative storytelling, but they also make a significant contribution to Australia's economy. In terms of the overall ecology of the screen content industry, the games sector has an important role to play.

Annually, the sector generates approximately to $2 billion in sales revenues and over $130 million in production income. Thousands of people are employed through retail, distribution and production activities, with developers directly employing over 1,400 people.[32]

8.5.1 Challenges to sustainability

Screen Australia supports the game sector's role in fostering new forms of creative expression, emerging production and distribution methods, career development and international exposure. This has been acknowledged through recent increases in funding for games by the agency, spearheaded with the Serious Games initiative in 2009; a collaboration with the ABC.

However, the local game sector faces two key challenges:

- sustaining Australia's position as a preferred off-shore provider of production services to international games publishers
- encouraging growth of 'Australia-made' games to ensure that a greater number of local developers retain intellectual property (IP).

Like other sectors of the screen content industry, games have been hit hard by the global credit crunch. Several large developers have downsized or collapsed, among them Pandemic, Auran and Red Tribe. These closures indicate the volatility of even the most self-sufficient of companies.[33]

> In 2007, Auran went into voluntary administration following the release of *Fury*, one of the first Australian-made massively multiplayer online role-playing games. The company could not sustain the losses associated with the failure of *Fury* with its budget of $15 million, on par with feature film production.

The industry has claimed that the current policy framework has skewed investment into certain areas of the screen industry. Game developers suggest that enhanced support mechanisms would allow Australia to present itself internationally as a one-stop shop for screen content.[34]

Screen Australia believes there is an opportunity for a unified approach in attracting interrelated projects, rather than the existing production sector silos.

Additionally, Australian game developers struggle with self-funding full game development. Often developers are forced to financing agreements with international publishers whereby the publisher takes ownership of the copyright as well as retaining the bulk of any profits that the game generates.

[32] http://www.screenaustralia.gov.au/gtp/wnmgamesretail.html; and, http://www.screenaustralia.gov.au/gtp/mpgamesdevkeystats.html
[33] http://au.xbox360.ign.com/articles/108/1088951p1.html; and, http://au.gamespot.com/news/6183963.html?tag=other-user-related-content%3B5
[34] Game Developers Association of Australia, 'Submission to the Commonwealth Government: Review of Australian Government Film Funding Support', 2006; and, John Nicoll, 'A Matter of Strategy: Gaming and Government Subsidies in Australia', Metro Magazine, Issue 164, 2010.

While there are some state and federal support measures open to developers, these are not unique to the games sector. More importantly there is nothing as impactful as the Location and Producer Offsets to help developers claim a bigger portion of the sector's global growth from which to reinvest into original game ideas.

In 2005, Tantalus was one of the final two game developers selected by the North American publisher Midway to make the $10 million game for the Australian animated feature, *Happy Feet* (2006). Despite the geographic advantages, the contract was awarded to a Canadian company because Midway could access a tax rebate.

Australian developers face strong international competition, fuelled by government incentives offered in many territories, including Canada, United Kingdom, France, South Korea, Malaysia, Singapore, Taiwan and China.

The size of Canada's games sector indicates the success of a number of initiatives. There are currently around 240 game developers in Canada, employing more than 14,000 people. This has seen Canada surpass the United Kingdom as the world's third largest centre for production, behind Japan and the United States. Employment is forecast to grow by a further 29 per cent in 2011.[35]

The Canadian industry has benefited from both indirect and direct stimulus. Although there is some advantage in their geographic position near the US, this is limited, as particularly demonstrated in their film sector. However, Canada's approach to targeted tax credits and a complementary suite of investment programs has been recognised by other territories. In March 2010, the UK Government announced a proposal in their pre-election budget for a similar tax incentive to that offered to the film production sector.[36]

In addition to many direct funding programs, tax incentives are utilised by most Canadian provinces.

In 1997, Quebec lured Ubisoft to Montreal with a one-off 10-year package of tax incentives, including a 37.5 per cent tax credit on labour. It was soon expanded and is now the centrepiece of the province's ongoing support regime.

British Columbia initially benefited from the relocation of Electronic Arts following their acquisition of a local developer in the 1990s. It is now also home to studios for Nintendo, THS, Vivendi/Activision, Disney and Microsoft. However, in response to the GFC they introduced a 17.5 per cent tax credit in 2010.

Ontario recently modified existing expenditure-based for digital media production. Thresholds were reduced for game developers, offering a 35 per cent offset for fee-for-service and 40 per cent offset for standard production on qualifying expenditure.

As stated in *The Labour Party Manifesto 2010*, 'in every nation and region of Britain a wealth of creative talent – in industries ranging from film to fashion, design and video games – has flourished, and creative industries now account for 10 per cent of the national economy. The strength of Britain's film industry is a source of pride. Through Labour's film tax credit we have ensured that Britain – with its unique range of skills and facilities – is the right place to invest in film production… Subject to state aid clearance, we will introduce a tax relief for the UK video games industry.'

While the future of this initiative is uncertain with the recent change of government, it is again evidence of the economic benefits of a sustainable games sector.

The local sector has proven over the last decade that they can compete internationally with titles like Krome Studios' *Ty the Tasmanian Tiger* selling over two million units worldwide and more than 79 per cent of the sector's revenue received from overseas sources.[37]

However, Screen Australia can see many challenges facing the Australian games sector in the years ahead, among them escalating production costs and new technology like 3D. The issue of how to build a sustainable games sector will be ongoing. The current market structure and inability of Australian businesses to retain IP in the content they create will impede the development of market and negotiating power. Ultimately this will affect sustainability.

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[35] http://www.gamepolitics.com/2010/04/05/canada-we%E2%80%99re-number-three; http://www.pwc.com/CA/en/entertainment-media/tax-clip/bill-218-ontario-tax-credit-large-game-developers.jhtml; http://www.pwc.com/CA/en/entertainment-media/tax-clip/bill-218-ontario-tax-credit-large-game-developers.jhtml; and, http://www.develop-online.net/features/783/In-depth-Canadas-tax-system

[36] http://www.gamerlaw.co.uk/2010/03/uk-games-industry-wins-tax-break.html

[37] http://www.screenaustralia.gov.au/gtp/mpgamesdevkeystats.html; and, John Nicoll, 'A Matter of Strategy: Gaming and Government Subsidies in Australia', Metro Magazine, Issue 164, 2010.

The Producer Offset has assisted businesses such as Kennedy Miller, Bazmark, Animal Logic and Omnilab to develop commercially focused, internationally relevant content, which has provided opportunities for these businesses to become sustainable.

There are grounds for providing the same opportunities for the games sector.

One option for Government is to consider a hybrid Location/Producer Offset be made available to include games development. This offset could be set at 20 per cent with access to be governed by a modified SAC test, which would focus on the mechanical criteria and development, creative control and source of concept as opposed to the subject matter of the content (ie settings or characters).

ISSUE: The games sector is struggling to become sustainable.

Sources for box text:

http://au.xbox360.ign.com/articles/108/1088951p1.html

http://au.gamespot.com/news/6183963.html?tag=other-user-related-content%3B5

Game Developers Association of Australia, 'Submission to the Commonwealth Government: Review of Australian Government Film Funding Support', 2006

John Nicoll, 'A Matter of Strategy: Gaming and Government Subsidies in Australia', Metro Magazine, Issue 164, 2010

www.gamepolitics.com/2010/04/05/canada-we%E2%80%99re-number-three

www.pwc.com/CA/en/entertainment-media/tax-clip/bill-218-ontario-tax-credit-large-game-developers.jhtml

www.develop-online.net/features/783/In-depth-Canadas-tax-system

9. ATTACHMENTS

A. Issues raised as part of Screen Australia's industry consultation

B. *2010 Business Survey*

C Audience engagement: a snapshot from the *2010 Business Survey*

D. Currently active businesses by slate composition: a snapshot from the *2010 Business Survey*

E. Questions in the Review submission form

ATTACHMENT A: Issues raised as part of Screen Australia's industry consultation

Issue	Setting
There is a problem making 'mid-range' feature films.	Adelaide Roadshow Melbourne Roadshow
There hasn't been enough time to assess the impact of the Australian Screen Production Incentive, including the effectiveness of the Location, PDV and Producer Offsets.	Adelaide Roadshow
Thresholds for expenditure for documentaries should be removed.	Adelaide Roadshow
Screen Australia needs to be sufficiently resourced to assist documentaries.	Adelaide Roadshow
An option of raising per-hour thresholds for documentaries on the basis that Screen Australia receives additional funding to support lower cost productions should not be considered.	Adelaide Roadshow Brisbane Roadshow
SPVs, while possibly effective as a means of accessing the Producer Offset in a timely manner for feature films, does not work well for documentaries given the relatively high proportionate costs in administering.	Adelaide Roadshow
The requirement for feature films to have a theatrical release creates an imbalance in the relative negotiation position of the distributor compared to the producer. It is very hard to get access to cinema screens and therefore to access the 40 per cent Producer Offset.	Adelaide Roadshow Canberra Roadshow Sydney Roadshow
There is uncertainty surrounding QAPE.	Adelaide Roadshow
PDV Offset should be able to be adjusted against the currency so as to permit a consistent level of attractiveness.	Brisbane Roadshow
There should be a broader recognition of distribution beyond theatrical as the test of legitimacy for feature film (eg pay per view, innovative distribution).	Brisbane Roadshow Canberra Roadshow Melbourne Roadshow Sydney Roadshow Online forum
Expenditure threshold for feature films ($1m of QAPE) should be lowered to encourage more innovative projects.	Brisbane Roadshow Canberra Roadshow Melbourne Roadshow Sydney Roadshow
Telemovies should be their own category of content and receive a 30 per cent rebate. They would not need to have a theatrical release.	Sydney Roadshow
An absence of foreign expenditure is the main (current) issue affecting the sector.	Melbourne Roadshow Sydney Roadshow
There is a difficulty defining documentary as distinct from reality television for the purposes of the Produce Offset.	Hobart Roadshow
Documentary threshold should be raised to 40 per cent.	Hobart Roadshow

	Canberra Roadshow Sydney Roadshow
More funding should be provided for more innovative content.	Canberra Roadshow Sydney Roadshow
There should be an offset for games or other new media / innovative content.	Canberra Roadshow Melbourne Roadshow
There is a lack of private investment due partly by the removal of 10BA and a consequent call for its reprisal.	Melbourne Roadshow Sydney Roadshow
The Producer Offset should be one consistent level (40 per cent) for all content so that the issues of changing formats and distribution are reduced.	Melbourne Roadshow Sydney Roadshow
The post-production sector is struggling. The sector is highly competitive; producers can shop around to find businesses willing to do the work for little remittance. What may appear to be an appropriate budget amount for post-production during financing stage is being cut to low levels when the work commences.	Melbourne Roadshow Sydney Roadshow
GST should be included as QAPE expenditure for projects under $50m but not for projects over $50m.	Sydney Roadshow
A percentage of cinema ticket monies should be used to contribute to Australian content funding.	Sydney Roadshow

ATTACHMENT B: 2010 Business Survey

Screen Australia's survey of Australian screen production businesses (referred to throughout as the *2010 Business Survey*) was undertaken in April 2010. A link to the online survey was sent via email to 829 businesses that have been involved in producing feature films, TV drama and documentaries over the last 10 years, identified from Screen Australia's project databases.

The amount of time taken to complete the questionnaire averaged 26 minutes; 20 minutes was the time indicated by the largest number of respondents.

1. SURVEY OF AUSTRALIAN SCREEN PRODUCTION BUSINESSES

The purpose of this survey is to explore the idea of sustainable business as it relates to screen production.

The survey covers such things as your business activity, business culture, development activity, catalogue, ownership structure as well as employment and sources of income.

Aggregated conclusions drawn from the study will be used to inform the 2010 Review of the Australia Independent Screen Production Sector. We hope to be able to publish findings from this survey as part of our submission as well as use them to inform industry more broadly.

2. BUSINESS ACTIVITY

The following questions seek to understand the nature of your screen production business.

1. What is the structure of your screen production business?

- Sole trader
- Partnership
- Limited liability company
- Trust
- Other (please specify)

2. In what year did this business commence?

3. Have the founders or principals of this business previously been involved in another business that creates content (other than a Special Purpose Vehicle)?

4. If "Yes", in what year did the most experienced principal or founder start their very first production company?

5. Which of the following activities does this business also undertake, either as a business unit within this structure or through ownership of more than 25% of some other entity (tick all that apply)?

- Provision of post-production, digital or visual effects services to content creators
- Provision of other production services to content creators

- Film and video exhibition
- Broadcasting, free-to-air
- Broadcasting, subscription
- Games development & production
- Content distribution and rights management
- Other activities (please specify)

6. Which of the following does this business have (please tick all that apply)?

- An overseas office
- A dedicated website for your business
- Registered trademark and trading name
- Production and/or post-production equipment valued greater than $500,000
- Leased business premises (non-home based)
- Purchased business premises (non-home based)
- More than 25% equity in other businesses
- Annual marketing expenditure greater than $200,000 (other than project specific marketing expenditure)
- A line of credit
- A formal business plan that is up-dated periodically
- A board of directors that meets regularly
- An output deal
- A first look deal
- A non-executive director with financial/business expertise
- Joint ventures with domestic partners
- Joint ventures with international partners

3. OWNERSHIP AND PRIVATE EQUITY

This section seeks to understand the ownership structure of your business.

1. Which of the following groups own equity in this business (tick all that apply)?

- Founders
- Friends & family
- Venture capital funds or other private equity funds
- Business angels (independent)
- Business angels (syndicated)
- General public (ie public offerings)

- Government ownership in the business (as opposed to individual projects)
- Broadcasters
- Other screen industry businesses
- Philanthropic foundations
- Other (please specify)

2. Has any government agency provided specific funding for this business such as through a Producer Enterprise Scheme as a grant and/or loan (does not include project-specific funding)?

Yes/No

3. Have the founders or principals of this business ever raised private investment for any other venture (other than this one) through a business angel, venture capital, or Initial Public Offering (IPO)?

Yes/No

4. If “yes”, when was the most recent occasion?

Year funds raised?

5. How much was raised on that occasion?
- $0-$50,000
- $50,0001 - $100,000
- $100,001 - $500,000
- $500,001 - $1,000,000
- $1,000,001+

4. THE CULTURE OF YOUR BUSINESS

This section seeks to understand the general culture and focus of your business.

1. To what extent do you agree/disagree with the following statements:
- We budget for annual attendance at local and international markets.
- We undertake regular reporting on financial and key performance indicators for internal strategic purposes.
- In aggregate, production and development staff spend more than 50% of their time on the core business.
- We seek to acquire a non-executive Director because we believe this will enhance the performance of our business.
- In our experience, market research and testing detracts from the creative experience in producing content.
- We regularly meet with sales agents, distributors, broadcasters and other market participants even if we don’t have a film looking for finance or in production.
- We often analyse information about our competition and their productions in relation to our own.

- Supporting a strong personal vision drives success more effectively than trying to satisfy audience expectations.
- We always look for ways to re-purpose our content for different markets.
- We believe that the involvement of private investors in our business will enhance business performance.
- We spend a lot of time trying to confirm the existence of market demand for our content ideas and concepts before progressing to production.
- We are constantly updating our intelligence about the changing marketplace for our content.
- We actively gather information on audience trends, tastes, values and characteristics in order to help us decide what content to produce.
- We are actively involved in the marketing and promotion of our content to its final consumers.
- We pay close attention to the products and strategies that other production companies in Australia and abroad are developing and producing.
- We always use audience testing to help us design, produce and edit the content we create.
- Having a private investor actively involved in the operation and management of our business will lead to better business performance.

2. How relevant are the following in indicating the success of this business?

- Awards
- Domestic sales
- Favorable critic reviews
- Festival screenings
- Financial returns
- Future opportunities
- Sales overseas
- Size of audience (such as tickets sold, units sold, or number of visitors)

5. DEVELOPMENT ACTIVITY

1. How many of the following types do you currently have in ACTIVE DEVELOPMENT? (active development is defined as any project that will have had money spent on its development in 2009/10.)

- Feature films
- Factual/documentaries
- TV drama
- Children's TV drama
- Other TV content
- Short films
- Websites
- Content for mobile phones and other portable devices
- Games
- Other

2. Of these projects, how many are based on underlying rights such as novels, plays, sequels, etc?

- Feature films
- Factual/documentaries
- TV drama
- Children's TV drama
- Other TV content
- Short films
- Content for mobile phones and other portable devices
- Games
- Other

3. How much will you spend in total on development costs in the current financial year (please estimate for 2009/10)?

- $0-$50,000
- $50,001-$100,000
- $100,001-$150,000
- $150,001-$200,000
- $200,001+

4. Of the projects referred to as being in development above, how have you funded their development (tick all that apply)?

- Screen Australia funding
- State film agency funding
- Other Australian government funding
- Australian distributor
- US studio
- International distributor (other than US studio)
- Australian broadcaster
- International broadcaster
- Overseas film agency funding
- Internal business cashflows
- Private investors or angels
- Philanthropic funds
- Other (please specify)

5. If any development was funded by internal business cashflows, approximately what proportion of total development expenditure did this account for?

- Less than 10%
- Between 10% and 50%
- More than 50%

6. PRODUCTION ASSETS

This section seeks to gain an understanding of the size and characteristics of the content catalogue of your business.

1. How many projects of the following types does this business hold a percentage of COPYRIGHT in?

- Feature films
- TV drama
- Children's TV drama
- Other TV
- Documentaries/factual
- Games
- Content for mobile phones or other portable media
- Other content

2. How many projects of the following types does this business currently own EQUITY, from which it can derive royalties?

- Feature films
- TV drama
- Children's TV drama
- Other TV
- Documentaries/factual
- Games
- Content for mobile and other portable media
- Other content

3. Does this business currently have a TV drama series or serial in production?

Yes/No

4. Does this business currently have a TV documentary series or serial in production?

Yes/No

5. How has this production business or its founders cashflowed the Producer Offset (tick all that apply)?

- The Producer Offset has not yet been used by this business or its founders
- Internal cash reserves from the business
- A bank loan
- A loan from a credit provider set up specifically to cashflow the offset
- A loan from another registered credit provider
- A loan from a screen agency
- A loan from another production company
- Private funds loaned by a company principal
- A loan from private investors
- Other (please specify)

7. FACTORS IMPACTING YOUR BUSINESS

1. In the opinion of the principal or founder, how important are the following factors to the future growth of this business?

- Ability to attract funding or clients from overseas
- Ability to attract funding or clients from Australia
- Availability of skilled employees
- Cost of local crew and resources
- An early resource commitment to the marketing and
- distribution of products and services
- Availability of technology or resources
- The emergence of new delivery platforms
- Acquisition of new technology
- Other (please specify)

2. In the opinion of the founder or principal, to what extent are the following factors significant barriers to the future growth of this business?

- The ability to generate new sources of cashflow
- Taxation environment
- Securing a line of credit
- Attracting funds or clients from overseas
- Cost of technology or resources
- Gaining early commitment of marketing and distribution resources
- Exchange rate of Australian dollar
- Cost of domestic labour
- Cost of cashflowing multiple offset productions
- Regulatory environment
- Access to an on-going source of cashflow
- Strength of competition
- Attracting funds or clients from Australia
- Lack of locally available skilled employees

8. LABOUR & EMPLOYMENT

This section seeks to understand this business in relation to the people it employs.

1. What percentage of your total expenditure in the 2009/10 financial year would labour costs account for? Labour costs would include wages & salaries, superannuation, leave loadings, fringe benefits, payroll tax, and workers compensation.

2. Please provide number of all full-time, part-time and casual staff (including any PAYG freelancers regardless of the time employed and persons on fixed contracts with employee entitlements) for the last pay period ending 30 June 2010. Please estimate the last quarter.

3. Please estimate the number employed for the last pay period ending 30 June 2010

- Working proprietors
- Salaried directors
- Permanent full-time
- Permanent part-time
- Casual - include PAYG freelancers

4. How many freelancers/contractors with their own ABNs will this business employ as at 30 June 2010?

5. Please estimate numbers of the following employed as at 30 June 2010.

- Australian residents
- Foreign residents

6. How do you mainly staff the following activities? (In-house, outsourced to freelancers/contractors, mix of both in-house and outsourced)

- Administration/clerical support
- Accounting
- Legal
- Producers
- Writing and developing
- On-set production
- Post-production, digital and visual effects production
- Directing

9. REVENUE

1. In this current financial year, what percentage of business income do you anticipate will be earned from the following sources? (Please estimate up to 30 June 2010.)

- Royalties from screen content (including Screenrights income)
- Producer fees from the production of screen content (including overheads payable to the Production Company)
- Development fees from the development of screen content
- Income from the provision of production services (including post, digital and visual effects)
- Income from distribution and other rights management fees
- Export Market Development Grants
- Other income

2. If “Other”, what are the two most significant sources of this other income?

3. What percentage of the total income for the business was received from the following countries?

- Australia %
- North America %
- UK & Europe %

- Asia %
- Rest of world %

4. Of the income received from ROYALTIES noted previously, what percentage of royalties income was earned by the following types of screen content?

- Feature films %
- TV drama %
- Children's TV drama %
- Factual/Documentaries %
- Interactive media %
- Games %
- Other %

5. Of the ROYALTIES noted previously, please indicate what percentage of royalties income will be derived from the following territories in 2009/10.

- Australia %
- North America %
- UK & Europe %
- Asia %
- Rest of world %

6. Of the producer fees noted previously, what proportion will this business earn from the following project types?

- Feature films %
- TV drama %
- Children's TV drama %
- Factual/Documentaries %
- Other TV %
- Commercials %
- Corporate/Education/Marketing videos %
- Content for mobile phones and other portable devices %
- Games %
- Other %

7. What is the estimated revenue this business will earn in the 2009/10 financial year (please project forward to 30 June 2010)?

- $0-$100,000
- $100,001 - $500,000
- $500,001 - $1,000,000
- $1,000,001 - $2,000,000
- $2,000,001 - $10,000,000
- $10,000,001 - $20,000,000
- $20,000,000+

8. Do you anticipate that your business will earn an operating profit in the 2009/10 financial year?

Yes/No

9. What is the estimated profit as a percentage of revenue of this business for the 2009/10 financial year?

10. Did your business earn an operating profit in the previous financial year (2008/09)?

Yes/No/The business was not operating in 2008/09

11. Please estimate the total budgets for the following types of projects this business has or will commence production on in 2009/10?

- Feature films $
- TV drama (not including children's) $
- Children's TV drama $
- Documentaries/Factual $
- Other TV $
- Television commercials $
- Corporate/Marketing/Educational
- Video $
- Music video $
- Games $
- Content for mobile phones and other portable devices $
- Other content $

10. THANK YOU!

This is the final section of this survey.

Thank you for your participation.

1. How long did it take you to complete this survey?

2. Are there any additional comments you would like to make in relation to this survey or the Review?

ATTACHMENT C:
Audience engagement: a snapshot from the 2010 Business Survey

Cinema box office and television ratings provide indicators of audience engagement with drama and documentary content.

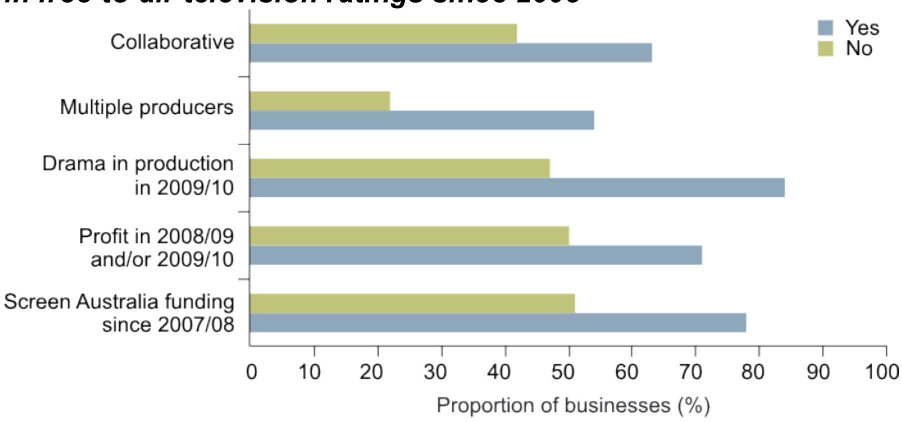
Eighteen per cent of respondents to the *2010 Business Survey* have produced a title reaching $1 million in box office and/or one million in free-to-air television ratings since 2005.

There appear to be some differences between businesses displaying this audience engagement indicator and those that do not.

Businesses that produced projects with these high audience numbers tend to show the following characteristics:

- have engaged in more collaboration with other producers
- have multiple producers as a part of their business structure
- are currently in production with a drama
- have earned a profit or expect to earn a profit in at least one of the last two years
- have had production or development funding from Screen Australia in the last three years
- tend to work with larger budgets
- are more likely than other businesses to earn over $2 million in revenue and a greater proportion of their total revenue from producer fees but earn less from the provision of production services (if they engage in these activities) than other businesses.

Businesses that have reached $1 million in box office and/or one million in free-to-air television ratings since 2005



Source: Screen Australia databases and *2010 Business Survey*

Businesses that have a title reaching $1 million at the box office and/or one million in free-to-air ratings since 2005

Characteristics		**YES** (no. = 41)	**NO** (no. = 192)
Consistency and collaboration			
% consistent producer		49%	31%
% businesses that have collaborated		63%	42%
% businesses with multiple producers		54%	22%
Profitability and income			
% businesses that have made a profit in last two years		71%	50%
% businesses with more than $2m revenue in 2009/10		21%	10%
% businesses with private investment		10%	8%
% of businesses with income from overseas in 2009/10		56%	56%
% of businesses that have received Screen Australia development or production funding since 2007/08		78%	51%
% of income from various sources			
Royalties	average	17%	15%
	median	10%	10%
Producer fees	- average	59%	45%
	- median	70%	45%
Production services	- average	24%	39%
	- median	10%	30%
Development fees	- average	20%	19%
	- median	10%	10%
Distribution	- average	11%	19%
	- median	10%	10%
Export market development grants	- average	16%	12%
	- median	10%	5%
Other sources	-average	30%	30%
	- median	10%	15%
Slate			
Average value of 2009/10 production slate		$14.6m	$5.6m
Median value of 2009/10 production slate		$10m	$625,000
% businesses in production with a drama		84%	47%
Time in business			
Average number of years in current business		13	11
Median years in current business		12	7
Average number of years in production of principal/founder		18.7	15.8
Median number of years in production of principal/founder		20	15

Source: Screen Australia database analysis of currently active businesses among the *2010 Business Survey* respondents

ATTACHMENT D: Currently active businesses by slate composition: a snapshot from the 2010 Business Survey

The table on the following page analyses the set of respondents to the *2010 Business Survey* that were categorised as currently active (with at least one feature film, TV drama or documentary in production in the last three years).

Responses to survey questions were combined with information from credits analysis from the Screen Australia databases to provide a snapshot of businesses and some of the characteristics identified via these two vehicles.

Businesses that made:	Features only	TV drama only	Docos only	Features & TV drama	Docos & features	Docos & TV Drama	Features, TV drama & docos	TOTAL
Number	**46**	**22**	**97**	**3**	**10**	**10**	**6**	**194**
Consistent production businesses[1]	22%	41%	37%	100%	50%	100%	83%	40%
Businesses with multiple producers[2]	26%	32%	23%	67%	40%	60%	67%	29%
Collaborative businesses[3]	54%	50%	36%	33%	60%	90%	33%	46%
Businesses in production in 2009/10	61%	45%	54%	33%	70%	70%	83%	57%
Business has made a profit in at least 1 of the last 2 years	35%	69%	59%	100%	60%	78%	80%	56%
Business has made a profit in both of the last 2 years	18%	56%	29%	100%	40%	44%	60%	33%
Business is audience engaging[4]	22%	18%	5%	33%	40%	70%	67%	18%
Business has professional investors[5]	14%	5%	7%	0%	0%	20%	17%	9%
Has had Screen Australia funding since 2007/08[6]	54%	45%	57%	67%	90%	80%	100%	60%
Business has received government funding specifically for the business (not project specific)	46%	32%	32%	67%	70%	70%	67%	41%
Business has accessed the Producer Offset	29%	33%	52%	0%	56%	20%	0%	40%
Business is an exporter (earns income from overseas)	62%	53%	53%	50%	50%	67%	60%	56%
Business has produced new media/innovative content	16%	20%	17%	0%	40%	44%	40%	21%
Business provides PDV services	27%	23%	32%	33%	20%	70%	33%	31%
Business provides other production services	50%	27%	55%	100%	70%	30%	33%	50%
Business is engaged in film & video exhibition	18%	0%	14%	0%	0%	0%	0%	11%
Business is engaged in games development	7%	9%	4%	0%	0%	0%	0%	5%
Business is engaged in distribution & rights management	32%	36%	23%	33%	20%	40%	67%	29%
Business earns royalties	62%	64%	74%	50%	80%	67%	100%	70%
Business earns producer fees	82%	73%	85%	100%	80%	89%	100%	84%
Income 2009/10: < $100,000	45%	31%	58%	0%	50%	11%	0%	46%
Income 2009/10: $100,001-$500,000	34%	31%	22%	50%	40%	22%	20%	28%
Income 2009/10: $500,001-$1,000,000	3%	13%	9%	50%	0%	0%	40%	8%
Income 2009/10: $1,000,001-$2,000,000	0%	13%	3%	0%	10%	11%	20%	5%
Income 2009/10: $2,000,001-$10,000,000	11%	13%	9%	0%	0%	33%	20%	11%
Income 2009/10: $10,000,001-$20,000,000	0%	0%	0%	0%	0%	11%	0%	1%
Income 2009/10: $20,000,000+	8%	0%	0%	0%	0%	11%	0%	3%
Av./median proportion of income earned from royalties	17/10%	18/10%	11/10%	3/3%	18/10%	20/5%	5/5%	14/10%
Considers emerging platforms important to their future	62%	26%	45%	67%	40%	40%	75%	48%
Av./median years of business operation	13/10 years	10/8 years	10/6 years	14/14 years	12/10 years	16/15 years	9/8 years	11/9 years
Av./median years since principal/founder set up first production entity	17/15.5 years	17/16 years	15/14 years	22/25 years	16/13 years	22/23 years	17/20 years	16/15 years
Av./median number of employees	55/5	46/25	12/5	12/6	14/3	216/75	28/6	37/5

Note: Percentages are based on the total number of businesses responding to a specific question. This may not necessarily be the same number of businesses listed at the top of each column as not all businesses answered all questions.
1. Businesses have been classified as ‘consistent’ if they have had a series and/or at least two one-off projects in production during the last three years.
2. Whether multiple producers are involved with the business.
3. ‘Collaborative’ businesses have worked with other production businesses and/or producers, including on international co-productions.
4. A business that is audience engaging is one that has produced a title that reached $1 million at the Australian box office and/or one million viewers on free-to-air television since 2005.
5. A professional investor is either a business angel, venture capitalist, private equity firm or equity investor made from an initial public offering.
6. Development and production funding only.

ATTACHMENT E: Questions in the Review submission form

Australian Independent Screen Production Sector

What does a sustainable production industry look like, recognising the need for public and private sector investment?

Is the current structure of the film and television production sectors sustainable?

When does a production company become viable? What level of production, for example number of films etc, is required to ensure a production company remains viable? Do production companies need to have multiple projects in progress to ensure viability?

What aspects characterise a production company that is 'investor ready'?

Based on your own experiences, how are production companies ensuring their long-term viability? What business practices/models are being used?

Are there differences in the business approach for film and television production?

Do production companies combine film and television work?

What other work is undertaken to supplement business activities (for example television commercials, emerging technologies, games etc) to ensure viability and sustainability?

The Producer Offset

Please describe specific examples of your experiences accessing the Producer Offset. Examples should provide information on the positive and/or negative impacts of the Producer Offset. Responses should also outline any unforeseen issues that arose and detail how these matters were addressed.

Please describe the impact the Producer Offset has had on business practices and methods for securing finance. This includes how the equity provided by the Producer Offset is being used to increase/access finance for productions, including private investment.

Please outline details of legislative aspects of the Producer Offset which have affected its ability to contribute to sustainable business.

Please provide details in relation to any administrative/operational issues encountered when accessing the Producer Offset and recommendations on how these issues could be improved.

The Location Offset

Please describe the impact of the Location Offset on production levels in Australia. Your response may also outline any additional factors which have affected production levels.

Please describe your experiences accessing the Location Offset. Examples should provide information on the positive and/or negative impacts of the

Location Offset. Your response should also outline any unforeseen issues that arose and detail how these matters were addressed.

Could you propose other means by which Australia could improve its attractiveness as a production location for large budget foreign productions?

Please provide examples of the impact of large budget offshore productions on the skills development and sustainability of businesses associated with the Australian independent screen production industry.

The Post, Digital and Visual Effects (PDV) Offset

Please provide comments on the operation of the PDV Offset, including its minimum expenditure threshold, and its effectiveness in attracting PDV work to Australia.

Please provide comments on the impact of the PDV Offset in improving the calibre of PDV skills and technology in Australia.

Australian Government Support Programs

Please provide comments on how the Australian Government's support, both direct and indirect, is assisting small through to large-scale screen production businesses.

Please provide comments on how state government support complements the Australian Government support programs.

Co-production & Free Trade Agreements

Please provide comments on whether the establishment of the Producer Offset has had any effect on how independent producers utilise film co-production arrangements to develop, finance and produce their projects.

Please provide comments on the effect of free trade agreements, in particular the Australia-US free trade agreement, on levels of Australian content on free-to-air and subscription television services.

Other Comments

Please provide comments on any other issues of relevance to the viability of the sector, consistent with the Terms of Reference.