

Screen Australia Draft Guidelines Documentary Programs: Stories that Matter

Comments from Northern Pictures

1. Introduction

Northern Pictures welcomes the opportunity to comment on Screen Australia's draft Guidelines for **Documentary Programs: Stories that Matter**.

The draft Guidelines have been released at a time when the primary sources of funding for documentary film makers in Australia (i.e. Screen Australia and the public broadcasters) are clearly under pressure. In this environment, it is our view that any changes Screen Australia makes to how it funds documentaries need to be structured in a way that:

- (a) Incentivizes producers to locate supplementary funding for their projects; and
- (b) Removes regulatory impediments to investments of this kind.

New Guidelines that achieve these objectives will help Australian documentary producers to build and maintain sustainable businesses and secure, at the same time, continued access to documentaries for our public broadcasters (and through them Australian audiences), at sustainable prices.

Our comments in this submission identify changes to the Screen Australia draft Guidelines and related regulation that support the two objectives referred to above.

2. Uncertainty around the new Guidelines

Northern Pictures acknowledges that changes to Screen Australia's existing documentary Guidelines will necessarily involve uncertainty and dislocation in the industry. Like others, we are concerned about the impact of this uncertainty on our business. We are also concerned that some of the detail surrounding the 4 programs described in the Guidelines appears to be at odds with Screen Australia's stated objectives. In some cases, the objectives themselves are unclear.

In our opinion, more analysis and consultation is needed to minimize disruption to the industry resulting from a change in Screen Australia funding practices.

While Northern Pictures will happily contribute to this further review process, we strongly recommend that the review is subject to a strict deadline that avoids postponing the introduction of the new Guidelines. The market stagnation that would inevitably result from any such postponement would have an even more paralyzing impact on the industry than the introduction of Guidelines that require subsequent amendment.

3. Recommended changes to the draft Guidelines

We have had an opportunity to discuss the draft Guidelines with other documentary filmmakers and agree generally with many of the points we understand they will make in their submissions.

In particular, we note the following:

- (a) *Notional allocation of funds between the 4 programs.* We recommend a reassessment of the notional allocation of funding between the 4 programs. We note, for example, that an allocation of \$2-4 million to projects funded under the Vision and Voice Program (**V&V Program**), where audience reach is not required, seems disproportionately high compared to the \$3-5 million in funding allocated to the Premium Documentary Program, where audience reach is assured under the terms of any Screen Australia contribution.

- (b) *'Meaning and Market Program' (M&M Program) minimum budget.* The draft Guidelines provide that the M&M Program will support medium to big-budget projects. However, the minimum budget required is \$250,000 per hour – the same as for the Producer Equity Program. A minimum budget of \$400,000 would be more in keeping with the real costs of producing medium to big-budget programs in Australia.
- (c) *Screen Australia maximum contribution for series under the M&M Program.* The M&M Program is the only new program described in the draft Guidelines that addresses the funding requirements for documentary series. Northern Pictures believes that series commissions are better suited to building a sustainable documentary production business than one off productions.

Currently, the maximum Screen Australia contributions to M&M Program projects are \$250,000 for a single episode program and \$600,000 for a series. At these levels, the caps act as a disincentive to the production of normal length series (3-4 hours) and promote single episode programs. To avoid this disincentive, we recommend raising the series funding cap to at least \$750,000.

- (d) *Premium Documentary Program (PDP) minimum budget and marketplace attachment.* Under the draft Guidelines, PDP funding requires a minimum budget of \$1 million per hour. This minimum is not reflective of the actual cost of the kind of programs we understand the PDP is intended to cover. We recommend reducing the minimum budget to around \$800,000 per hour to avoid the possibility that the budget threshold will falsely inflate production costs.

The PDP draft Guidelines also require a licence fee presale to a domestic broadcaster of at least \$200,000. The requirement for a domestic broadcaster presale greatly reduces producers' flexibility around funding for this kind of program, particularly for programs of international appeal. We recommend the domestic broadcaster requirement is replaced with a requirement for combined licence fee presales to domestic and/or international broadcasters of at least \$200,000.

4. Regulatory Impediments to Outside Funding

Northern Pictures strongly believes that, to survive cuts in funding to Screen Australia and the public broadcasters and maintain sustainable businesses, Australian documentary filmmakers need to operate in a global market. In order to do so, they must be flexible and efficient in how they finance their projects.

On recent projects with international broadcasters and distributors, the inclusion of Screen Australia as an investor has greatly increased the complexity of our funding arrangements - for reasons that are difficult to explain to contributors unfamiliar with Screen Australia and its policies. In some circumstances, this complexity has contributed to international investors losing interest in programs and series they might otherwise have funded.

Even without international participants in a project, the documentation surrounding a Screen Australia investment is among the most complex we have seen anywhere in the world and imposes a significant regulatory burden on producers, broadcasters and co-investors, that is on-going.

Against this background, it is unclear to us how the proposed new Guidelines interact with Screen Australia's Terms of Trade and the extra layer of funding regulation imposed under them. We note, for example, in the description of the V&V Program that "*There are no limits on the proportion of the budget that Screen Australia can contribute under this program*". We understand from this that paragraph 4.1 of the Terms of Trade does not apply to V&V Program projects.

The description of the M&M Program provides expressly, however, that "*Limits also apply to the level of direct funding as a proportion of the project's budget: these limits are set out in Screen Australia's Terms of Trade*".

The interface between the new Guidelines and Screen Australia's Terms of Trade is something that needs to be clarified as part of the further review of the Guidelines.

We note generally, however, that any benefits to be gained from introducing new funding models designed to increase producers' access to funding from other sources will be undermined unless they are accompanied by a comprehensive review to streamline the Terms of Trade and other regulation affecting public funding for the documentary industry.

5. Recommendations for Streamlining

In any review of how to reduce the regulatory burden that currently accompanies Screen Australia funding, the following matters should be taken into account.

- (a) *Terms of Trade limits on Screen Australia funding.* Paragraph 4.1 of the Terms of Trade currently provide that Screen Australia funding of documentaries is subject to an overall Federal Government funding cap of 75% of the project budget. Northern Pictures recommends this overall funding cap is removed, to help streamline the documentary funding process. In our view, the conditions under which Screen Australia agrees to give funding under each of the 4 programs it describes in the draft Guidelines give it sufficient protection against over-exposure to any given project.
- (b) *Grants vs Equity Investments.* We understand the policy objective for Screen Australia to take equity in film and television projects is to give Australian taxpayers a share in any commercial upside from the exploitation of a funded program. In reality, however, Screen Australia's recoupment from equity investments must be negligible and far outweighed by the cost to Screen Australia, producers and co-investors of managing their complexity.

The regulatory burden of managing equity investments has been recognised by funding bodies in Singapore and elsewhere, which fund documentaries by way of grant or rebate only. As more Australian documentary filmmakers turn to international markets for funding, they will be pitching programs in competition with other producers (who may or may not have received funding from their Governments), who will not be constrained by the complexity that accompanies equity investments by Government funding bodies.

Similarly, new funding sources that producers will be looking to tap under the new Guidelines regime (e.g. the expanded pool of licensees or investors entitled to give marketplace commitments under the M&M Program (e.g. foundations or institutions)) are unlikely to view documentary investments favourably if they take the same complex form as current Screen Australia equity investments.

For these reasons, we strongly recommend that all Screen Australia funding for documentary programs is by way of grant rather than equity.

- (c) *Producer Offset Investment.* Screen Australia's Terms of Trade require producers invest at least 85% of the Producer Offset in projects that receive Screen Australia funding. However, under a new Screen Australia regime that will require producers to be more flexible in how they fund their projects, producers should have a choice as to how much, if any, of the Producer Offset they contribute to a project.

Business sustainability will only be improved if producers are free to manage the Producer Offset in a way that best suits their business requirements at the relevant time.

- (d) *Screen Australia's 1% copyright.* Screen Australia's retention of 1% copyright in projects it funds is another layer of complexity for producers and other co-investors that should be removed. Screen Australia could achieve the same level of transparency as to how its funding is being used by way of contract.

We look forward to working with Screen Australia to finalise the new Guidelines.

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