

**SUBMISSION BY**  
**MEDIA, ENTERTAINMENT & ARTS ALLIANCE**  
**TO**  
**DEPARTMENT OF COMMUNICATIONS, INFORMATION TECHNOLOGY**  
**AND THE ARTS**  
**REGARDING**  
**REVIEW OF AUSTRALIAN GOVERNMENT FILM FUNDING SUPPORT**  
**AUGUST 2006**



**The Media, Entertainment & Arts Alliance**

The Media, Entertainment & Arts Alliance (Alliance) is the industrial and professional organisation representing the people who work in Australia's media and entertainment industries. Its membership includes journalists, artists, photographers, performers, symphony orchestra musicians and film, television and performing arts technicians.

## Executive Summary

The Media, Entertainment & Arts Alliance appreciates the opportunity to make a submission to the Review of Australian Government Film Funding Support.

This review is being undertaken at a time of considerable change and in the context of a large number of reviews, all of which have some bearing on the current review.

The two main issues raised in the Issues Paper for the current review are:

- What does the industry need to increase its chances of success and sustainability?
- What is the most appropriate mechanism or mechanisms through which to direct Government support to the industry?

The Alliance considers the first to be the most important issue.

During the first years of this century, the industry has been struggling. Finance mechanisms have not been sufficiently attractive to draw private sector investors in the numbers required to underpin the critical mass of production needed to retain the skills base and infrastructure necessary for a viable industry. And in the past two years, feature films that failed to excite audiences as they once did, cast a pall over the sector. However, views that the industry is failing because it doesn't understand or respond to its audiences have been dramatically turned around with recent successes like *Wolf Creek*, *Candy*, and *Little Fish*. And in recent weeks, *Jindabyne* and *Ten Canoes* have achieved the second and third highest per screen average of all films released in Australia at the time.

Throughout the 20<sup>th</sup> century successive governments recognised the important role the audiovisual industry plays in shaping and reflecting the national character and identity in all its ever-changing diversity. For a country with a population the size of Australia, government intervention has always and will continue to be needed in areas of market failure.

The Prime Minister expressed the position well in the lead-up to the 1996 federal election: "A constant challenge to our distinctive Australian cultural identity is the rising tide of global American monoculture. As with all things, we must maintain a sense of proportion but it represents more than a nagging concern. It represents a powerful reason for the maintenance of local content requirements, as well as continued public support, for the arts."<sup>1</sup>

The coming years will bring dramatic changes in the audiovisual landscape in Australia and around the world. The biggest changes will come with the transition from analogue to digital and the greatly enhanced access Australians will have to content along with the rollout of content streamed over the internet and other new delivery platforms.

For Australians to continue to have access to adequate levels of Australian content, the mechanisms underpinning support for the audiovisual industries need to be responsive. Consequently, this review is timely.

As Peter Costello noted when releasing *Australia's Demographic Challenges* in 2004, "The decisions we make today will affect the kind of Australia our children and grandchildren will live in. The time to start thinking about these issues is now. There is no need for panic measures. But there is a need for careful and determined policy. What we decide in the next few years will have a significant bearing on our quality of life and our children's future."<sup>2</sup>

At a time of unprecedented change in the media, the decisions made now will be critical.

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<sup>1</sup> *Politics and Patriotism, A Reflection on the National Identity Debate*, an address by The Hon John Howard MP on 13 December 1995 at the Grand Hyatt Hotel, Melbourne

<sup>2</sup> The Hon Peter Costello MP, speaking at the release of *Australia's Demographic Challenges* on 25 February 2004

Currently, there is unused capacity within the industry. Too many skilled and talented people, in whom successive governments have invested heavily through training and career development, are unable to earn a living in the industry. Australia's talent base is being eroded by those who have been forced to seek employment overseas or in other industries within Australia.

At the same, a line of credit provided by the Government for use by the industry has not been utilised to the extent envisaged by Government. There is unused indirect government subsidy. 10BA has been underutilised and the FLICs failed to drive the investment levels contemplated by Government. The mechanisms have not proved effective in driving the level of production required for a viable industry.

The industry is limping along – just. Now is the time to resource it for growth and success, rather than simply for existence. Now is the time to ensure that the indirect support mechanisms in place for industry and investors to utilise is designed so that they are useful drivers for growth.

A new financing model is needed. A model for the Australian film and television is needed that is as attractive as the Film Tax Offset Rebate has proved to be in respect of large budget productions.

The Alliance supports the retention of 10BA, along with 10B, for those producers and investors for whom it has proved workable together with the introduction of a new Australian Film and Television Production Rebate with the same eligibility criteria as 10BA that is effective to producers and investors alike.

Crucial to the health of the industry is the environment in which it exists. A mixed ecology is likely to result in the greatest diversity of outcomes and requires a mix of support mechanisms in which to thrive. To deliver on the Government's cultural and social objectives, it is essential that a diversity of voices are able to be heard. Just as there is no one audience in Australia but a range of audiences with a range of views about who and what it is to be Australian, the industry must allow for a wide range of voices able to speak to the diversity that is Australia.

To that end, any new model must address those formats that are subject to market failure, specifically feature films, mini-series, telemovies and documentaries, and accommodate a range of budget levels to ensure a diversity of output.

While attracting new investors to the industry is critical, the Alliance is of the view that there should be no reduction in the levels of direct subsidy currently provided by Government.

Just as importantly, the health of the film and television sector is dependent on the adequate resourcing of the public service broadcasters and the maintenance and enforcement of the Australian content standards on free to air commercial television. And finally, its future will depend, in no small measure, on the policy framework the government introduces in the transition from analogue to digital television and the rolling out of new delivery platforms.

While the Alliance considers the development of a new indirect support mechanism is the key issue raised in the Issues Paper, some finessing of the manner in which direct subsidy is channelled to the industry may also be appropriate.

## **Government support to Australia's audiovisual industry**

The Australian Government was one of the first anywhere in the world to recognise the power of the audiovisual industry. Successive governments have sought to foster a local industry that could tell Australian stories to Australian audiences. Whilst some initiatives have not been as successful as others, successive Prime Ministers recognised the need to address the outcomes of market failure.

The establishment of an independent high quality public broadcaster was the stand-out achievement of the first half of last century. The second half was identified by the recognition that free to air commercial television broadcasters had social and cultural obligations that accrued with access to spectrum and the need for government intervention if Australia was to produce feature films in an environment dominated by overseas studios, distributors and broadcasters. A history of government support to the industry is outlined at Attachment A.

The film industry that, for the most part, flourished since the Gorton Government introduced direct subsidy, struck darker times at the beginning of this century. The reasons are many but some date back to decisions taken in the late 1980s.

The tax driven investment climate made possible by the Fraser Government was overhauled by the Hawke Government. At the time the Australian Film Finance Corporation (FFC) was established in 1988, it was assumed, wrongly, that the market failure that had driven government intervention could be overcome.

The current Federal Government came to power and initiated a review into the funding for the film industry, that identified many of the problems we see today. David Gonski, who conducted the review on behalf of Government recognised that, in addition to the FFC, another financing door was required.

The model he proposed was amended and the outcome was effectively two lines of credit made available by Government to the sector – 10BA and the Film Licensed Investment Companies (FLICs) – that did not prove as effective as driving private sector participation as the Government had anticipated.

Internationally, the landscape was changing. The United States looked offshore to find a way to reduce costs of their own production and the phenomenon of footloose production emerged. Canada, Australia and the United Kingdom were early destinations of choice.

At first, the increase in production made possible by offshore production being attracted to Australia boosted employment opportunities and fostered skills enhancement. However, it increasing disguised problems that were emerging with the local industry.

By the turn of the century, many other countries were seeking a slice of the footloose pie. With an inadequate funding base for the local industry, ups and downs in the extent to which Australia was able to capture footloose productions revealed the Australian industry's shock absorbers were unable to cope with fluctuating employment levels and revealed the need for a new and more effective mechanism to drive private sector investment in local production.

Australian feature film production has been in decline since the time of the Gonski report on film funding<sup>3</sup>. While footloose production has increased in terms of the amount spent in Australia, it does not compensate for the fall in total numbers of Australian feature films being produced annually. Two large offshore productions might provide employment for two directors of photography. Ten Australian feature films will provide opportunities for ten. Typically offshore productions call on a skills base that in part cannot be utilised on Australian productions. Art departments on offshore feature films usually employ more than 250 people. Australian productions will have departments one tenth that size. Consequently, skilled are called upon that cannot be utilised in the absence of offshore production. Meanwhile, the employment opportunities for those with the core skills – the range of skills required on almost all productions – have dropped.

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<sup>3</sup> *National Survey of Feature Film and TV Drama Production 2004/2005*, AFC, available online at <http://www.afc.gov.au/nps/npsover.html> and reproduced on page 11 of this submission.

Similarly, the output of television drama hours has been in decline.<sup>4</sup> The changes to the format factor that were introduced following the review of the standard in 2002 which favour higher budget program formats over long form lower budget series and serials have impacted on the number of hours produced annually.

That the Australian content standard remains as essential as ever is highlighted by the fact that recent compliance results demonstrate the networks will not, of their own volition, willingly broadcast more adult and children's drama programs than that which is required – despite record profit levels and despite Australian commercial broadcasters being the most profitable of commercial broadcasters anywhere in the world.

According to research undertaken by Free TV Australia, “seven out of ten media planners and buyers believe that there are even more opportunities to engage with viewers on Free TV than there were five years ago” and “80% also agree that having ads on free to air television strengthens the performance of [their] campaign in other media.”<sup>5</sup>

Further, again according to Free TV Australia, more Australians, not less, are watching free to air television in 2006. Over the first six months of this year, “metro audiences increased seven per cent compared to the same period last year while regional audiences have increased nine per cent.”<sup>6</sup>

The combined downturn in television drama production and feature film production is eroding the skills base and underlying infrastructure and denying Australian audiences access to reasonable levels of stories that emanate from their own experience.

Ten years on from the review of Commonwealth funding conducted by David Gonski, the need for a viable mechanism through which to deliver indirect subsidy is as acute as it was then.

The intervening ten years have, however, provided lessons in what mechanisms do and do not work.

### **What options are there for stimulating growth in private investment?**

The Issues Paper seeks comment on:

- whether tax incentives are still an effective and appropriate mechanism
- the appropriateness of the current 10BA/10B schemes
- whether a tax incentive for producers should be considered instead of a tax incentive for investors
- the criteria which should apply for Australian participation in any incentive scheme, and
- any other models that might be effective in encouraging private investment.

In 1985 Division 10BA of the Income Tax Assessment Act (ITAA) was reviewed and, at that time, the Australian Film Commission (AFC) proposed four broad objectives that should be considered when assessing the efficacy of Division 10BA and alternative funding proposals. These objectives were widely endorsed by the film industry and remain as relevant in 2005 as they were in 1985. They were as follows:

- a fixed and provable maximum cost to government, with scope for modest annual growth;
- an agreed minimum benchmark level of production, in line with cultural and broadcasting objectives;
- differential treatment of eligible categories of production to take account of differences in market demand, production cost and revenue potential;
- a guaranteed period of operation of not less than five years.

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<sup>4</sup> *National Survey of Feature Film and TV Drama Production 2004/2005*, AFC, available online at <http://www.afc.gov.au/nps/npsover.html> and reproduced on page 11 of this submission.

<sup>5</sup> *Media buyers survey results*, The Power, Your Free TV Australia Newsletter, August 2006, see online at [http://www.freetvaust.com.au/newsltr/06\\_07/story01.html](http://www.freetvaust.com.au/newsltr/06_07/story01.html).

<sup>6</sup> *Ratings: More viewers tune in to Free TV in 2006*, The Power, Your Free TV Australia Newsletter, August 2006, see online at [http://www.freetvaust.com.au/newsltr/06\\_07/story05.html](http://www.freetvaust.com.au/newsltr/06_07/story05.html).

In 1987, the AFC published *Film Assistance – Future Options*. The four broad objectives set out above were again used as the benchmark against which to test possible options. That publication proposed the establishment of the so-called “Film Bank” that was to become the FFC.

This submission again looks to these four broad objectives in considering the efficacy of direct and indirect funding. Firstly, this submission looks at the history of the utilisation of tax incentives for film and television production in Australia in order to inform the way forward.

### **Division 10BA and Film Licensed Investment Companies**

The decision to use the ITAA as a vehicle for assisting the film industry and as an alternative to increased direct subsidies was announced in the lead-up to the 1980 federal election. In 1981, Division 10BA was created in the ITAA, allowing eligible capital expenditure on qualifying Australian feature films, documentaries, mini-series and telemovies to be tax-deductible in the year of investment. It was designed to recruit cautious private capital to a notoriously high risk sector. Investors were able to write-off film outlays against the income they earned in their usual occupations. This created what amounted to a safety net, protecting investors from the possibility of total loss.

Importantly, it was available for the program types considered by Government to be subject to market failure, namely feature films, documentaries, mini-series and telemovies. (Other television program formats considered subject to market failure are addressed by way of the Australian content standard for free-to-air commercial broadcasters and the appropriation that underpins the ABC and SBS.)

The expectation was that with a tax driven form of support to the industry:

- an orderly capital market for film and television would be created;
- a stable environment for film production would be guaranteed;
- links would be forged between filmmakers and the business community;
- investors would bring a commercial orientation to bear on the audiovisual industry;
- new services and facilities would spring up forming the infrastructure necessary to finance, produce, process and market film product;
- measured growth would result, held in check by legislative safeguards and the inherent limits of production capacity;
- over time the private sector would increase its stake and the industry would approach commercial viability with demands on government consequently declining

As a mechanism for recruiting private investment, Division 10BA was unquestionably successful. Annual feature film output almost doubled, from an average of 15 films in the 1970s to 27 films in the 1980s. During the 1970s, three mini-series were produced compared with fifty in the period October 1980 to July 1986. Despite the often heard mantra that the boom 10BA years were identified by roting and a proliferation of films that failed to find an audience, it is worth remembering that those years produced iconic work of which Australians are justly proud, work that told Australian stories to Australian audiences, many of which found international audiences – films like *Puberty Blues*, *Mad Max II* and *Mad Max – Beyond Thunderdome*, *Crocodile Dundee* and *Crocodile Dundee II*, *Ginger Meggs*, *Evil Angels* and *Careful He Might Hear You* amongst others, and it undoubtedly underpinned the golden era of television mini-series with work like *The Bangkok Hilton*, *Bodyline* and *Cowra Breakout*.

However, cost to revenue exceeded original projections. A preliminary estimate suggested a first year cost to revenue of \$2 million. According to Treasury estimates provided to the AFC, by 1982–3 the cost had reached \$60 million and by 1983–4, \$100 million. Consequently, in August 1983 the tax benefit was reduced with the effective subsidy being reduced to 80%. The reduction had no discernible effect. In 1984–5, investment reached \$185 million with a cost to revenue of \$155 million.<sup>7</sup>

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<sup>7</sup> Source: *Film assistance: Future options*, AFC, Allen & Unwin, 1987, page 6. Note, the cost to revenue estimates vary substantially from the amounts cited by the AFC in *Get the Picture* (see *Tax incentives – 10BA – Key statistics* at <http://www.afc.gov.au/gtp/mptax10bastats.html>) as the cost to

A second reduction in the tax benefit in September 1985 lowered the effective subsidy to 60%. This prompted the beginning of a downturn in private sector participation and consequently a reduction in the cost to revenue. By July 1987, the effective subsidy dropped further still to 40%.

<b>The investment equation</b>			
10BA Concessions	Marginal tax rate (%)	Amount at risk (as % of amount invested)	Break-even point (as % of amount invested)
150/50 (From October 1980)	60	10	10
133/33 (From August 1983)	60	20.2	20.2
120/20 (From September 1985)	60	28	40
120/20 (From July 1987)	49	41.2	61.6

Notes. The *Marginal tax rate* column shows the top tax rate for individual investors (excluding the Medicare levy). The *Amount at risk* column shows the proportion of an investor's outlay which is at risk after allowing for the initial tax write-off. The *Break-even point* column shows the level of pre-tax return required for the investor to break-even after tax. No allowance is made for the cost of money or for non-deductible expenses.

Source: *Film assistance: Future options*, AFC, Allen & Unwin, 1987, page 4.

An assessment of Division 10BA can be considered in two stages – the first being from its introduction until September 1985, and the second being from September 1985 onwards.

From 1981 to 1985, Division 10BA generated a massive increase in production output. The industry exploded and rather than limits to production capacity serving to restrict production, personnel with limited or no experience joined the industry to assist in meeting demand. (The problem was initially compounded by the need for a film to be completed and released within one financial year, a matter addressed in large part by an amendment allowing production to be undertaken within a two year period.) The cost to revenue appeared to be uncontrollable. Whether the cost to revenue would have continued or levelled out over time is a matter for speculation.

In 1985, the then Labor Government's desire to cap the cost to revenue (and in line with a long standing resistance to utilising tax incentives to assist industry) saw the subsidy for investors being lowered further and a total change in the landscape resulted. The original 90% subsidy was a safety net. Even at 80%, some investors had started seeking the precaution of presales. At 60%, investors could not be attracted without pre-selling film rights. However, when the subsidy was lowered to 40% in 1987, this precaution was no longer a viable option. Pre-selling a film to 60-65% has been achieved by only a very few films during the currency of 10BA financing and since. Although more common in television than programs made for theatrical release, pre-selling at these levels proved elusive for telemovies and mini-series.

Those investors who had been attracted to the industry all but evaporated, reflecting the underlying problems with 10BA as a financing mechanism. Investors were, put simply, indifferent to the business. They were buying a tax effective financial product. The attraction lay in the extent to which the investor could be protected from the risks of the business and the extent to which returns could be calculated in advance of investing.

Division 10BA had created a market model distinguished by the characteristics of debt finance – conservatism and an indifference to the borrower's underlying business – with none of the characteristics of capital investment – entrepreneurship and focussed on the business in question.

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government as taxation revenue forgone as a result of 10BA and 10B concessions given that the manner in which these costs has been calculated over the years has changed significantly.

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The response was, in 1988, the establishment of the FFC, an organisation designed to provide for the entrepreneurial application of government subsidy to the film and television industry and the lowering of the deduction to its current level of 100%.

The FFC is now the principal mechanism through which government subsidy is provided to the industry. Since 1988, total funds raised under 10BA have fluctuated yearly but have averaged only \$20.15 million.

Additionally, the Federal Government provided a total of \$63.4 million over three years (1995–96 to 1997–98) to the Commercial Television Production Fund to support the production of new television series with the caveat that programs so supported could not be counted as eligible programs for the purposes of satisfying compliance with the Australian content standard.

In 1996, the Federal Government announced that David Gonski would conduct a Review of Commonwealth Assistance to the Film Industry. He delivered his report in January 1997.

Gonski recommended that the Government continue to provide funds to the FFC and also recommended the establishment of Film Licensed Investment Companies (FLICs). In doing so, Gonski recognised the need for more than one “door” to be available to producers seeking finance. The FLIC model utilised 10BA funds but was constructed in a manner to make private sector investment more attractive and at the same time cap the level of foregone revenue for Government.

Specifically, Gonski recommended as follows:

“Licences would be granted to a limited number of companies (for example three) which have expertise in the development, production and distribution of film and television program productions. As part of the licence requirement, companies would be committed to participate in the types of productions such as those now defined under 10BA. In addition, the companies may be able to consider investment in innovative projects that extend the traditional boundaries of film and television.

“The licensed film investment companies would be permitted to raise a designated amount of concessional capital over a three-year period and companies could stage their capital raising over a period of time (for example by the use of a partly paid share with the deduction accruing only upon actual payment). Subscribers would be entitled to a tax deduction upon payment set at more than 100 per cent. It is suggested that 120 per cent would be an acceptable amount but that this figure be subject to further expert advice in regard to ensuring attractiveness of the concession to investors.”<sup>8</sup>

The FLIC proposal, if it had been adopted as proposed, would have substantially increased what Gonski referred to as “the funding envelope” available for financing production, would have been attractive to investors, would have introduced a level of interrogation, or “quality control” of the projects so financed, and, importantly, included a capping mechanism to ensure Government would know in advance what the cost to revenue would be.

Following the release of report, industry analysts suggested that, to attract investors, the deduction should not be lower than 128%. As indicated earlier, the lowering of the deduction and the exemption from 150% and 50% to 133% to 33% did not materially deter investors. Lowering the deduction and exemption to 120% and 20% did have an effect and the 10BA investment plummeted when the deduction was lowered to its current level of 100% and the exemption eliminated.

On 15 November 1997, the Minister announced the Government’s response to the review. Funding for the FFC would continue and the FLIC proposal would be piloted rather than adopted with the 10BA concession set at 100% and the existing 10B and 10BA arrangements would continue.

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<sup>8</sup> *Review of Commonwealth Assistance to the Film Industry*, David Gonski, January 1997, page 41.

In May 1998, the Film Licensed Investment Company Bill was introduced in Parliament. It provided for a pilot period enabling \$20 million per year to be raised under 10BA for a period of two years with a 100% deduction for investors. Productions were able to seek finance from both a FLIC and the FFC.

Notwithstanding the calibre of the principals of the two companies who were subsequently licensed, neither was able to attract sufficient private sector investors to fully subscribe. One, Content Capital Ltd, raised only \$6.14 million and the other, the Macquarie Film Corporation Ltd (managed by Macquarie Filmed Investments Pty Limited), secured \$16.26 million, a total of only \$22.4 million out of the possible \$40 million allowed by the legislation. The results confirm the experience of 10BA raisings since 1988 that a concession of 100% is not sufficiently attractive to drive significant levels of investment.

In the 2005–06 Federal Budget, the Government confirmed an extension to the FLIC scheme and the Film Licensed Investment Company Scheme Act 2005 was passed in June. The 2005 Scheme will allocate a single licence and the successful licensee will be able to raise up to \$10 million a year for two years, with the capital raised attracting a 100% tax concession. From 1 July 2007 the FLIC will be able to raise non-concessional capital. The Government anticipated that, if the full \$20 million were raised, foregone revenue would have amounted to a very modest \$8 million. In the event, like its predecessors, the FLIC was not fully subscribed.

The years predating the establishment of the FFC demonstrated most clearly that a deduction in excess of 100% is crucial to attracting investors. That conclusion is again demonstrated by the performance of the two FLICs.

History indicates that the deduction needs to be between 128% and 133%. However, as the market has changed considerably in the years since the concession was reduced to 100% and again since the Gonski Report, as recommended in the Gonski Report, expert analysis needs to be undertaken to establish the appropriate level of concession that would make 10BA an attractive mechanism for private sector investors. However, the recent changes to the marginal tax rate that came into effect in July will affect the level at which the concession should be set.

What is clear is that, in the main part, private sector investors are attracted to the industry only when the concession is sufficiently attractive. However, it is also clear that for a small number of producers 10BA remains an effective mechanism for financing productions, usually, but not always, by multi-funding with a mix of 10BA investment, FFC investment and market place attachments such as pre-sales or distribution guarantees.

### **Division 10B and the Refundable Film Tax Offset Scheme**

Since 1956, in accordance with Division 10B of the ITAA, investors have been able to write off the cost of industrial property over its effective life. In 1978, section 124UA was introduced to enable investors to write off their capital expenditure in Australian films over two years.<sup>9</sup>

Analysis of the benefits of 10B as a mechanism to foster investment in the film and television industry is made difficult because of a lack of data.

Information about the amount of money raised under 10B is not publicly available – only the number of 10B certificates that are issued.<sup>10</sup>

Further, the information available from the AFC is based on information provided by the Department of Communications, Information Technology and the Arts (DCITA) and the Australian Taxation Office (ATO). The only information provided in respect of 10B is the cost to government as revenue foregone and then only as an annual aggregated amount with the revenue foregone in respect of 10BA.

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<sup>9</sup> See DCITA discussion paper, *Film Tax Concession Schemes: 2005 Review of Divisions 10B and 10BA*, September 2005, page 8.

<sup>10</sup> Ibid.

Whereas 10BA is a concessional scheme designed to assist those Australian program types particularly susceptible to market failure – specifically feature films, documentaries, mini-series and telemovies – 10B is available to a far wider range of programs.

Uncertainty for investors in the late 1990s, particularly in respect of some large budget features like *Red Planet* and *Moulin Rouge*, led the Government to introduce the Refundable Film Tax Offset Scheme for large budget productions filming in Australia.

Depending on how much of a production's budget is expended in Australia, the tax offset can represent a cash subsidy of between 9 and 12.5% of the total budget of a production. Productions must spend at least \$15 million on qualifying Australian production expenditure (QAPE). For those productions with qualifying expenditure in excess of \$15 million but less than \$50 million, 70% of the total expenditure must occur in Australia. Productions with QAPE in excess of \$50 million automatically qualify.

Introduced in September 2001, by 30 June 2005, nine films had been certified eligible for the offset. QAPE totalled \$551,084,401 with a maximum aggregate benefit to production companies of \$68.88 million (12.5% of QAPE). The actual benefit, however, would depend on the individual companies' tax liabilities against which the offset amount is applied.<sup>11</sup>

The Alliance understands that for large budget film and television productions, the tax offset has proved remarkably effective. Its key attractions lie in its simplicity and transparency.

Since the early 1990s Australia has developed an international reputation as a destination for "runaway" productions. During the 1990s, the principal competition was from the United Kingdom and Canada, the latter consistently capturing the lion's share.

As can be seen from data compiled by the AFC, the number of foreign feature films has trended upwards for a decade but since the introduction of the Offset Scheme, the amount spent in Australia by foreign films has risen rapidly. Clearly, the Offset Scheme is delivering results in respect of feature films.

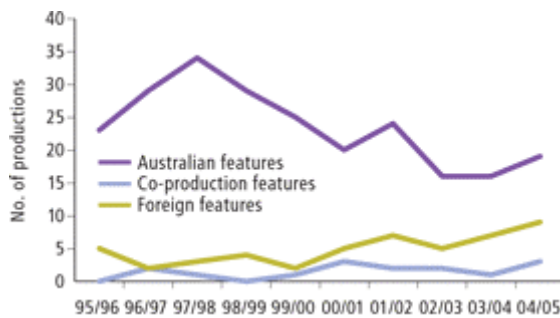
The same is not true for television drama production where the trendline is down for both the number of hours produced in Australia and the amount spent in Australia.

Canada continues to capture the majority of American runaway television production. However, as other countries looked at Canada's success, incentive schemes – used to such great effect by Canada – have been progressively introduced around the world. That trend has been followed by the introduction of incentives in a number of American states.

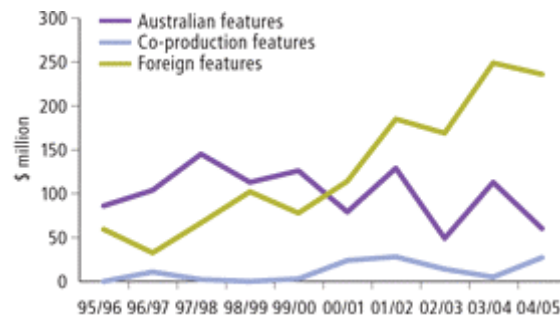
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<sup>11</sup> Source: *Get the Picture*, AFC, available online at <http://www.afc.gov.au/gtp/mptaxrtokey.html>.

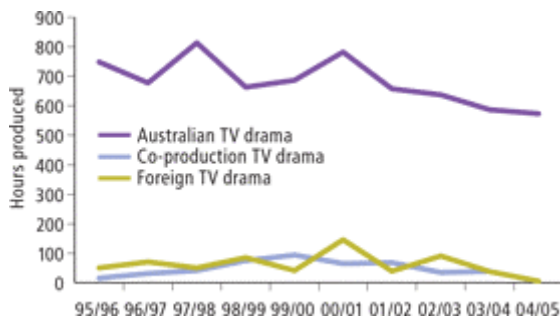
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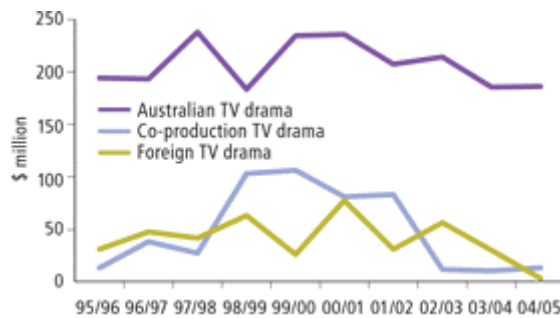
Spend in Australia by features



Hours of TV drama



Spend in Australia by TV drama



Source: *National Survey of Feature Film and TV Drama Production 2004/2005*, AFC, available online at <http://www.afc.gov.au/nps/npsver.html>.

Whilst the trendline for offshore features looks promising enough, the results are not as good as had been anticipated – the principal reason being the proliferation of incentives in other territories, notably in Eastern Europe which has captured a number of large budget American feature films in recent years.

When the Taxation Laws Amendment (Film Incentives) Bill 2002 was introduced in Parliament, the Explanatory Memorandum set out the Government’s expectations as follows:

The expected growth of foreign production in Australia is up to \$850 million in 2005-2006. This represents around 5 large scale films a year (with total average budget of \$120 million and average expenditure in Australia of around \$60 million), and a similar number of medium scale films (with a total average budget of \$50 million and average expenditure in Australia of around \$37.5 million). Beyond this time frame, this figure is likely to continue to grow, due to growth in average film production costs and some capacity increase in the Australian industry . . .

In determining the cost and benefits of this measure an assumption in relation to the expected uptake of this measure has been made as follows. Over the first 5 years of the offset’s operation, it is expected to apply to 6 big budget films in Australia each year, and 4 medium budget level productions.<sup>12</sup>

It was anticipated that cost to revenue over the five years 2001-02 to 2005-06 would be \$168.1 million.<sup>13</sup> It has, in fact, turned out to be in the order of \$111 million.

<sup>12</sup> *Taxation Laws Amendment (Film Incentives) Bill 2002: Explanatory Memorandum*, page 30.

<sup>13</sup> *Ibid*, page 3.

It appears that what was not anticipated was the manner in which other territories might implement similar schemes. Attachment B presents a 2005 snapshot of some of the incentives available internationally. Not noted is the Fijian tax offset scheme, which mirrors Australia's but with a dramatically lower threshold designed to attract television commercials in addition to television series and feature films.

Further, the options on offer continue to change. Attachment B refers to the sale and leaseback arrangements that were available in the United Kingdom. That scheme has now been replaced with a tax benefit based on 20% of the qualifying expenditure applicable to up to 80% of a production's total budget.

Additionally, other factors have had a bearing on the extent to which Australia has been a more or less attractive destination than other countries. The scheme was introduced eleven days before terrorists flew two planes into the World Trade Centre and one into the Pentagon and many American footloose productions consequently stayed home or ventured no further than across the border to Canada, eschewing flying where possible – as is again possible following heightened airline security in the wake of the events of August 10 this year. Health scares such as an outbreak of SARS also affected decisions about where footloose productions might locate. And significantly, with a price sensitive industry, currency fluctuations have had an impact – the Australian dollar has strengthened 34% against the American dollar since 2001.

The United States makes feature films and television programs with the largest budgets in the world. Consequently, the main game in offering incentives to attract offshore productions lies in attracting American productions.

The impact of incentives world wide on the American industry has been analysed by the Center for Entertainment Industry Data and Research (CEIDR) in *The Global Success of Production Tax Incentives and the Migration of Feature Film Production From the U.S. to the World – Year 2005 Production Report*, which was released this month.

CEIDR found that “In a period of less than seven years, the U.S. went from being the location of choice for the production of more than two-thirds of Theatrical Releases to the venue of choice for now less than 50%, measured both by production dollar volume and number of films. Even more significantly, during this same period the U.S. share of production for large budget films over \$50 million fell from 76% to 43%.”<sup>14</sup>

It also found that the percentage of American broadcast and cable telemovies and miniseries that filmed worldwide grew, as a percentage of total production grew “from a low of 11% in 1992 to a peak of 26% in 2001 and then fell to 16% in 2005.”<sup>15</sup>

Thus, the incentives offered in Australia to attract footloose production from the United States are operating in a very volatile landscape.

The offset scheme is currently being reviewed and the outcome of that review is to be taken into account in this current review of film funding.<sup>16</sup>

The Alliance recognises that simply making the Australian scheme more attractive than all others could result in a race to the bottom as other territories emulate changes here. However, it should nonetheless be possible to make adjustments to the current scheme that incorporate five years' experience with its operation and make it more effective in the face of international competition than is the case at present.

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<sup>14</sup> *The Global Success of Production Tax Incentives and the Migration of Feature Film Production From the U.S. to the World – Year 2005 Production Report*, Center for Entertainment Industry Data and Research, 2006, page 15, available online at [www.ceidr.org](http://www.ceidr.org)

<sup>15</sup> *Ibid*, page 19.

<sup>16</sup> *Review of Australian Government Film Funding Support*, Discussion Paper, DCITA, July 2006, page 4.

Whilst incentives are important in attracting large budget productions to Australia, just as, if not more important, is the health of the Australian local industry itself. It is the existence of a developed, sophisticated local industry with a highly skilled world-class workforce and infrastructure that has been the key to Australia being considered a viable destination for run-away productions. The health of the local industry itself is, therefore, central to the efficacy of any incentive to attract large budget productions.

### **Direct subsidy**

The need for direct subsidy for audio-visual programs was recognised by the Gorton Government with the commitment to establish the Australian Film Development Corporation which, as noted above, became the AFC.

Through the 1970s, direct subsidy was the mechanism through which the Government supported film and television. The Australian Film Commission Act 1975 sets out the kinds of programs eligible for support in Section 5.

#### **AUSTRALIAN FILM COMMISSION ACT 1975 – SECT 5**

##### **Functions of Commission**

(1) The functions of the Commission are:

- (a) to encourage, whether by the provision of financial assistance or otherwise, the making, promotion, distribution and broadcasting of Australian programs; and
- (b) to promote and distribute any programs; and
- (c) subject to the approval of the Minister, to provide financial assistance to a State or an authority of a State for the purchase by it of:
  - (i) Australian programs that are of an educational nature and of national interest or importance; and
  - (ii) rights in respect of any such programs; and
- (d) to encourage, whether by the provision of financial assistance or otherwise, the proper keeping of recordings in archives in Australia; and
- (e) to develop, maintain and preserve a national collection; and
- (f) to exhibit, or to make available for exhibition by others, items in the national collection; and
- (g) to make items in the national collection available to such persons and institutions, and in such manner and subject to such conditions, as the Commission determines.

(1A) In the performance of its functions, the Commission shall give special attention to the encouragement of:

- (a) the making of experimental programs and programs of a high degree of creativeness; and
- (b) the making and appreciation of Australian programs and other programs as an art form.

(1B) The Commission must use every endeavour to make the most advantageous use of the national collection in the national interest.

(2) The functions of the Commission specified in paragraphs (1)(a) and (b) may be performed either within or outside Australia.

(3) The Commission may carry out a matter within the functions specified in paragraph (1)(b) by commissioning a person to undertake that matter.

(4) The Commission may perform its functions to the extent only that they are not in excess of the functions that may be conferred on the Commission by virtue of any of the legislative powers of the Parliament, and, in particular, may perform its functions:

- (a) by way of expenditure of moneys that are available for the purposes of the Commission in accordance with an appropriation made by the Parliament;
- (b) by way of, or in relation to, trade and commerce with other countries, among the States, between Territories or between a Territory and a State;
- (c) for purposes related to broadcasting services;
- (d) so far as they relate to the collection of statistics;
- (e) for purposes related to external affairs; and
- (f) for purposes in relation to a Territory.

The AFC Act defines an Australian program as being a program that:

- (a) that has been made wholly or substantially in Australia and that, in the opinion of the Commission, has a significant Australian content;
- (b) that is to be made wholly or substantially in Australia and that, in the opinion of the Commission will have significant Australian content; or
- (c) that has been, or is to be, made in pursuance of an agreement or arrangement entered into between the Government of the Commonwealth or an authority of the Commonwealth and the Government of another country.

An Australian short film is defined as any short film that is an Australian program of which at least 80 per cent of the content in terms of duration has been made specifically for the film and excludes promotional films, commercials, news-reels, news-magazines and trailers.

During the 1970s, the AFC invested in feature films that became trailblazers for the renaissance of the feature film industry and state agencies, starting with the South Australian Film Corporation, followed suit.

With the success of films like *Newsfront*, *My Brilliant Career*, *Caddy*, *Sunday Too Far Away*, *Storm Boy* and *Picnic at Hanging Rock* domestically and internationally, the Government moved to increase the funding base for the industry with the establishment of 10BA.

The utilisation of the AFC's investment capacity changed over time responding to the new landscape including in response to producers' needs to finance non-deductible budget items when utilising 10BA investment.

With the establishment of the FFC, the AFC's investment capacity was focused more tightly on developing the careers of new and emerging filmmakers. The FFC focussed on providing investment to professionally produced programs subject to market failure – eligibility being the same as that set out in 10BA.

The FFC was to become, and continues to be, the principal vehicle through which direct subsidy was invested in the output of the professional industry with 10BA continuing as a “second door”.

### **A new production finance model for the future**

To date, the Government has supported the industry by way of direct support – direct and indirect subsidy, appropriation that supports training and archiving and appropriation that supports the national broadcasters – and indirect support – the Australian content standard for commercial free to air television, expenditure requirements imposed in respect of pay television and guidelines and regulation governing the circumstances under which people from overseas are able to work in Australia.

In considering how the Government might foster greater levels of television production, the following can be contemplated:

- Amending the Australian content standard for free to air commercial television broadcasters by increasing the subquotas or by varying the format factor in respect of adult drama programs.
- Utilising the currently unassigned television channels in the broadcasting services spectrum to underpin a digital action plan by licensing the spectrum to services that can effectively drive the take-up of digital services, specifically by licensing a fourth free to air commercial broadcaster subject to compliance with the Australian content standard and establishing a free to air national Indigenous television service.
- Removing the requirement to simulcast in both HDTV and SDTV and requiring the free to air commercial television networks to use one of the two digital signals currently utilised for the HDTV quota and the SDTV simulcast as a multichannel with Australian content standards that currently apply being imposed on the multichannel service.

- Allowing the provision of data-casting services to be a commercial rather than mandated decision.
- Removing the genre restrictions that are currently imposed on national broadcaster multichannelling, as the Government has already indicated it will do, and resourcing the national broadcasters in a manner that enables them to produce new Australian content for their primary and multichannel services.
- Continuing the imposition of licence conditions in key regional commercial television markets to provide minimum levels of content on matters of local significance.
- Increasing the ten percent expenditure requirement for predominantly drama pay television channels to 20 percent and introducing expenditure requirements for documentary, education, children's and arts channels.

For program formats subject to market failure that cannot adequately be addressed by regulation – documentaries, telemovies and mini-series – as well as feature films, a new financing model is required.

Whilst it is essential that direct subsidy continue, it is clear, as noted above, that the current indirect subsidy models are not working as effectively as they should.

10BA has not been accessed to the extent anticipated and the FLICS have not been fully subscribed. The Government anticipated what could be called a draw-down on available funds that has not materialized for work that is sorely needed if the production output necessary to create the critical mass needed to underpin a viable industry is to continue into this century.

Over the past decade the industry has grown and is able to accommodate the production of large budget offshore feature films and television programs. However, the industry cannot rely on a steady throughput of foreign production to underpin the local industry. Rather, the reverse is needed. The underpinning throughput of work should be local production.

The bumpy vehicle that industry practitioners have ridden in recent years with declining levels of local production and inadequate levels of offshore productions to compensate needs better shock absorbers. The industry currently lacks the shock absorbers needed for survival in a predominantly freelance industry. Too many actors and technicians need to look elsewhere for work – either overseas or in another career within Australia – to survive financially. Australia is losing a talent base developed over decades and developed with government assistance provided through training institutions and fostered with government subsidy. The decades of funding have delivered a world class workforce of actors, directors, writers and technicians. Actors like Geoffrey Rush, Nicole Kidman and Russell Crowe have enjoyed international careers, earned Academy Awards along the way and all have careers that were developed and fostered as a direct result of government support mechanisms for the industry. The same is true of cinematographers like Dean Semler, Russell Boyd, Andrew Lesnie and Dion Beebe – all Academy Award winners enjoying international careers fostered in the Australian industry. As we approach the transition to digital Australia is losing its talent base at the very time that it should be retaining it in anticipation of the opportunities for content creation that will appear when more spectrum becomes available.

And Australians are the losers. With declining hours of Australian drama and inadequate numbers of feature films, the Government is increasingly unable to deliver on its cultural and social objectives. Critical mass and a viable stable industry is essential if the Government is to deliver its cultural and social objectives and essential if Australians are to have access to a diversity of programs that emanate from their own cultural context.

Unlike when 10BA was introduced and the industry grew rapidly with new players entering the industry, today the production capacity exists to utilise the funding that will flow from the introduction of a new funding mechanism. The means to finance the productions to absorb the capacity is what is missing.

The options, therefore, appear to be as follows:

- Amend 10BA to make it more attractive by increasing the concession.
- Amend the FLICS to make them more attractive by increasing the concession.
- Continue 10BA as it is at present and introduce a new financing “door”.

It appears that increasing the 10BA concession to a level that would find favour with investors will not find favour with the Government – as indeed it did not find favour with the Labor Government that wound the concession back from 150% to its current 100%.

That leaves the option of continuing 10BA at its current 100% concession and introducing another mechanism of support.

Any new mechanism needs to:

- Accommodate program formats subject to market failure that cannot be addressed by other measures such as regulation – as is the case with direct subsidy and 10BA
- Be easily understood, certain, transparent and accountable
- Be able to contribute to overall modest industry growth over time, say ten per cent per annum

The Alliance considers that a model could be based on the existing Film Tax Offset Scheme for large budget productions.

A separate scheme could be designed for eligible Australian programs – feature films, telemovies, mini-series and documentaries.

The Alliance suggests that such a scheme should be distinguished from the existing Tax Offset Scheme to avoid confusion both domestically and internationally. The new scheme for eligible Australian productions could be called the Australian Film and Television Production Rebate.

The Alliance is not in a position itself to undertake the modeling that is required to establish exactly what the offset/rebate should be but understands that a workable model would incorporate the following:

- Like the current Tax Offset for large budget productions, the rebate would flow to the producer, not the investor.
- In line with the views of industry, the rebate would need to be in the order of 40%.
- The rebate would be available for eligible Australian programs – the current eligibility criteria for 10BA would be appropriate.
- Producers would have the capacity to access both 10BA and the rebate but not the FFC nor other direct subsidy.
- Qualifying expenditure thresholds for drama productions would need to be set at \$1 million for feature films, \$800,000 million per television hour for mini-series and telemovies and \$250,000 for documentaries.
- The rebate would be available to independent producers and not accessible by broadcasters.
- The rebate would need to be administered by DCITA.
- The rebate would not be capped.
- Certainty for at least five years.
- Review of the program at an appropriate time, preferably five years from the program coming into operation.

The Alliance considers that were the Government mindful of including other program formats, any such extension should only be where market failure can be demonstrated.

To that end, consideration could be given to extending the rebate to television drama series that are produced additional to that required for the satisfaction of the Australian content standard – as was the case with the administration of the Commercial Television Production Fund. Consideration would need to be given to what an appropriate threshold for qualifying expenditure might be.

There has been discussion regarding whether games and other program types should be able to access 10BA or any new funding model. 10BA and direct subsidy have always been driven by the need to address how program formats subject to market failure might best be supported in order to ensure the cultural and social objectives of successive governments could be satisfied. Since its inception, 10B has been available for a very wide range of program types not necessarily subject to market failure.

The Alliance is loathe to see new funding mechanisms or existing mechanisms that are in place for cultural and social reasons drawn on in the absence of market failure. There may well be many games that will satisfy such an objective. However, it is likely that there are many that will not – for instance, it is difficult to see how a game that sets the player against a software program in a game of ping pong or patience would justify support for cultural and social reasons. Similarly, if eligibility criteria are drafted too broadly, and could encompass gaming, for instance, it would be hard to justify either on the basis of market failure or as being in the social and cultural interests of Australia.

The Alliance considers the advantages of the proposed Australian Film and Television Production Rebate to be:

- Like the Film Tax Offset Scheme, it is simple to understand, transparent and accountable.
- The benefit flows to the producer, thus allowing the producer to have more control over the production and over on-going income streams, essential if producers are able to move from being “suitcase” producers working from one project to the next and be able to build their businesses.
- Unlike a licensed model that invests in slates, it does not unduly favour vertically integrated companies over smaller companies.
- It offers a viable “second door” to direct subsidy investment.
- Given current unused capacity in the industry, it is unlikely to lead to the kinds of blow-outs that followed the introduction of 10BA, rather it will serve to retain under-utilised labour and infrastructure.
- It will favour industry professionals with the capacity to raise the balance of the finance required for production over new players.
- It has the capacity to accommodate steady industry growth over time.

#### **A new development finance model for the future**

Central to the success of any audiovisual industry is the strength of the work on which productions are based, namely the scripts. The more fully developed the script, the better the chance a production has of finding resonance with its audience.

Australia has struggled for years with an inadequate funding pool for development. The importance of research and development has long been recognised in other sectors and the Alliance considers that it is appropriate that script and project development is recognised in the audiovisual industry. As is the case for other sectors, the introduction of 125% tax deduction for development is overdue.

#### **What is the most appropriate model and structure for direct Government support to the film industry?**

Currently, the Federal Government provides assistance through a number of agencies, namely:

- Australian Film Commission (AFC)
- Film Finance Corporation Australia (FFC)
- Film Australia
- Australian Children’s Television Foundation (ACTF)
- Australian Film Television and Radio School (AFTRS)
- National Institute of Dramatic Art (NIDA)
- AusFilm
- National Film and Sound Archive (NFSA) – now part of the AFC

Some assistance is provided to multi-media productions through the Australia Council.

The Issues Paper seeks comment on how direct subsidy might best be delivered.

Whilst the Alliance considers the agencies listed above are currently operating effectively, consideration could be given to some restructuring. Whilst the current model works, there are other models in different jurisdictions.

Attachment C is an overview of how the UK Film Council operates. It is effectively an umbrella organisation. Whilst there are marked differences between the audio-visual industries in Australia and the United Kingdom – most particularly the dominance of the BBC in the United Kingdom by comparison with the role that the ABC is able to play in Australia – the UK Film Council does provide a possible model.

The AFC provides development assistance both in terms of script and project development and career development. It affords opportunities to new filmmakers by investing in low budget productions. It also undertakes research and analysis, assists in developing policy, fosters screen culture and assists in marketing of productions internationally. The FFC invests in feature films, telemovies, documentaries and mini-series. Ausfilm promotes Australia as a location in which to undertake film production and, in so doing, markets Australia to the international industry.

Merging the functions of the three organisations would result in a model similar to the UK Film Council with the notable exception that the UK Film Council embraces the development of training strategies, but not their delivery.

Whilst the synergies that might be achieved by the three organisations working more closely together could bring benefits to the industry, the Alliance does not believe that money would necessarily be saved. To the extent that savings could be effected, if any, such savings should be directed to further supporting the industry.

The Alliance believes there is no merit in placing either of the training institutions – the AFTRS or NIDA – within a merged organisation.

In reviewing the manner in which the Government delivers direct subsidy to the industry, the Alliance considers the following principles to be fundamental:

- the organisation/s must be independent and at arm's length from Government
- remain under the Commonwealth Authorities and Companies Act 1997
- utilise and be staffed with personnel with industry expertise
- consultation with industry in respect of any proposed restructure

However, the Alliance considers the priority issue identified in the Issues Paper for this review is that of broadening the private sector funding base for the industry.

## ATTACHMENT A

### Government support to Australia's audiovisual industry

The 20<sup>th</sup> century was undoubtedly the information century. Once the preserve of the few, access to information, first revolutionised by the printing press, was transformed by the advent of film, radio and television and, as the century drew to a close, by the internet and mobile telephony. This century, the first decade of the information revolution of the past 100 years will be driven by the rollout of digital services across the world.

The 20<sup>th</sup> century dawned with film in its infancy – cameras had been rolling and footage had been projected for a mere six years. At first a novelty, it was not long before people began to grasp the potential of the medium. Australia's long history of ethnographic film-making was up and running by 1898 when Alfred Cort Haddon filmed Torres Strait Islanders on Murray Island.

Since Federation, the Commonwealth Government has recognised the power of cinema and sought to use the medium to the advantage of the nation. From 1901, the Government commissioned companies such as Pathé Frères and the Limelight Department of the Salvation Army to produce documentaries and record events of significance.

In 1911, the Government engaged a full-time Commonwealth Government Cinematographer and Stills Photographer with a general brief to travel Australia and record anything of interest. During the following 40 years, responsibility for the Commonwealth's film production output changed from one department to another. After World War II, the Government established the Australian National Film Board, an entity that many years later became Film Australia.

Various governments sought to foster Australian film production especially after the advent of the 'talkie' in 1928. In NSW, the Cinematographic Act was introduced to afford the industry some protection from the onslaught of British and American distributors. That that Act proved ineffective (because of the way it conflicted with states' rights prescribed in the Constitution) is not material – what is material is that successive governments have all recognised the cultural significance of the medium and have acted to support a viable indigenous industry for social and cultural reasons.

Today's National Film and Sound Archive was born with a Cabinet decision in 1935 and started its work as the National Historical Film and Speaking Record Library (part of the then Commonwealth National Library). It was established as a separate Commonwealth collecting institution in 1984 and housed within the Australian Film Commission (AFC) in 2004.

In 1959, the National Institute of Dramatic Art opened its doors to students and in 1973 the Australian Film Television and Radio School was established "as part of the Commonwealth Government's strategy to promote the development of Australia's cultural activity."<sup>17</sup>

The Gorton Government established the Australian Film Development Corporation (AFDC), the precursor to today's AFC, to provide support to an indigenous industry. In South Australia, Don Dunstan established the South Australian Film Corporation and other state governments followed suit.

In 1978, the Commonwealth Government amended the Income Tax Assessment Act (ITAA) to allow investors to write off capital expenditure in Australian films over two years and in 1981 introduced indirect subsidy by way of Division 10BA of the ITTA.

With the cost to revenue considered too volatile, in the late 1980s the then Labor Government established the Australian Film Finance Corporation (FFC) with a view to that organisation becoming the principal vehicle through which government subsidy would be made available to the industry.

In 1982, the Australian Children's Television Foundation was established with funding from the Commonwealth Government and all state and territory governments.

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<sup>17</sup> Australian Film Television and Radio School, see online at <http://www.aftrs.edu.au/index.cfm?objectid=2DCE2833-D0B7-4CD6-F909264F0625CA27#1>

The current Commonwealth Government introduced Film Licensed Investment Companies (FLICs) in response to the recommendations made in the 1996 Review of Commonwealth Assistance to the Film Industry conducted by David Gonski.

During the 1990s Australia had become an attractive destination for productions “running away” from the United States in an endeavour to reduce production costs. In 2001, the Government introduced the Refundable Film Tax Offset Scheme to entice large budget productions to locate in Australia, an initiative that was designed to increase the levels of employment in the industry and to enhance skills development by providing opportunities on productions that Australians might not otherwise be able to access.

Similarly, governments have “sought to harness the power of broadcasting to achieve social, cultural and educational objectives, and to minimise its scope to do harm, particularly to children”<sup>18</sup>.

Radio was introduced to Australia in 1923 and over the course of the 20<sup>th</sup> century developed from the crystal set to the walkman, from a delivery platform that dominated the lounge room where family members gathered to listen in silence to a delivery platform as mobile as the listener.

Prime Minister Joseph Lyons inaugurated the Australian Broadcasting Commission on 1 July 1932. With 12 stations, the ABC from the outset broadcast a wide range of programs. While almost half of all programming was music, drama was performed live with all 36 of Shakespeare’s plays being produced and broadcast between 1936 and 1938. Support for Australian artists was an early priority with competitions to encourage Australian dramatists commencing in 1934 and the establishment of studio broadcasting orchestras in all states commencing in 1936.

The first journalist was hired in 1934 and the first Federal News Editor in 1936.

Australia’s first short wave radio broadcasts overseas were in 1939, firstly to Papua New Guinea and the Pacific and then, as war engulfed Europe, *Australia Calling* sent wartime messages in several languages. When Japan entered the war, *Australia Calling* broadcast to Australian troops both in Europe and in the countries to our north.

The *Australian Broadcasting Act* was passed in 1942. After the war, the ABC expanded its news department and in 1947 its independent national news service was inaugurated.

Amendments to the *Broadcasting Act* in 1948 changed the finance base for the ABC from reliance on licence fees to government appropriation.

The following year, Prime Minister Chifley committed the Government to introducing television. The incoming coalition Government under Prime Minister Menzies approved the ABC’s request to plan a television station in Sydney. In 1953, a *Television Act* was introduced that provided for a national network of television channels and the issuing of licences to commercial stations. The Royal Commission established to consider the implementation of the Act recommended that two commercial licences be allowed in both Sydney and Melbourne as the first two cities to receive television.

TCN-9 was the first to broadcast television in Australia in September 1956, followed in November by the ABC, just in time for the coverage of the 1956 Melbourne Olympic Games. From 1960, the ABC broadcast to all states.

From the 1960s, the commercial free-to-air broadcasters were required to broadcast certain mandated levels of Australian content. Those requirements have increased over time and are designed to ensure that whilst the television market is an open one, Australians have sufficient access to programming that emanates from its own cultural context.

By 2000, the ABC network comprised four national radio services, one national television service, nine metropolitan and 39 regional radio stations together with a comprehensive online service.

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<sup>18</sup> *Broadcasting Inquiry Report*, Productivity Commission, Report No 11, 3 March 2000, page 7.

In 1975, the Government initiated a review of Australia's broadcasting system which had been, since 1932, a dual system comprising one national service alongside commercial networks. The resultant report, *Australian Broadcasting: a report on the structure of the Australian broadcasting system and associated matters* (The Green Report), found that the value of a broadcasting system depended entirely on its ability to serve the diversity of interests in the community.

The Report's recommendations led to the establishment of the three tier broadcasting system we have today: the national service comprising two public broadcasters, the commercial services and the community services.

To the national service was added the Special Broadcasting Service in recognition of the multicultural nature of the Australian community. What began as radio stations 2EA in Sydney and 3EA in Melbourne, broadcasting 4 hours a day in 8 languages is now SBS Radio, broadcasting 650 hours weekly in 68 languages.

Established in 1978 under the *Broadcasting Act 1942*, SBS was incorporated under the *Special Broadcasting Service Act 1991*. SBS Television commenced in 1980 and now broadcasts programs in 60 languages.

Concerned that the commercial networks were not adequately catering for some sections of the community, the Government established community broadcasting.

While the national services are publicly funded and the commercial broadcasters operate for profit relying on advertising revenue, the community broadcasters are not-for-profit organisations, reliant for the most part on a volunteer workforce.

By 2000, there were 158 permanent community radio licensees, 137 temporary community radio licensees and eight community television licensees, in addition to some 100 permanent and 40 temporary Indigenous radio and television licensees.

As indicated above, from the time television was introduced, the Government was committed to ensuring a certain amount of transmission hours were quarantined for Australian programs, recognising the social and cultural obligations that accrue with access to spectrum. The ABC's functions and responsibilities are set out in the Charter of the Corporation [s6(1) and (2) of the *Australian Broadcasting Corporation Act 1983*] and the Charter of the SBS is to be found in section 6 of the *Special Broadcasting Services Act 1991*. The Broadcasting Services Act imposes overall transmission quotas and program specific sub-quotas on the commercial networks and the obligations of the community broadcasters are licence specific and otherwise covered by codes of conduct.

The 1990s saw the introduction and burgeoning of the internet. The ABC acted quickly to establish a web presence that is arguably one of the most sophisticated media web sites in the world. Its audience appeal is evident from its usage. In May 1999, there were 2.5 million page impressions weekly. Two years later the figure was 10 million impressions weekly.

That decade also saw the introduction of pay television. Unlike free-to-air television, the only local content requirement in pay television is a ten per cent expenditure requirement in respect of predominantly drama channels. However, the Government has the capacity to increase the expenditure quota in respect of predominantly drama channels to 20 per cent and introduce expenditure requirements in respect of documentary, arts, children's and educational channels.

The 21<sup>st</sup> century started with another significant milestone in the history of broadcasting with the five free-to-air broadcasters (the three commercial broadcasters and the two public broadcasters) commencing digital transmission in the five metropolitan markets, obliged by legislation to extend digital broadcasting to regional markets by January 2004.

The legislation required simultaneous analogue and standard definition television (SDTV) broadcasts with minimum levels of high definition television (HDTV) required from the beginning of 2003.

Existing analogue services are to be maintained until the end of 2008 and no new commercial licences can be issued before the end of 2006.

Unlike many previous developments in broadcasting, the general public has not, to any meaningful extent, noticed the change and is unlikely to for some time to come. As Australia opted to mandate the broadcasting of HDTV rather than adopting a digital framework that would have facilitated the introduction of a greater range of new services, it will be some years before the multiplicity of options increasingly available to viewers in other countries will become a reality here.

The legislation provided for new datacasting licences for datacasting services that can deliver content in the form of text, data, music, speech and visual images but not in such a manner that might constitute a de facto broadcasting service.

Commercial broadcasters are barred from multichannelling (except in limited circumstances) although program enhancements are allowed provided that they are simultaneous and do not constitute a multichannel.

The ABC and SBS were able to multicast certain programs – regional, educational, science, arts and cultural, children's, history, foreign language news and ABC produced international news. However, the Government has now announced that the genre restrictions are to be lifted.

The Government is currently reviewing its transition to digital policy and it is hoped that the outcome will facilitate the take-up of digital and be driven by enabling consumers to have access to a greater range of content than is currently the case.

As can be seen, successive governments have worked to ensure that Australians have access to a diverse range of audio-visual programs that emanate from and reflect the society in which they live. The mechanisms by which the audio-visual industry has been fostered by Government cover training, development, production, marketing, broadcasting and archiving.

ATTACHMENT B

UNITED STATES OF AMERICA		
State	Type	Amount
Florida	P.R. <sup>5</sup>	5%
Hawaii	P.T.C. <sup>**6</sup>	4%
	I.T.C. <sup>**2</sup>	100% film investment credit
Illinois	L.T.C. <sup>**4</sup>	25% on 1 <sup>st</sup> \$25,000 wages Hotel tax exemption
Louisiana	L.T.C. <sup>**4</sup>	10-20%
	I.T.C. <sup>**2</sup>	10-15% investment
Missouri	P.T.C. <sup>**6</sup>	50%
New Jersey	Loan Gty	30% of private loans
New Mexico	P.T.C. <sup>**6</sup>	15%
	Loans	100% finance loan
New York	P.T.C. <sup>6</sup>	10% 5% New York City
Rhode Island	P.T.C. <sup>**6</sup>	25%
Oklahoma	P.R. <sup>5</sup>	15%
Oregon	P.R. <sup>5</sup>	10%
Pennsylvania	P.T.C. <sup>**6</sup>	20%
South Carolina	L.R. <sup>3</sup>	5%
	T.C. <sup>**8</sup>	20% of investment in Prodcos
Utah	P.R. <sup>5</sup>	10%
Federal	T.D. <sup>9</sup>	100% deduction

Unless otherwise specified, the incentives are calculated or based on expenditures made in the applicable jurisdiction. Not all details concerning the incentives are included for summary purposes.

- \* Refundable
- \*\* Non-Refundable
- † Announced but regulation pending
- †† To come into force in June 2005. Current regime is a 100% tax deduction
- 1 CCA: Capital Cost Allowance

CANADA		
Province	Type	Amount
Alberta	Production Grant	20% of Prod. Costs
British Columbia	L.T.C. <sup>*(Content)<sup>4</sup></sup>	30%†
	L.T.C. <sup>*(Prod Services)<sup>4</sup></sup>	18%†
Manitoba	L.T.C. <sup>**4</sup>	35%
New Brunswick	L.T.C. <sup>**4</sup>	40%
	Equity Investment	\$400,000.
Newfoundland & Lab	L.T.C. <sup>**8</sup>	40%
	Equity Investment	Max 25% budget
Nova Scotia	L.T.C. <sup>**4</sup>	30%
Ontario	L.T.C. <sup>*(Content)<sup>4</sup></sup>	30%†
	L.T.C. <sup>*(Prod Services)<sup>4</sup></sup>	18%†
Prince Edward Island	Equity Investment	Max 20% Budget
	L.R. <sup>3</sup>	30%
Quebec	L.T.C. <sup>*(Content)<sup>4</sup></sup>	29.17%†
	L.T.C. <sup>*(Prod Services)<sup>4</sup></sup>	20%†
Saskatchewan	L.T.C. <sup>**4</sup>	35%
Yukon	L.R. <sup>3</sup>	35%
	Tr. Rebate <sup>11</sup>	50%
Federal	L.T.C. <sup>*(Content)<sup>4</sup></sup>	25%
	L.T.C. <sup>*(Prod Services)<sup>4</sup></sup>	16%

The information contained herein was obtained from third party sources as of January 2005. However BLG does not guarantee the completeness or accuracy of the information provided and all readers are advised to consult professional advisors in respect of their particular circumstances.

- 2 I.T.C.: Investment Tax Credit
- 3 L.R.: Rebate on eligible labor or employment costs
- 4 L.T.C.: Tax credit calculated on Labor Costs
- 5 P.R.: Rebate of a portion of of qualified production expenses
- 6 P.T.C.: Tax Credit calculated on production expenditures

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INTERNATIONAL		
Country	Type	Amount
Australia	P.T.C. <sup>**6</sup>	12.5%
	CCA <sup>1</sup>	100% deduction
Belgium	T.S. <sup>10</sup>	150% deduction of investment
France	P.T.C. <sup>**6</sup>	20%
Germany	T.D. <sup>9</sup>	100% deduction of investment
Hungary	Tax Write-off	20% of costs
Iceland	P.R. <sup>5</sup>	12%
Ireland	CCA <sup>1</sup>	80% deduction
Isle of Man	Equity Investment	25% of budget
Luxembourg	T.D. <sup>9</sup>	30%
Netherlands	T.S. <sup>10</sup>	100% deduction
New Zealand	Grant	12.5% of Budget
Puerto Rico	I.T.C. <sup>**2</sup>	40% of resident costs
	T.C. <sup>**8</sup> Infrastructure	40% equity cash
South Africa	Tr. Rebate <sup>11</sup>	15% for Foreign Prod. 25% for S.A. Prod.
	CCA <sup>1</sup>	100% deduction
United Kingdom	T.C. <sup>8</sup> S & L <sup>7</sup>	20%††

Most incentives mentioned are subject to maximum amounts, conditions and eligibility requirements. Further, some jurisdictions may include additional regional or other bonuses not mentioned here for summary or presentation purposes.

- 7 S & L: Sale and Leaseback
- 8 T.C.: Tax Credit
- 9 T.D.: Tax Deduction
- 10 T.S.: Tax Shelter
- 11 Tr. Rebate: Travel Rebate



## ATTACHMENT C

### THE UK FILM COUNCIL

#### Role and objectives

The UK Film Council is the lead agency for film in the UK ensuring that the economic, cultural and educational aspects of film are effectively represented at home and abroad. We invest Government grant-in-aid and National Lottery money in film development and production; training; international development and export promotion; distribution and exhibition; and education. Our aim is to deliver lasting benefits to the industry and the public alike through:

- **creativity** - encouraging the development of new talent, skills, and creative and technological innovation in UK film and assisting new and established filmmakers to produce successful and distinctive British films;
- **enterprise** – supporting the creation and growth of sustainable businesses in the film sector, providing access to finance and helping the UK film industry compete successfully in the domestic and global marketplace;
- **imagination** - promoting education and an appreciation and enjoyment of cinema by giving UK audiences access to the widest range of UK and international cinema, and by supporting film culture and heritage.

#### Funding and initiatives

The UK Film Council's main initiatives to help build a stable and growing UK film industry and develop film culture in the UK include:

- The **Development Fund** with £12 million over three years to support the development of a stream of high quality, innovative and commercially attractive screenplays. This fund is the largest of its type in Europe.
- The **Premiere Fund** with £24 million over three years to facilitate the production of popular, more mainstream films.
- The **New Cinema Fund** with £15 million over three years to back radical and innovative filmmakers, especially new talent, and to explore new electronic production technologies. Its short film schemes have produced over 450 films.
- The **Print and Advertising Fund** of £6 million over three years to support the distribution of a broader range of films to audiences across the UK.
- The **Digital Screen Network** is a world first providing over £11 million to equip around 240 screens in over 210 cinemas (approximately 1 in 4 cinemas) with state of the art digital projection equipment.
- **International** – the UK Film Council's International strategy encourages international productions from outside the UK to come and use Britain's world-class production and facilities infrastructure; supports UK film export; develops international relations and supports UK production infrastructure.

#### In addition the UK Film Council distributes National Lottery and grand in aid funds to:

- **First Light** - a £1.1 million a year Lottery funded digital short filmmaking scheme aimed at helping young people to gain first hand experience of filmmaking.
- **Skillset** - the first ever comprehensive training strategy for the British film industry was launched in September 2003. A package of measures is being rolled out backed by an investment of around £50 million over the next five years which as a whole aim to build a bigger and better future for the film industry in the UK.
- **bfi** - The British Film Institute (*bfi*) receives £16.5 million per year from the UK Film Council and plays a key role in achieving the UK Film Council's goals and fostering public appreciation of film through improved access to cinema, film heritage and educational provision.
- **Regional Screen Agencies** - £7.9 million a year is allocated to regional film bodies across England, all working to create a clear film strategy for each English region and provide cash support for production, screen commissions, cinema exhibition, training, archives and education.

Source: UK Screen Council, see online at  
<http://www.ukfilmcouncil.org.uk/information/aboutus/overview/>