Australian Government

Department of the Environment,
Water, Heritage and the Arts

# Discussion Paper

# 2010 Review of the Australian Independent Screen Production Sector

# INVITATION TO COMMENT

The Australian Government places a very high value on a creative and viable Australian film and television industry, which produces high quality cultural content appealing to Australian audiences. The Government acknowledges the enormous contribution the film and television industry has made to the cultural life of the nation and its significant reach throughout Australia's population.

Film is one of the most powerful contemporary creative mediums. Australian creativity and stories are more often experienced through film than many other art forms.

The Australian Government committed to reviewing the viability of the independent film and television production sector in the 2007 policy paper *New Directions for the Arts*.

Currently, the Australian Government provides support through a range of measures aimed at strengthening the industry. A key feature of this support is the Australian Screen Production Incentive (ASPI) as well as direct investment made through the Government's screen agency, Screen Australia.

These support measures were introduced to increase production and to help the Australian screen industry grow by developing sustainable businesses.

The Review of the Australian Independent Screen Production Sector will examine the viability of the sector and assess the extent to which the Government's support measures assist the sector to achieve the stated screen cultural objectives.

This Review will allow those within the industry to provide the Australian Government with feedback on the effectiveness of these new support measures, and ensure the Australian Government receives the best possible advice on the current state of the independent screen industry and the challenges it faces.

I look forward to receiving your input to this Review and to the continued growth of Australia's film and television industry.

THE HON PETER GARRETT AM MP
Minister for Environment Protection, Heritage and the Arts

# PURPOSE

The Australian Government committed to review the viability of the independent film and television production sector in the 2007 policy paper *New Directions for the Arts.*

The Review of the Australian Independent Screen Production Sector will examine the viability of the sector and assess the extent to which Australian Government measures, such as the Australian Screen Production Incentive, assist the sector to achieve the stated screen cultural objectives including:

- promoting the development of a sustainable independent production sector
- ensuring the creation of a diverse range of quality Australian film and television productions which appeal to audiences, and
- developing and reflecting a sense of Australian identity, character and cultural diversity.

These objectives are consistent with the ongoing priorities for the screen industry outlined in the *Screen Australia Act 2008*, the Explanatory Memorandum for the Tax Laws Amendment (2007 Measures No. 5) Bill 2007 and the *Broadcasting Services (Australian Content) Standard 2005.*

The Terms of Reference for the Review are outlined on pages 17-18.

## Outcomes from the Statutory Review of Division 376 of the *Income Tax Assessment Act 1997*

This Review follows the Statutory Review of Division 376 of the *Income Tax Assessment Act 1997* (the Act), which was completed in April 2009. The Statutory Review examined the impact of the Refundable Flm Tax Offsets, introduced in 2007 under the Act, on levels of independent and in-house production by Australian television broadcasters.

The Statutory Review found that overall the balance of television production between independent and in-house production had remained stable since the offsets were introduced. However, the Statutory Review noted that given the short time period since the introduction of the offsets and the limited data available, it was too early to draw any significant conclusions about the impact of the Producer Offset on levels and source of Australian production.

## Current state of the Australian independent production sector

The 2008-09 Screen Australia *National Feature Film and Drama Production Survey* (National Drama Survey) highlighted the encouraging performance of the Australian film industry in 2008-09, taking into account the increased challenges facing the industry due to the global financial crisis.

In 2008-09 the total production activity (budget expenditure allocated to Australia including foreign post, digital and visual effects (PDV) only work), totalled $688 million, up slightly from $679 million in the preceding year[1]. This figure includes spending of $668 million by Australian, co-production and foreign productions shot in Australia – up on last year ($665 million) and 15 per cent above the five-year average of $576 million[2].

The total 2008-09 production slate comprised 38 features and 44 television drama programs (653 hours) shot in Australia, as well as nine foreign PDV-only projects. This compares to 45 features, 44 television drama programs (701 hours) and 15 foreign PDV-only projects in the previous year[3].

The Australian and co-production feature slate comprised 29 local and three co-production titles, accounting for expenditure in Australia of $358 million, more than double the previous year's $170 million and well above the five-year average of $194 million[4].

In-house drama activity by Australian broadcasters was similar to the previous year, with four series/serials by the Seven Network totalling 206 hours, compared to four in-house series/serials and one telemovie (206 hours) in 2007-08[5].

Children's television drama expenditure rose from $69 million in 2007-08 to $103 million[6].

There was a significant drop in foreign features shot in Australia, due mostly to the increase in the strength in value of the Australian dollar in relation to the US dollar and possibly reactions to the global financial crisis. Activity was restricted to six titles from India, amounting to expenditure of $2 million compared to $105 million in 2007-08[7]. This was the first time since Screen Australia's drama survey began in 1988 that no US feature production had filmed in Australia.

It is important to note however, that total budgets reported in the survey include the full budget for all projects that started shooting during the 2008-09 financial year. Budgets are not apportioned according to financial year expenditure for the duration of the project.

1. National Survey of Feature Film and TV Drama Production, 2008/09, page 4.
2. ibid, page 4.
3. ibid, page 3.
4. ibid, page 3.
5. ibid, page 8.
6. ibid, page 10.
7. ibid, page 12.

## Production companies and sector employment

This Review is seeking to gain a better understanding of the current composition of the independent production sector. In particular, it is seeking more up-to-date information on the number and size of production companies, including the number of employees, and how this relates to the sector's viability.

According to the Australian Bureau of Statistics (ABS), there were 2,492 film and video production and post-production businesses operating in Australia at the end of June 2007, employing 13,844 people[8]. This total included 10,873 employees engaged by film and video production businesses with close to half (5,210 people) casual employees[9]. There were 2,769 permanent full-time employees and 1,979 people were salaried directors. At June 2007 there were 2,971 people engaged in post-production services. Over 50 per cent (1,645 people) were employed on a permanent full-time basis while 457 people were casual employees[10].

There were 10,032[11] employees working for commercial free-to-air and subscription television broadcasters at end of June 2007, a majority of these (6,980 people)[12] were employed by commercial free to air television broadcasters.

The majority of the film and video production and post-production businesses employed fewer than five people. In relation to film and video production, 83.8 per cent of businesses employed less than five staff, equalling 2,818 employees. Businesses which employed 50 people or more accounted for 1.2 per cent of total film and video production businesses and employed 4,768 people[13]. In relation to post production businesses, 90.1 per cent of businesses employed less than five people. These businesses employed 715 people. Post-production businesses with 50 or more employees accounted for 1.6 per cent of the total post-production businesses, employing 1,634 people[14].

According to Screen Australia's *Get the Picture* resource, a majority of Australian producers did not produce more than one feature film in Australia in the thirty-year period 1970-71 to 2000-01. According to the publication:

- a total of 382 Australian producers made feature films during this period with 67.3 per cent making one film only and 32.7 per cent making two or more films (19.6 per cent of producers made three or more films).
- in the 10 year period of 1990-91 to 2000-01, 222 Australian producers made feature films with 73.0 per cent making one film only and 27.0 per cent making two or more (13.1 per cent made three or more films)[15].

8. ABS, 8679.0, Television, Film and Video Production and Post-Production Services, Australia, 2006-07, page 4.
9. ibid, page 14.
10. ibid, page 16.
11. ibid, page 5.
12. ibid, page 28.
13. ibid, page 15.
14. ibid, page 17.
15. Australian Film Commission (Screen Australia), Focus: Building a career as a feature filmmaker **www.screenaustralia.gov.au/gtp/oefocuscareer.html**

Comments from stakeholders and industry practitioners are sought on:

- What does a sustainable production industry look like, recognising the need for public and private sector investment?
- Is the current structure of the film and television production sectors sustainable?
- When does a production company become viable? What level of production, for example number of films etc, is required to ensure a production company remains viable? Do production companies need to have multiple projects in progress to ensure viability?
- How are production companies ensuring their long-term viability? What business practices/models are being used?
- What aspects characterise a production company that is 'investor ready'?
- Are there differences in the business approach for film and television production?
- Do production companies combine film and television work?
- What other work is undertaken to supplement business activities (for example television commercials, emerging technologies, games etc) to ensure viability and sustainability?

## Australian Screen Production Incentive

The Australian Government places a very high value on a creative and viable Australian film and television industry, which produces high quality cultural content appealing to Australian audiences[16].

The Australian Government supports a range of measures aimed at strengthening the industry. A key feature of this support is the Australian Screen Production Incentive (ASPI), which was introduced on 25 September 2007. The ASPI has three elements: the Producer Offset; the Post, Digital and Visual Effects (PDV) Offset; and the Location Offset. Previously the Location Offset was known as the Refundable Film Tax Offset which came into effect from 4 September 2001.

The ASPI seeks to support the Government's cultural objectives for the sector by encouraging greater private sector investment and improving the market responsiveness of the industry.

The ASPI is administered under Division 376 of the *Income Tax Assessment Act 1997*. It provides one of three refundable tax offsets for certain Australian production expenditure

16. The Hon Peter Garrett, Screen Australia Bill 2008, Second Reading Speech, House of Representatives, 20 February 2008.

incurred by a production company in making a film, television series or documentary where a minimum level of expenditure has been incurred. The offsets are claimed in the income tax return for the income year in which the film is completed[17].

The Producer Offset offers a 40 per cent tax offset on Qualifying Australian Production Expenditure (QAPE) for feature films, and 20 per cent for all other Australian productions, including television and non-feature documentaries, subject to Screen Australia being satisfied that the production has 'significant Australian content'. Please refer to QAPE table on page 9 for threshold details.

The Location Offset offers a 15 per cent tax offset for large budget foreign films and television productions with a QAPE of at least AUD$15 million. Television productions must also expend at least AUD$1 million QAPE per hour.

The PDV Offset offers a 15 per cent tax offset for PDV work undertaken in Australia on large budget productions, including those not necessarily shot in Australia. The minimum PDV QAPE to qualify is AUD$5 million.

Specific details on the requirements for accessing these offsets are available at the Screen Australia and the Department of the Environment, Water, Heritage and the Arts websites, which can be accessed at:
**www.screenaustralia.gov.au/producer_offset/**
**www.arts.gov.au/film/production-incentive**

## Uptake of the film tax offsets

Screen Australia, which administers the Producer Offset, reported that as at 16 March 2010, 127 screen productions have been certified since the Producer Offset was introduced in July 2007. These productions (24 features, 66 non-feature documentaries and 37 television and other projects) have received over $172.32 million in indirect funding.

At 20 November 2009, Screen Australia released data broken down by format. At that time, the incentive had delivered $91 million to 19 feature films, $7 million to 46 documentaries, and $25 million to 25 television projects[18].

From 4 September 2001 to 16 March 2010, 28 feature films and 11 television projects were certified as eligible for the Location and PDV Offsets (noting that this period includes data for the Refundable Film Tax Offset which has now been superceded by the Location Offset). Of these projects, 36 were foreign, two were co-productions and one was Australian.

17. Explanatory Memorandum for the Tax Laws Amendment (2007 Measures No. 5) Bill 2007.
18. Screen Australia, Media Release, "Screen Australia announces that Producer Offset has delivered $123 million to screen industry", 20 November 2009.

The QAPE for these productions (as estimated by the Film Certification Advisory Board, which advises the Minister on the scheme) is $2.27 billion, resulting in refundable tax offsets totalling approximately $295.5 million (12.5 per cent of QAPE for the Refundable Film Tax Offset increasing to 15 per cent for those productions eligible to access the Location and PDV Offsets).

## Objectives and operation of the Producer Offset

The incentive was introduced as part of a package designed to increase production and help the Australian industry grow by developing sustainable businesses. It provides an opportunity for producers to retain substantial equity in their productions and build more stable production companies. In the international context, the Producer Offset encourages partnerships such as co-productions by providing an avenue to attract foreign investment in Australian projects.

The Producer Offset is intended to be the Government's primary funding mechanism, and to be the first port of call for productions with commercial potential which previously would have had to seek direct funding from Government agencies[19].

The Producer Offset is paid to eligible companies through the Australian tax system after a project is completed and Screen Australia has issued the production company with a final certificate.

A small number of legislative and operational issues relating to the Producer Offset were raised in submissions to the Statutory Review (see page 3 for details of Statutory Review outcomes). These issues, which were outside the scope of that Review and therefore were not directly addressed, related to:

- Timing of assistance

- Many submissions to the review considered that the current assistance provided through the tax system was not sufficiently timely. A common theme in submissions was that although producers were able to anticipate receiving the benefit of the tax offset, and to budget accordingly, this often involved incurring an interest cost on financing.

- The Australian Taxation Office has advised of two administrative remedies which may be immediately available to local producers, depending on their circumstances. They are:

  a) Liquidating the entity eligible for the tax offset in order to trigger an early assessment. This involves an ongoing production company establishing a Special Purpose Vehicle (SPV) company to take responsibility for making a film and then liquidating the SPV upon completion of the film.

19. The Hon Peter Garrett, "Opening of the Melbourne International Film Festival", 25 July 2008.

b) Reducing the income tax paid in instalments throughout the year in anticipation of receiving the film tax offset.

- Criteria for Qualifying Australian Production Expenditure (QAPE)

- Three submissions proposed altering the definition of QAPE to exclude payments made to individuals who are not Australian residents.

- Eligibility for the Producer Offset

- A number of submissions debated the merits of excluding television broadcasters and channel operators from accessing the Producer Offset.

- Level of assistance provided

- Several participants argued the level of the Producer Offset applying to non-feature films should be increased above 20 per cent.

The thresholds for the Producer Offset are:

| Format | QAPE threshold | QAPE threshold per hour |
|---|---|---|
| Feature film (including feature documentary) | $1 million | NA |
| Documentary (other than a feature documentary) | NA | $250,000 |
| A single episode program (e.g. telemovie) | $1 million | $800,000 |
| Short-form animation | $250,000 | $1,000,000 |
| Series or season of a series | $1 million | $500,000 |

The Producer Offset is delivered through the taxation system. One aspect of this approach is that payments are linked to an annual assessment, meaning that the timing of assistance may not be as flexible as it could be under a direct outlays program (however, as outlined above, some administrative approaches may help to address this). However, using the taxation system does provide a degree of legislative security to the industry.

The Producer Offset was intended to decrease the need for projects to be dependent on the selection and approval for direct funding by Screen Australia, the Government's film funding agency. However, some industry stakeholders have indicated that both the offset and direct funding are required for the vast majority of productions. This may be due to challenges for the industry in accessing private investment.

Comments from stakeholders and industry practitioners are sought on:

- Specific examples of producers' experiences accessing the offset. Examples should provide information on the positive and/or negative impacts of the offset. Responses should also outline any unforeseen issues that arose and detail how these matters were addressed.
- The impact the offset has had on business practices and methods for securing finance. This includes how the equity provided by the offset is being used to increase/access finance for productions, including private investment.
- Details of legislative aspects of the offset which affect its ability to contribute to sustainable businesses.
- Details in relation to any administrative/operational issues encountered when accessing the offset and recommendations on how these issues could be improved.

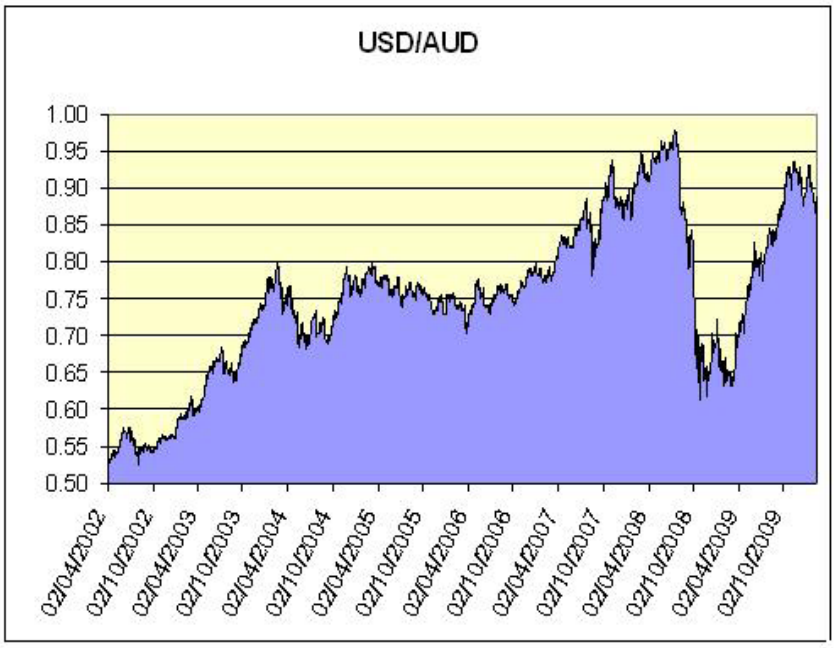
## Objectives and operation of the Location Offset

The Location Offset is aimed at attracting large budget productions to Australia. Large budget offshore productions locating to Australia provide important employment and skills development opportunities for the local film and television industry. The size of such productions encourages creative workers to upgrade their equipment, and ensures a strong skill transfer from large budget productions to domestic independent films.

Screen Australia's 2008-09 National Drama Survey shows that foreign production expenditure in Australia for feature film and television totalled $134 million in 2006-07, $238 million in 2007-08, but only $3 million in 2008-09[20].

The decline in the number of large budget offshore productions in Australia could be attributed to a number of factors, including the recent strengthening of the Australian dollar and the global financial crisis, which significantly reduced the level of private equity investment. Since the introduction of the Refundable Film Tax Offset in September 2001 the Australian dollar has fluctuated between US$0.52 and US$0.97. During that time it has averaged US$0.75[21].

20. National Survey of Feature Film and TV Drama Production, 2008/09, page 4.
21. www.rba.gov.au




This average is seen by some within the industry as close to the tipping point for large budget productions deciding whether or not to film in Australia. It should be noted that decisions to invest in a production usually occur 12 months prior to production commencing. As such, the value of the dollar during 2007-08 had a sizeable impact on foreign large budget production in 2008-09. In addition, the recent value of the Australian dollar has made it difficult for the production sector to remain competitive in the international environment. In December 2009, the Australian Business Economists Executive Committee forecast the Australian dollar would peak at US$0.96 by June 2010, falling to US$0.85 by the end of 2011. The Committee also forecast that "the AUD was entering a new structural phase that would see it remain well above its post float average for at least the next decade"[22].

In general, it is important to note in this context that the floating exchange rate is an important adjustment mechanism for the economy as a whole.

A recent decline in production levels has also been observed in the United Kingdom and North America. North American production levels fell in 2008 to 601 titles from 767 titles in 2007. Production in the United Kingdom also declined from its high of 175 in 2003 to 111 in 2008. Part of the fall can be attributed to a decline in international investment projects, largely from Hollywood (27 in 2007 to 16 in 2008)[23].

22. Australian Business Economists, Media Release, "Stronger Economic Growth with Higher Interest Rates Results of Annual Survey of ABE Executive Committee", 8 December 2009, page 3.
23. "Production sees rises in the East as numbers decline in the West", Screen Daily, 30 Jan 2009.

Currency values are only one of several factors in determining production location, and it should be noted that the higher dollar poses challenges to all exporters within the economy.

The current 15 per cent rebate for the Location Offset is broadly comparable with similar incentives targeting large budget offshore productions offered by New Zealand (15 per cent) and the UK (16 per cent). They are, however, below the level of incentives offered by several Eastern European countries (20-25 per cent), Canada (which has a 16 per cent federal rebate supplemented by rebates from provincial governments, for example, the Ontario Production Services Tax Credit which provides a 25 per cent credit for eligible international productions) and several US states which are offering incentives of up to 40 per cent. Since the introduction of Australia's current offsets there has also been a steady increase in the number of governments offering tax incentives. Today, over 20 national governments and 35 US state governments are offering film tax incentives.

Comments from stakeholders and industry practitioners are sought on:

- The impact of the offset on production levels in Australia. Responses may also wish to outline any additional factors which have affected production levels.
- Experiences accessing the Location Offset. Examples should provide information on the positive and/or negative impacts of the offset. Responses should also outline any unforeseen issues that arose and detail how these matters were addressed.
- Other means by which Australia could improve its attractiveness as a production location for large budget foreign productions.
- Examples of the impact of large budget offshore productions on the skills development and sustainability of businesses associated with the Australian independent screen production industry.

## Objectives and operation of the Post, Digital and Visual Effects (PDV) Offset

The PDV Offset was designed to enhance Australia's reputation as a leading destination for PDV production, and to attract post-production, digital and visual effects production to Australia as part of large budget production, no matter where a film was shot.

The PDV Offset was designed to provide Australian film technicians with the opportunity of employment and skills transfer by working with cutting edge technology. It is also intended to provide flow on benefits to the Australian screen industry and increase the calibre of the industry's skills base.

The PDV Offset has a threshold of AUD $5 million.

Comments from stakeholders and industry practitioners are sought on:

- The operation of the PDV Offset, including its minimum expenditure threshold, and its effectiveness in attracting PDV work to Australia.
- The impact of the PDV Offset in improving the calibre of PDV skills and technology in Australia.

## Government support programs

In addition to the film tax offsets, the Australian Government provides direct support to the independent screen production sector through Screen Australia, the Australian Broadcasting Corporation (ABC), the Special Broadcasting Service (SBS) and the Australian Children's Television Foundation.

### Direct funding and support programs

Screen Australia

Screen Australia is the Government's primary film funding agency. It was formed on 1 July 2008 following the merging of the Government's three previous film agencies: the Australian Film Commission, the Film Finance Corporation Australia and Film Australia Limited.

Screen Australia's goal is to develop, produce, promote, distribute and provide access to diverse Australian programs, and support the development of the Australian screen production industry, so that Australian screen content is accessible nationally and internationally.

Screen Australia provides support to Australian film, television, documentary and digital media makers. It has a range of programs to support the development, production, promotion and distribution of Australian programs. The agency also administers Australia's Official Co-Production Program. Further information on Screen Australia's industry support programs can be accessed at **www.screenaustralia.gov.au/industry_support/GW_Overview.asp**

Australian Children's Television Foundation (ACTF)

The Government provides funding to the ACTF to assist the organisation to deliver on its principal functions, including to encourage the development, production and dissemination of television programs, films and other audiovisual media for children.

Increased funding for the ABC and SBS

The Government has committed to providing more than $2.5 billion in ongoing funding and additional new funding of $185.3 million over three years to the national broadcasters. Of this, $136.4 million was for proposals expected to impact on the independent screen production sector.

State government funding

Each of the state and territory governments provides a number of film support programs which complement those of Screen Australia. These incentives, which include payroll taxation exemptions, differ from state to state and are aimed at encouraging productions to film in their region. In 2007-08 the government appropriations for state and territory film agencies totalled $55.48 million[24]. This figure does not include payroll tax or salary rebate schemes operating independently of state film agencies.

According to Screen Australia's 2008-09 National Drama Survey, the state agencies contributed $9 million to 20 features (17 local titles and three co-productions), up slightly on the previous year's contribution of $8 million to 19 features. Film Victoria accounted for around 40 per cent of this investment[25]. The Adelaide Film Festival invested in three features and, in its first year funding productions, the Melbourne International Film Festival Fund invested in six features.

Comments from stakeholders and industry practitioners are sought on:

- How the Australian Government's support, both direct and indirect, is assisting small through to large-scale screen production businesses.
- How state government support complements the Australian Government support programs.
- Any other issues of relevance to the viability of the sector, consistent with the Terms of Reference.

## Australia's Co-Production Agreements

Australia's International Co-Production Program currently consists of 10 bilateral film co-production arrangements (with Canada, China, France, Germany, Ireland, Israel, Italy, New Zealand, Singapore and the United Kingdom). The primary purpose of the Program is to

24. Screen Australia "Get the Picture", **www.screenaustralia.gov.au/gtp/downloads/State_DataTables08.xls** .
25. National Survey of Feature Film and TV Drama Production, 2008/09, page 6.

foster cultural development and cultural exchange between co-operating countries. Since its inception in 1986, over 120 co-productions with a total budget of approximately $1.1 billion have gone into production. Screen Australia administers the Program. Since the establishment of the Producer Offset, Screen Australia has noted an increase in the number of enquiries about potential co-production projects.

## Australia's Free Trade Agreements

Australia has six free trade agreements in place – a regional agreement with the Association of Southeast Asian Nations (ASEAN) and New Zealand, and bilateral agreements with Chile, New Zealand, Singapore, Thailand and the United States. Australia is negotiating, or considering negotiating, a further nine free trade agreements. In free trade agreement negotiations, Australia has generally reserved the right to adopt or maintain any measure to support its broadcasting and audiovisual services. Some commitments do exist in relation to the agreements with New Zealand and the United States (US). The Australia-US FTA (AUSFTA) preserves the local content requirements existing at the time the AUSFTA was negotiated and ensures Australia's right to intervene in response to new media developments, subject to a number of commitments on the degree or level of any new or additional local content requirements. The Australia-New Zealand Closer Economic Relations Trade Agreement (ANZCERTA) Services Protocol does not affect Australia's ability to set local content requirements, however New Zealand audiovisual product is treated as Australian content under the Agreement.

The Review will consider whether free trade agreements have had an impact on the levels of Australian content, including drama, documentaries and children's programming on free-to-air and subscription television services. The Review will examine data maintained by the Australian Communications and Media Authority.

Comments from stakeholders and industry practitioners are sought on:

- Whether the establishment of the Producer Offset has had any effect on how independent producers utilise film co-production arrangements to develop, finance and produce their projects.
- The effect of free trade agreements, in particular the Australia-US free trade agreement, on levels of Australian content on free-to-air and subscription television services.

## Submission process

Submissions are invited in writing by close of business (5pm AEST) on Thursday 29 April 2010. Please use the submission form accompanying this paper, which sets out the policy on publishing submissions. Alternatively you may wish to lodge your submission by email or post using the addresses below.

Submissions should address the comments sought sections highlighted throughout this paper and any other issues of relevance to the Review's Terms of Reference (pages 17-18). Where possible, quantitative and qualitative data should be provided in support of the issues raised. Examples in support of your comments should also be included. (Where requested, the confidentiality of such data will be maintained at all times.)

Please either forward your submission form online or email it to:
**artsfilminfo@environment.gov.au.**

Alternatively you can post your submission to:

Director
Australian Film Industry Section
Film and Creative Industries Branch
Department of the Environment, Water, Heritage and the Arts
GPO Box 787
CANBERRA ACT 2601

Where possible, the Department will publish submissions on its website in both a PDF and an accessible RTF format (.rtf). When submitting by email, the documents should be formatted as RTFs or Word documents (.doc) for this purpose.

Submissions will be made public unless otherwise specified. Please note that the Department reserves the right not to publish documents or other information that it receives from industry or the public.

# Terms of reference

## 2010 Review of the Australian Independent Screen Production Sector

The Australian Government committed to this Review in the 2007 policy paper *New Directions for the Arts.*

## Objective

The Review will assess the ongoing viability of the independent production sector.

This assessment will take into account the range of funding mechanisms available to the sector, including the Australian Government's film funding support measures, state and territory government support, as well as private investment.

Consideration will be given to the extent to which the Australian Government's support measures are assisting the sector to achieve the stated screen cultural objectives including:

- promoting the development of a sustainable independent production sector
- ensuring the creation of a diverse range of quality Australian film and television productions which appeal to audiences, and
- developing and reflecting a sense of Australian identity, character and cultural diversity.

In particular, the Review will examine the impact of the Australian Screen Production Incentive on production levels and business models.

## Issues

*1. The viability of the sector*

The Review will examine the performance of the independent production sector over the last three years. It will consider how the sector is faring in light of the Australian Government's support measures, including Screen Australia's programs and the refundable tax offsets. The Review will also consider the extent to which the sector is taking advantage of alternative sources of support, including private investment.

It will draw on a range of information and data to provide a robust assessment of the viability of the sector, including seeking submissions from companies and individuals.

*2. The operational arrangements of the Australian Screen Production Incentive*

The Review will investigate the impact of the introduction of the Australian Screen Production Incentive (ASPI) on the independent production sector. The ASPI includes the Producer, Location and the Post, Digital and Visual effects (PDV) Offsets.

The Review will consider:

- whether the ASPI has been effective in contributing to the Government's objective of creating a more sustainable independent production sector in Australia, and
- whether any adjustments to the ASPI are needed to best achieve the Government's screen cultural objectives for the industry.

As part of this process, consideration will be given to the timing of incentive payments as well as any impact the Producer Offset has had on licence fee negotiations with broadcasters.

The review will also examine the impact of the Location and PDV Offsets on the independent production sector.

*3. Other issues*

The Review will also consider current issues facing the independent production industry which may impact on the industry's ability to deliver and achieve the Government's objectives including:

- the impact on the industry of the Government's increased funding of the ABC and SBS announced in the 2009-10 Budget
- consistent with the Government's commitment in *New Directions for the Arts*, the effect of Australia's free trade agreements to determine their impact on levels of Australian content, including drama, documentaries and children's programming, on free-to-air and subscription television services
- the adequacy of the current level of data collected on the industry that can be used to inform evidence based policy, and
- the findings of the Statutory Review of Division 376 of the *Income Tax Assessment Act 1997* relating to levels of production by the Australian independent production sector compared to levels of production by Australian television broadcasters.

## Reporting

The Review will involve broad consultation with industry stakeholders.

The Review will be undertaken by the Department of the Environment, Water, Heritage and the Arts, in consultation with other relevant Government agencies, and will report to the Minister for Environment Protection, Heritage and the Arts by the end of 2010.

ART18.0210