

25 October 2019

## Screen Producers Australia's submission in response to Screen Australia's Documentary Funding Discussion Paper September 2019

Screen Producers Australia (SPA) was formed by the screen industry to represent large and small enterprises across a diverse production slate of feature film, television and interactive content.

As the peak industry and trade body, we consult with a membership of more than 500 production businesses in the preparation of our submissions. Of our members, approximately 65 are engaged in the production of documentaries. These members were the focus of our consultation for this submission. This consultation is augmented by ongoing discussions with our elected Council and appointed Policy Working Group representatives. Our members employ over 25,000 Australians and drive more than \$1.7 billion worth of annual production activity from the independent sector.

On behalf of these businesses we are focused on delivering a healthy commercial environment through ongoing engagement with elements of the labour force, including directors, writers, actors and crew, as well as with broadcasters, distributors and government in all its various forms. This coordinated dialogue ensures that our industry is successful, employment levels are strong and the community's expectations of access to high quality Australian content have been met.

We thank Screen Australia for the opportunity to make this submission in response to its Documentary Funding Discussion Paper. For further information about this submission please contact Fiona Phillips, Policy Consultant ([fiona.phillips@screenproducers.org.au](mailto:fiona.phillips@screenproducers.org.au)) or Matthew Deaner, CEO ([matthew.deaner@screenproducers.org.au](mailto:matthew.deaner@screenproducers.org.au)).

## Introduction

As the Discussion Paper states, documentary is a powerful medium and Screen Australia has a vital role to play in supporting the continued success of Australian documentaries. However, SPA also accepts that in an environment of higher demand and reduced public funding, and fundamental changes to distribution and consumption, Screen Australia cannot provide all the solutions to challenges currently being faced by the industry.

SPA notes that this review coincides with the Government's consideration of a report by the Australian Competition and Consumer Commission (ACCC) which has called for a process to implement harmonised media regulation. SPA has long been advocating in favour of media reform including:

- Extension of local content obligations to new market entrants such as subscription video on demand services (SVODs);
- Harmonisation of the producer offset to a flat 40% across all platforms; and
- Stable and adequate funding of Screen Australia and the public broadcasters.

In our view, these reforms would help to address the challenges Screen Australia has identified in its Discussion Paper. However, for the purposes of this submission, we confine ourselves to the four proposals for reform made in Section 1 of the Discussion Paper.

## Proposal 1: Introduce an enhanced Development Program

SPA supports the proposal for an enhanced Development Program. As the Discussion Paper acknowledges, development is critical to the current market which requires well developed projects and highly polished pitching materials.

In particular, SPA supports the \$500,000 increase in funding available for development and initiatives. We also support the goal of simplifying the application process by making funding available year round. Having said that, we offer a number of comments in relation to the proposed model.

### Stages of Development

We understand that the idea is to tie funding to the key stages of development, and that producers would be able to apply for funding at all three stages: seed development, general development and advanced development. While this makes sense in theory, we query whether separating the funding into different streams will limit the program's flexibility and increase the administrative burden for both Screen Australia and applicants? For example, could it lead to a situation where an applicant is refused general development funding and told to reapply for advanced development funding? We therefore query whether it might not be better to have a more flexible development pool.

### Producer-quarantined funding

While it is important to recognise the different stages of development, it is also important to recognise the contributions of the creative team creating documentaries. Given the increasingly competitive market, there is pressure for our members to use development

funding to pay others rather than themselves, with the end result that their development work goes unremunerated. For this reason, we recommend that consideration should be given to quarantining a portion (for example, 15%) of the development funding for producers.

### **International**

There is an increasing imperative for producers to take their productions overseas as the opportunities for local investment are limited. We note that it is intended that the proposed \$5,000 seed funding be used to help cover such costs. We also note under the proposed changes, 20% of the Producer Program will formally be reserved for projects which receive 10% of their budget from international sources. While SPA believes that this is a useful initiative, we would like to see such piecemeal reforms replaced by a holistic screen export strategy. We note that SPA has worked to establish a Screen Export Advisory Council to assist with this work. While this goes beyond the remit of the Discussion Paper, we believe that it is an important part of the overall policy landscape.

### **New Opportunities for Emerging Creators and credit requirements**

We note that one of the objectives of the proposal is to provide new opportunities for emerging creators. There has been a significant (50%) uplift in initiatives directed at this area and would be interested to know whether this based on any quantitative data and how success will be evaluated. We assume that this is also the reason behind the adjustment to credits required for development funding. While we support the goal of providing opportunities for emerging creators, this also needs to be balanced against the diminishing pool of funds and the need for Screen Australia to mitigate its risks. Furthermore, we query whether given the level of sophistication of the virtual reality and online markets, it is still relevant to apply a credit “discount” to those formats.

### **Low Budget**

It is proposed that 20% of the Development Program be reserved for low budget documentaries. While this is useful, in SPA’s view, it does not make up for the loss of PEP. We comment on this issue further in our response to Proposal 4.

## **Proposal 2: Introduce an enhanced Producer Program**

Consistent with the general feedback Screen Australia has received, SPA’s members report positive experiences with the Producer Program. We welcome the slight increase in funding, although we note that it is in fact a reallocation of existing PEP funding. We also welcome the addition of a fifth funding round. However, we query whether reserving 10% of the funding for low budget documentary productions is a sufficient substitute for PEP.

## **Proposal 3: Reform and clarify the Commissioned Program**

SPA is broadly supportive of the proposal to reform and clarify the Commissioned Program. This has three elements: broadening the definition of commissioning platforms, the amount of funding available and increasing licence fees.

### **Commissioning platforms**

While it is our firm view that SVODs should be subject to local content obligations, the fact they do not currently bear such obligations, is not a reason to exclude documentaries commissioned by such platforms from Screen Australia funding. In our

view, to do so would not only disadvantage Australian documentary producers, it is difficult to support on policy grounds. This is because commercial free-to-air broadcasters are the commissioning platforms currently eligible for funding under this program who are subject to a documentary quota.

SPA's support for extending the eligible commissioning platforms to streaming services such as SVODs is predicated on the basis that it would only apply to projects that qualify for the Producer Offset. Careful thought would need to be given to how a producer's bona fides could be established.

Furthermore, while SPA is not opposed to the idea that local commissioning platforms would be given priority over international platforms, it is not clear how this sits with the objective of attracting international investment. Furthermore, careful thought would need to be given to how this policy could be implemented in a way that ensured transparency and confidence in Screen Australia's decision making processes.

### **Cap on Funding**

SPA is disappointed that the cap on funding will be reduced by \$250,000 to \$750,000 given increasing production costs. We note that applications for funding in excess of \$750,000 will only be considered in exceptional circumstances. We would appreciate further explanation of what would be considered an exceptional circumstance.

### **Licence Fees**

SPA is supportive of the proposal to increase licence fees to a minimum of \$196,000 per hour, where Screen Australia funding is more than \$500,000 (currently \$180,000 p/h) and a minimum of \$163,000 per hour, where Screen Australia funding is \$500,000 or less (currently \$150,000 p/h). We note that this formula is based on ACMA drama quota settings. In our submission, like the ACMA rates, these fees should also be annually adjusted according to CPI, as is the case for drama.

In SPA's view, these increases should apply to all projects that receive funding under the Commissioned Program. While we appreciate the need to attract international investment for Australian documentaries, it is our strong view that incentives should not be based on discounting the intellectual property of Australian documentary makers.

Australia produces world class documentaries and this should be reflected in the licence fees they command. Furthermore, we are concerned that this kind of discounting will create further asymmetries between commissioning platforms. In our submission, it is more appropriate that strategies for attracting investment and improving export opportunities be addressed holistically in a Government screen export strategy.

## **Proposal 4: Introduce a new, creatively-assessed Completion Fund that provides up to 20% of an approved budget via an accelerated cashflow method**

While SPA appreciates that PEP has been oversubscribed for a number of years, we are concerned that the programs proposed in its place will lead to a decrease in low budget documentary productions. At a time when there is an increasing demand for content, this is not an optimal result. In our view, the proposal raises a number of difficulties.

### **Completion**

While it is true that in many instances PEP funding has been used for post-production finance, we don't believe that this should be overstated. In other words, one of the reasons producers applied for PEP for post-production, was because they had a high degree of certainty that it would be granted. We believe that limiting the funding to a "Completion Fund" will restrict the way the funding can be used. In many situations, PEP funding has been used as part of the finance plan for low budget documentaries. For example, a producer could put together a budget for an ABC Arts documentary made up of the licence fee payable by the ABC, production grants from Screen Australia and State agencies and PEP. This will no longer be possible under the proposed model. While we note that low budget productions will be given some priority under the Development and Production Programs, in our view, this is not an adequate substitute for PEP. This is particularly so, given that projects that receive funding from the Producer and the Commissioned Programs will be ineligible for funding from the Completion Program. This leaves the Development Program as the only other source of funding for low budget documentaries. The net effect of these changes is likely to be much lower support for low budget documentaries.

### **Creative Assessment**

More fundamentally, the requirement for creative assessment represents a fundamental shift in the way the funding of low budget documentaries is approached. PEP was designed as a form of offset (funded by Screen Australia) for low budget documentaries. Requiring creative assessment completely undermines this.

While SPA appreciates the need to manage Screen Australia's finite resources and that creative assessment might provide a useful filter, the proposed mechanism will remove certainty for documentary makers. For most, the possibility of receiving completion funding will not be enough to justify going ahead with a project. We are of the view that there is still a need for an offset scheme for low budget documentaries. Pending reform of the Producers Offset, SPA urges Screen Australia to consider other ways of containing PEP, for example, by requiring applicants to have prior credits.

In our view, the current proposal is likely to have a detrimental effect on low budget documentaries, such as those commissioned by ABC Arts. We believe that this requires Screen Australia and the Department to work with industry to develop a policy solution.