



ASTRA Submission to: Screen Australia's 'Funding Australian Content on 'Small Screens': A Draft Blueprint

31 January 2011

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ABN 16 051 051 003

Introduction

ASTRA welcomes the opportunity to comment on the Screen Australia *'Funding Australian Content on 'Small Screens': A Draft Blueprint'* (the Blueprint).

About ASTRA

ASTRA is the peak industry body for subscription television in Australia. ASTRA was formed in September 1997 when industry associations representing subscription (multi-channel) television and radio platforms, narrowcasters and program providers came together to represent the new era in competition and consumer choice. ASTRA's membership includes the major subscription television operators, as well as channels that provide programming to these platforms. A list of members is attached at Annexure A.

The subscription TV industry is the undisputed industry leader of digital broadcasting. A dynamic sector that is constantly evolving and growing, it is received nationally by 34% of Australians through their homes and many more through hotels, clubs and other entertainment and business venues.

Since its inception, over \$A9 billion dollars has been invested in infrastructure, capital, facilities, productions, programs and services in order to establish and develop the subscription TV industry. ASTRA's members are responsible for the bulk of this investment which has been distributed throughout metropolitan, regional and remote markets. Consequently, the sector has created an enormous number of jobs, investment, infrastructure and production content throughout Australia. In 2009 the subscription television industry invested \$541.4 million in Australian content. In addition, the sector directly employed 4,643 people. The industry continues to invest heavily in its own growth and the growth of the Australian film and television broadcast sectors including the continuing investment in television programming and production.

Comments on the Blueprint

ASTRA makes the following comments in answer to the questions raised in the Blueprint. ASTRA has only provided answers to the questions noted below and does not express an opinion on other questions contained in the Blueprint.

Blueprint Proposal: Licence Fees

Does the proposal to raise licence fees in conjunction with removing requirements relating to the proportion of production budget provide sufficient flexibility?

Does any particular genre – drama, children's or documentary – require licence fees to be varied by an amount other than 10 per cent?

ASTRA contended in its previous submission to Screen Australia's 'Review of Television Funding':

While it is necessary to have guidelines to inform decision making processes, these guidelines should not be so rigidly applied across the television industry. In order for Screen Australia to fulfil its objectives, ASTRA submits that it must review the way it works with different sectors of the television industry, rather than adopting a 'one size fits all' approach to productions. Rather, each production should be evaluated on its merit and whether it meets the broader objectives of Australian programming outlined in the Act.

ASTRA notes that Screen Australia has adopted 'flexibility' as one of the principles which forms the foundation of the Blueprint. However, while ASTRA is pleased to note that an element of flexibility has been introduced through the removal of the requirement that licence fees comprise 30% of the overall budget, the Blueprint not

only proposes to retain the minimum licence fee structure but to increase it for all productions by 10%. In ASTRA's view, this is contrary to the principle of flexibility and distorts the commercial realities of the subscription television sector by requiring an uncommercial licence fee structure on productions for which Screen Australia funding is sought.

ASTRA continues to contend that the principle of flexibility is achieved when broadcasters and producers have the ability to negotiate financing structures for projects, and where the licence fees, hold back periods and equity are subject to commercial negotiations between broadcasters and producers. In ASTRA's view, the retention of minimum licence fees is a sub-optimal outcome to all involved. Rather, it could have the unintended consequence of reducing the amount of production that is commissioned by various sectors, resulting in a less sustainable production sector.

Blueprint Proposal: series funding

Should Screen Australia limit its funding to only one series?

When considering whether to invest in a subsequent series of a previously funded series, Screen Australia should assess the level of commercial success enjoyed by the previous series in determining whether to fund a subsequent series. While ASTRA agrees that Screen Australia should not continue to fund series that, based on their ratings and scheduling, are commercially successful, ASTRA does not believe that a series should be disqualified from funding for no other reason than a previous season of the series had received Screen Australia funding. A number of critically acclaimed and important series appeal to a niche audience and may never receive the commercial success of programs that appeal to a more general audience. These stories told in these series may never reach an audience without Screen Australia's assistance, regardless of the number of seasons produced. ASTRA is of the view that Screen Australia should approach each application for funding of a series that has previously received funding on a case by case basis, rather than adopt a stringent policy of limiting funding to a single, or at most two, seasons of a series.

Blueprint Proposal: Foreign Formats

ASTRA is supportive of Screen Australia providing support to the development of Australian intellectual property and considers that projects which have proved to be successful overseas carry less inherent risk in them than productions created and developed solely within Australia.

Blueprint Proposal: Hold Backs

Are the periods specified [in the Blueprint] reasonable standard thresholds for a holdback before additional licence fees must be paid to compensate the producer? If not, what is a reasonable time?

Are there any other considerations that Screen Australia should take into account when determining an acceptable holdback position?

ASTRA has previously argued the case for holdbacks within the STV economic model:

The FTA business model is predicated on being able to reach almost 100% of Australians; once a program has been aired, the competitive landscape does not favour repeated viewings on FTA networks and FTA broadcasters generally do not require extensive holdbacks from STV, as the maximum audience for that program has already been reached. The reach of STV is well below that of FTA, and in order to attract and retain subscribers, STV broadcasters rely on exclusivity of certain programs. In order to maintain loyalty from its subscriber base, significant holdbacks are required by STV to maximise the value of programs in which STV broadcasters and channels have invested.

For example, when STV invests in an Australian drama series such as Spirited or Slide, it invests a significant amount into developing and marketing this product and building a brand. If inadequate holdback provisions are in place, then, potentially, a second or third series of a successful drama may be launching on STV as the first series is being aired on FTA.

ASTRA's preference is that holdbacks be the subject of commercial negotiation between producers and broadcasters or channels, without additional fees being required to be paid by commercial or subscription broadcasters or channels in circumstances where those broadcasters or channels are, individually or collectively, the predominant investors (including with respect to licence fees) in a production. In cases where a commercial or subscription broadcaster or channel are, with respect to a production, individually or collectively not the predominant investor, ASTRA would recommend that these are increased to **at least 24 months**.

With respect to the proposed holdback period, ASTRA is concerned by Screen Australia's referencing the arrangements in place between the ABC and SPAA. ASTRA contends that the ABC is not an appropriate benchmark for productions co-financed and broadcast on commercial and subscription television broadcasters. The ABC is not subject to the same commercial imperatives as other broadcasters and many of its productions are completely funded with public money. The ABC is further subject to its charter obligations that impose conditions on that broadcaster which are not relevant to other broadcasters and is not subject to the commercial tensions that exist for commercial and subscription broadcasters.

Should there be a maximum holdback period – an upper limit beyond which the restriction becomes unreasonable?

ASTRA does not believe that Screen Australia should impose any restriction on the term of a holdback in Australia that has been negotiated between a broadcaster and producer, particularly in circumstances where an additional licence fee is imposed after a specified holdback period.

Blueprint proposal: Documentary Funding splits

Would batching with a cap on individual broadcasters provide the sector with flexibility and increased opportunity or would the lack of certainty regarding outcomes outweigh these benefits?

ASTRA is supportive of Screen Australia's decision to remove the '40, 40, 20' split in the documentary funding program and introduce further contestability into the funding process such that any broadcaster can secure up to 60% of the total funding pool. In ASTRA's view, this will result in better outcomes for broadcasters and producers, with more opportunities for productions associated with subscription and free-to-air commercial television broadcasters.

Other issues

Third policy lever: direct investment

ASTRA notes Screen Australia's statement that it can have an effect on the nature of commercial transactions that drive the industry, providing a "*quasi-regulatory function for various industry conditions, with its investment criteria acting as 'policy levers' within industry transactions*" (p.9). ASTRA recognises that, in its role as an investor, Screen Australia has statutory obligations that go beyond merely maximising financial returns on its investment, including to support the development of a commercial sustainable production industry and Australian programs, as well as the provision of access to Australian programs. However, ASTRA is concerned that Screen Australia is attempting to use these 'policy levers' to set minimum benchmarks for commercial arrangements between producers and broadcasters that do not reflect the nature of the content production market, in particular the specific needs of the subscription television model. It is arguable whether it is within

Screen Australia's mandate to attempt to influence the terms of freely negotiated commercial production agreements through its funding processes.

Screen Australia Investment Performance

ASTRA notes that Screen Australia's Blueprint suggests that the *"most conventional measure of success and audience engagement is audience size as this is often linked to a producers'/broadcaster's/channel's ability to monetise this content"* (p59). Further, ASTRA notes that there are some views within the industry that the subscription television should not receive funding based on its audience reach.

ASTRA contends that such a measure applied to a STV environment is simplistic and fails to recognise the economics of STV, nor recognise the valuable contribution that STV makes to the development of great Australian productions.

STV is responsible for developing some of the most innovative and cutting edge productions in recent history. By their definition, they will not appeal to mass audiences and is why these productions are not made for mass commercial audiences. The Home Box Office (HBO)-type drama will appeal to a more specific demographic and, thus, its success should be not be judged simply by first release audience size.

The role of Screen Australia is to support the telling of Australian stories, regardless of the medium on which they are broadcast. To restrict television funding to free to air broadcasters is to limit the scope of potential productions that may be commissioned and potentially hamper the industry that Screen Australia is seeking to support.