

23 February 2015

Ministry for the Arts  
Department of Immigration and Border Protection

By email: [subclass420review@arts.gov.au](mailto:subclass420review@arts.gov.au)

Dear Sir/Madam

The Australian Subscription Television and Radio Association (ASTRA) welcomes the opportunity to comment on the Discussion Paper: Review of the Temporary Work (Entertainment) Visa (Subclass 420).

The Australian subscription television sector is a major contributor to the Australian production industry, employing 6600 people and investing \$600 million annually in local content. ASTRA's members make use of the Subclass 420 visa as a means of engaging foreign cast and crew. We therefore welcome the Government's review as a chance to consider whether the current scheme is of overall benefit to the Australian production and entertainment industries and to Australian audiences.

ASTRA fully supports the Government's commitment to reducing the burden and cost of unnecessary or inefficient regulation. While we appreciate that some level of regulation is appropriate to meet certain public policy objectives, we support ongoing review of that regulation to ensure it services its policy purpose in a way which minimises the costs and administrative burden of compliance.

In this instance, ASTRA acknowledges the public policy objectives of measures which encourage the telling of Australian stories by Australian voices on screen. However, the achievement of these public policy benefits is strongly tied to the existence of a viable and vibrant local production industry and, as outlined in this submission, international hiring is an important element in the industry's success.

ASTRA refers to the detailed submission to the Review that has been made by Foxtel. ASTRA endorses the Foxtel submission and supports amendments to the visa scheme which would:

- Remove sponsorship and nomination requirements completely, or alternatively, remove them for short stay applications;
- Remove the requirement for certification from the Arts Minister, or alternatively, replace it with a requirement to satisfy a 'no adverse consequences' test;
- Replace case-by-case union consultation requirements with consultation which occurs periodically and at a higher, more strategic level;
- Allow for group applications which could cover the import of employees for a whole production; and

- Improve administrative arrangements by, for example, allowing online lodgement of applications.

Rather than replicating Foxtel's submission in detail, this submission sets out the industry conditions and other factors which when combined, demonstrate that the proposed reforms are unlikely to significantly alter the balance between local and international employment in Australian productions.

### **Overall impact of proposed reforms**

ASTRA is aware of concerns that a simplification of the visa application process, and a change to the role of the union in that process, will lead to an increase in the engagement of foreign cast and crew to an unacceptable level.

These concerns are largely unfounded. There are a number of naturally occurring factors which ensure local employment is favoured in Australian productions and these factors exist regardless of the particulars of the Subclass 420 visa system.

Notwithstanding these factors, it should also be noted that in those discreet instances in which overseas cast and/or crew are engaged, there are substantial benefits which accrue to the local production industry, and hence Australian audiences, which in ASTRA's view clearly outweigh the small impact on local employment levels.

#### *Incentives towards local employment*

Firstly, there are substantial financial incentives towards the engagement of Australians in Australian productions – it would simply be uneconomic to import a substantially foreign crew or cast for an Australian production. Australian productions are always going to principally hire locally and this substantially reduces the risk of a significant change to the balance of foreign and local employment.

We also note there is a preference in the market for Australian content for the employment of local cast. Australian audiences place great value in hearing Australian stories told in Australian voices and this ensures that the majority of roles in local productions will continue to be filled locally.

#### *Foreign cast not displacing local employment*

Further limiting the impact of overseas hiring is the fact that in many cases, the production demands that a foreign actor is best suited to the role. In these cases, there is no net detriment to local employment levels as the role would never have been offered locally and hence no local actors or talent are displaced.

For example, for the History Channel production *The Memorial: Beyond the ANZAC Legend*, an overseas presenter was engaged because the perspective of the program was that of an 'outsider looking in' at Australian war history. It was precisely Neil Oliver's international perspective which was of value to the production.

A further example is *Australia's Next Top Model*, which periodically brings in an international celebrity to feature as a guest judge in a single episode. In these circumstances, the production specifically demands an overseas hire as a means of

adding an international dimension to the program, which is important given the international nature of the modelling industry.

Similarly, with regards to sports coverage, the majority of commentary teams or expert panels will be Australian. A star player or former player from overseas will often be brought in to provide an international perspective or to 'balance' the Australian commentary. In this situation the international hire is not displacing a local hire.

It should be noted that the inclusion of internationally recognised talent boosts the appeal of programs and hence maximises the audience. Not only does this mean that the cultural benefit of Australian content is maximised (greater reach), but also boosts the viability and longevity of the productions.

These kinds of international guests are not displacing local talent and in many cases the overseas talent is brought in for a very short time, sometimes for just two or three days, to appear in a single episode of a local production. These are normally high-profile figures who only travel to Australia for the one role. They typically have an established career in the USA or Europe and as such, there is no prospect of the imported cast member staying in Australia and displacing Australians from local film and television employment opportunities.

#### *Benefits of international hiring*

Not only is there limited scope for Australian productions to become dominated by overseas cast and crew, in the instances where overseas actors and/or crew are engaged, there are significant positive impacts for the Australian production industry. This reinforces the need for a visa system which facilitates an efficient process for hiring internationally (ASTRA's members have had to forgo opportunities to hire internationally because the 420 visa process would have taken too long).

For example, the inclusion of a marquee foreign actor with a significant international profile can be crucial in attracting investment from outside Australia. With the economic pressures on the production industry at present, and the ever-increasing globalisation of the industry, international finance is increasingly becoming the factor which determines whether a production makes profit or indeed gets off the ground. If employment and visa arrangements are a disincentive to engaging foreign star actors, local productions are going to be less appealing to overseas markets, which will ultimately mean fewer productions, less employment and a downward impact on Australian cultural output.

As well as these macro level benefits, there are also direct benefits to local actors from working with international talent. If a marquee foreign actor raises the profile of an Australian production overseas, the international profile of the Australian actors who feature in the program or film will also be enhanced.

There is also a skills and experience benefit that comes with the engagement of highly experienced and skilled crew. For example, an Oscar-winning cinematographer from the USA engaged for a single production would not only help deliver Australian audiences a high-quality product, they will also pass on expertise and advice to the Australian crew working on the production. Furthermore, with an established international career, the cinematographer is not going to stay in Australia

long term and take employment opportunities away from Australians. Rather, his or her involvement in an Australian production can improve the skills base and careers of Australian professionals.

### **The proposed reforms**

ASTRA supports the recommendations set out in the separate Foxtel submission regarding specific reforms to Subclass 420 visa system.

As a general principle, we support a deregulatory approach which reduces red-tape and compliance costs, and which imposes the minimum level of regulation required to achieve public policy outcomes. Containing costs and delays is the best way to ensure regulation is sustainable in the long-term.

We also support an approach whereby market forces are relied upon to drive industry decision-making and, as outlined above, there is a range of naturally occurring incentives towards a predominantly local approach to hiring.

We support a system whereby important strategic and financial decisions regarding employment are made by the highly qualified and experienced professionals running the production in question. Of particular importance in this regard would be the repeal of the requirement for certification from the Arts Minister.

However, if the Government is minded to retain some form of oversight, we feel the regulation of international employment must be nuanced and flexible enough to ensure it contributes to, rather than inhibits, industry development and sustainability. Hence, ASTRA supports a qualitative 'no adverse consequences' test for consideration of visa applications, as this is the best means of ensuring the significant short and long term benefits of international hiring are properly considered. An approach which focuses on the health of the production sector as a whole is much more conducive to industry development than the blunt qualitative metric of foreign versus local employment.

ASTRA also highlights the proposed changes to the timing and nature of union involvement as being of importance. ASTRA feels the union's expertise is more suited to participation in a high-level review of overall employment trends on a periodic basis, rather than participation on a case-by-case basis as presently exists. Whilst the union (the Media Entertainment and Arts Alliance – MEAA) is an important stakeholder, its involvement in each employment decision is an additional layer of regulatory red tape which imposes additional financial and administrative burdens on industry. ASTRA and Foxtel's proposed alternative would retain a role for the union but would do so in a way which reduces compliance costs and frees up commercial decision-making.

Please feel free to contact me if you wish to discuss anything in this submission.

Yours sincerely

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CEO