



RESPONSE TO SCREEN AUSTRALIA: STATEMENT OF INTENT.

Australian Directors Guild (ADG) September 29th 2008.

Preamble:

The Australian Directors Guild (ADG)

The Australian Directors Guild is the peak film industry organisation representing Australian screen directors. Our members comprise over 600 professional filmmakers working in feature films, documentary, TV drama and Animation. They are directors, writers, independent producers and assistant directors. Many of our directors also work as writers and producers, especially in documentary where it is common for filmmakers to produce, direct and write.

Directors perform the primary role in the creation of an audiovisual work. While the collaborative process is at the heart of all production, the Director has the creative responsibility for the artistic integrity, cultural merit and entertainment value of the final work and as such is absolutely integral to the work's potential for success. The history of cinema and television shows that the best works are produced when Directors are afforded conditions that enable them to pursue their creative vision with respect and understanding.

We believe the industry is at a critical point, and applaud the bold vision put forward in the Statement of Intent. We welcome the opportunity to talk to the proposals in the Statement.

Contents:

KEY ISSUES FOR DIRECTORS AND THE ADG

Directors as stakeholders in creative works

Any policy or guidelines for support to the industry must recognise and reward the primary role of directors in the creation of screen content.

The director is recognised as an author of an audio visual work in all 27 EU Member States. These countries give directors a first economic ownership in the films that they direct. Directors in North America and the UK are substantially protected and rewarded by collective bargaining arrangements negotiated and enforced by powerful unions such as the DGA.

Directors in Australia do not have the rights or recognitions afforded their peers in other countries as primary producers of screen content, and as such do not have the remuneration that flows from this recognition. It is one of the principal reasons that all but a handful of Australian directors have struggled to build sustainable careers in their own country. Any discussion about career sustainability must take into account the reality for Australian Directors, who do not have the avenues for on-going remuneration or recognition afforded to directors in all other major international screen production countries.

We are also concerned that the perception of a directors work, especially in Television Drama, has been eroded over time. When there is a lack of understanding about what a director does, conflicts are inevitable, and the quality of work we collectively produce suffers. The ADG is committed to promoting an understanding of the directors role in creating screen content, and improving the conditions directors work under, proportionate to the creative vision and responsibility the directors job requires.

Cultural and Core funding issues

The ADG has received support over the years for its cultural and events activities through the Industry and Cultural Development department of the AFC; and for its policy and research work through the Policy, Research and Communications department of the AFC.

The ADG is a major advocate for key policy and industrial issues that affect our members, and more specifically the broad filmmaking community. Over the years the ADG has worked individually and collectively to address the critical issues facing our industry.

Directors will need to adapt in this rapidly changing industry, as new media platforms evolve and change the nature and form of screen content production and delivery. Arguably directors are under greater threat, as the traditional model of direct, and project-to-project employment retracts, and directors will need to find ways of generating income and building sustainable careers through the primary and secondary exploitation of their creative works.

In a world where screen content and how it is presented to an audience is being re-defined daily, how a director is remunerated and rewarded for use of their work is one of the great challenges facing us as we work toward building a sustainable industry. In particular, filmmakers working in short form or information-based screen content such as Animators and Documentary filmmakers are at risk.

To address these challenges the ADG will need to research, educate and inform Australian directors and independent filmmakers on these issues, including:

- Protecting IP in creative works, and addressing the growing issue of piracy.
- Exploring future career directions and options for established and emerging directors, including re-skilling and training in new media platforms (production and delivery)
- Establishing and maintaining sustainable businesses,
- Building and developing concepts of resource sharing, working in creative teams, and building knowledge and expertise in marketing and distribution.

The results of this work will feed into the broader industry, and the ADG views research, mentoring, and education as important resources that will benefit and progress the whole industry.

Presently, the ADG does not have the resources of many of the other guilds and unions, and would like to put a case for core funding assistance of our operations to develop the work as outlined above, in addition to key research and education to:

- Build models for directors' career sustainability, through research of the current models in Europe the UK and North America.
- Promote, educate and inform to build an understanding of the directors work, and what a director does.
- Build and strengthen positive models of the Producer/Director relationship. This would also include educating directors on the producers role, especially in the changing climate of financing through the Producer Offset.
- Research and educate Australian filmmakers about the changes that will profoundly affect their creative work into the future;
- Continue our policy and advocacy work in support of independent filmmakers over the coming years, including as a result of the changes being proposed here for development and financial support to the industry.

SPECIFIC RESPONSES TO THE SOI:

3. Revised Program Structure

Enterprise and Professional Development

Producer Offset:

The key benefit of the Offset for filmmakers was an increase in the equity of the films they make. However this is proving to be problematic as they increase their financial exposure through efforts to finance the offset, for some through creating a line of credit through personal assets (such as houses), for others by pursuing loans on unfavorable terms.

We also note the enormous difficulties that filmmakers have faced recently in cash flowing the Producer's Offset for lower budget drama productions and documentary, and in particular when deploying it in financing when it is 20% of QAPE.

We would welcome from Screen Australia and the Department background documentation regarding the reasoning and modeling that delivered the Offset settings, and that anticipated how the provision of cash flow would work in practice. We can participate most effectively if we are informed, and there has been an unfortunate tendency for policy to be made and implemented without appropriate consultation. What mechanism has Screen Australia in place to facilitate access to discussion papers and other data that has delivered the structure we are now dealing with?

The documentary sector especially is at a loss to understand why it was ever separated from the drama producers without any consultation with the sector, and given a 20% rebate. When the non quapeable expenses are deducted, the reality is that the offset is closer to 15% and in documentaries with significant overseas shooting that may decrease to 10 – 11%. There are also more administration costs and more paperwork which makes this process even more onerous.

Recommendation

We recommend that the Offset level for documentary should be at the same level as feature drama, ie: at 40%; and that Screen Australia explores options for cashflowing the offset for producers.

Proposed Enterprise and Professional Development Scheme:

The ADG welcomes the expansion of a scheme to assist filmmakers to build sustainable careers, explore new opportunities, and a move to enhance core support or “body of work” career assistance.

We recommend the following:

- That the proposed scheme acknowledges in its objectives the positive returns of having a diversity a scale among screen businesses, and that it takes into account that there are existing models of success and sustainability within smaller independent production entities;
- That special consideration be given to enterprises that include directors as part of their business structure. Enterprise development is equally important for the sustainability of directors’ careers, and production houses benefit greatly from having their directors input into business development;
- That production vehicles seeking provisional producer offset certification where the director of the project is not a Company Director, must exercise an acceptable agreement between the production vehicle and the director that sets out the director's rights and responsibilities. The ADG rate card and code of practice is pertinent to any such agreement, and we anticipate that Screen Australia will broadly affirm this in its more detailed policies;
- We would like to stress that many projects are initiated by directors and developed by directors with teams and we would urge that this reality is reflected in Screen Australia’s funding priorities;
- We strongly recommend that a portion of the Enterprise and Professional Development allocation be sanctioned for experienced directors who are creatively initiating and driving a project;
- Maintaining a diversity of enterprise development - as Screen Australia has affirmed that it wishes to do - could be aided by recognising project and/or slate development by directors as eligible proposals;
- Peer assessment and reviewing is essential in any process deliberating on development support, whether as part of an enterprise scheme, or as targeted funding on a project-by-project basis.

Production Financing

Feature Films

The role that directors have played in developing the current feature film industry over the past twenty years has been pivotal to its success - not just for the Australian films they have made, but in terms of the economic activity generated by the projects they have brought into Australia. This activity has been attracted by the directors determination and desire to work in Australia, and has driven millions of dollars into the local production industry. It is critical in any modeling of a future feature film industry that there is a recognition of the importance directors can play - in attracting finance, and as many evolve into producers of local production.

Previously there had been a practice where the FFC would dictate terms of trade on producers across a range of areas. The ADG will not accept the new agency dictating terms of trade, in particular where it relates to fees being paid to key creatives ie: directors.

Re the Marketing and Distribution platforms. We support this initiative and would stress the importance of having directors at festivals and markets, and on the ground (local/experienced) support; and, within this, a recognition of the difference between European festivals/markets (director centric) and US markets (director as product or brand, but equally important).

Non-Producer Offset production

It is unclear in the SOI what is being considered on funding films up to 100% that don't access Producer Offset. Will this be addressed in the next stage of industry consultation? Is this envisaged along the lines of the Indivision programme? Will it be supported by a development initiative?

The Key points we would like to make are that:

- Production of screen content that can be fully financed by Screen Australia (at times jointly with State agencies) is an integral part of a vibrant, diverse and active film industry. In particular the facility to green light low budget features will enhance opportunities for Australian filmmakers to be innovative and resourceful;
- Low budget films in this range are characteristically writer/director driven;
- We strongly recommend that this level of support (non Producer Offset) be structured to recognise the director's role and be flexible enough to allow a diverse range of films to be supported (That maybe considered at the high risk end of production financing);
- Many of the most successful low budget films have been made by experienced directors working with experienced crews. We strongly recommend that this level of funding be available to experienced filmmakers, to
 - (a) contribute to the sustainability of directors careers;
 - (b) enrich low budget films with creative expertise;
 - (c) allow established directors an opportunity to expand their work in new and innovative directions;
- We suggest that the term cultural merit needs clearer definition;
- Successfully realised films have access to the same level of marketing and distribution support as offered to the Producer Offset strand.

Documentaries

The ADG applauds the decision to shift existing programs such as the National Interest Program and History Initiative from an Executive Producer model to a Commissioning model with a higher level of responsibility being transferred to the production industry.

The ADG conducted a survey of its membership last year and out of 125 respondents, 113 strongly indicated that this was the preferred model. We note that we were the only organization to survey film makers during this time of significant change.

We are concerned that the differences between a Commissioning model and an Executive Producer model are not clearly defined in the current guidelines and could be confused with the role that broadcasters play in the commissioning process. Maybe a curated model is a better description. For

the purposes of this paper a Commissioning model means that filmmakers are able to retain copyright, and the relationship with Screen Australia is a consultative one.

The ADG is concerned that in current funding, a majority of production funds are being tied to projects with a television pre-sale, which effectively means that our industry is being developed to meet the requirements of the available television slots. Broadcast Licences are increasingly requiring additional internet and new media rights which filmmakers are required to give up. We urge that funding for programs such as the existing Special Production Fund are increased, and that more funding is available for innovative and new media platforms that are not necessarily tied to a broadcaster.

We applaud the development of advisory editorial committees and urge that directors also be part of this process.

The ADG notes that documentary will now be a silo within Screen Australia. We are concerned that ultimately one person could end up approving who gets funded, and urges Screen Australia to take sufficient measures to prevent this from happening. It is essential that funding decisions are made by more than one person and that industry practitioners are involved directly and transparently in this process.

We note that Screen Australia is not currently considering changes to alter existing arrangement to domestic and international documentary. Will that be considered in the next stage of consultation?

Animation

The ADG recommends that Screen Australia re-affirm its support for animation, and animators working in both traditional and 3D screen content. At present it is difficult for independent Animators to access the Producer Offset, and the ADG recommends that special consideration be given to Animation projects wanting to access the Producer Offset at a level consistent to that proposed for Documentary.

Australia has an excellent international reputation in Animation. To continue to foster strong Animation production, it is crucial that funds continue to be sanctioned for production of individual stand alone animated films.

The demands of Animation production are markedly different from other forms of screen content and utilise a different production model. The ADG recommends further assistance to develop producers of animation, an area that has not been developed extensively in Australia. This could be through supporting animators interested in diversifying into production, and encouraging industry partnerships that facilitate cross fertilisation of skills and talent between Animators and those in business, marketing and distribution.

The ADG recommends that assessment of Animation projects, whether in-house or outsourced, be allocated to dedicated animation experts.

In non-Offset production, the ADG recommends that support for Animation in development and production is increased, and not bundled in with new media funding or as an add-on in other strands of assistance.

Industry Input into assessment, decision making and program delivery

The ADG welcomes the concept of Industry input into these areas, however we find the notes about this in the SOI very broad, and recommend a full and thorough analysis of any proposed models of outsourcing be made available to the industry as soon as possible.

We believe specialised training (over and above that provided by the film schools) is a critical part of a growing film industry, and the ADG would welcome input and assistance in this area. The ADG has several on-going activities it supports and is developing initiatives in:

- Training and Accreditation of Assistant Directors, in consultation with leading AD's.
- Attachments to director members as an on-going benefit for students and graduates.
- Workshops and Masterclasses with leading directors.
- 'Show and tell' sessions with directors and other key creatives, done in conjunction with other guilds such as the AGSC or ACS.
- Sponsorship and support of student awards, such as the Robyn Anderson awards for Secondary School filmmakers
- Targeted screenings such as the Australian Films in Schools initiative.

4. Marketing and Distribution

ADG agrees that it is vital to recognize the importance of marketing and distribution.

We recommend:

- That the "value" placed on successful film/TV/Screen content has a diverse and flexible interpretation, ie: cultural merit, critical success and educational/historical importance should also be considered when defining "success";
- That some allowance be considered for harder to categorise or "difficult" films, that may have unpleasant or challenging themes, to help them reach an audience;
- Scrutiny of the marketing allowances in budgets, and allow for an increase in budget allocation to reflect the growing demands for multi-platform elements, in particular where directors are required to provide additional screen content;
- Support for digital exhibition of films to suburban and regional audiences, and to assist filmmakers to present their films in these areas.

5. Rewarding Achievement

ADG supports this in principle. Areas of concern:

- How would 'Achievement' be judged? Purely Box Office? Critical? Reach in diverse areas of Australia?
- How would this be allocated?
- Any incentives must recognise the principal creative role of the director in creating a successful film. Directors usually have to assign their rights in contracts, so any incentive rewarding achievement would need to be partially or wholly sanctioned for the director.
- If based on the European/French system (where producers get an automatic reward/incentive for box office success), Screen Australia must consider how rewards flow to the director. The history of the french system was to compensate producers for not receiving any benefits from

the authorship income that flowed to directors. In Australia directors do not receive any economic benefits like their peers in Europe.

- The ADG recommends that atleast 33% of these rewards be sanctioned for the director. Otherwise all the incentive lies with the producer, the director will receive no reward or incentive toward further career sustainability.

6. Administering the Producer Offset and the Co-Production program

To effectively monitor the success or otherwise of the Producer Offset it is critical that the Offset is reviewed and the results of those reviews made available to the key industry groups at the earliest opportunity. We recommend that this review is overdue and would need to take place by early next year.

7. Working with others

ADG supports any move by Screen Australia to consult with State Govt. agencies. In particular we urge Screen Australia to consult on contractual arrangements between Govt. agencies for development and production investment to avoid unnecessary duplication of legal services; and that the process of consultation and exchange be simplified, and where possible standardised across agencies.

The ADG would also encourage information sharing/openness between Screen Australia and other entities (AFTRS State Agencies) on any new media/cross media platforms that would come out of research and could be filtered through to the industry.