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Mr. Peter Young
General Manager
Film and Digital Content
DOCITA

by email: filmreview@dcita.gov.au

Dear Mr. Young

**Re: REVIEW OF AUSTRALIAN GOVERNMENT FILM FUNDING
SUPPORT**

Emailed herewith is my response to your issues paper, together with a copy of my cv, which I hope establishes my credentials.

I would welcome the opportunity to consult further, or to be part of any consulting process which may result from the review.

Yours sincerely,

Sue Milliken

**RESPONSE TO THE REVIEW OF AUSTRALIAN GOVERNMENT FILM
FUNDING SUPPORT
Sue Milliken – independent producer**

Preamble

I would like to say that I think the issues paper is excellent. It is clear, straightforward, and sets out the issues comprehensively and lucidly. I support the review, which is timely.

The film industry is in trouble, and its long term existence is threatened. Infrastructure which has been built over twenty five years with the assistance of bipartisan government support, is being dismantled. Skilled people are leaving the industry – or seeking employment opportunities in other countries. Talented young Australians, once attracted to film and television production as an exciting and viable career, are choosing other options because they cannot see a future.

The issues paper recognises the various factors which have brought this situation about. They are not confined to government support, but it is one key element.

The structure of Federal Government assistance to the film industry has not changed since the early nineties – since the creation of the Film Finance Corporation and the devolving of the Australian Film Commission to a development and cultural body. While periods of stability and certainty are important for film makers to be able to plan the financial structure of projects which sometimes take years to bring to fruition, it is also true that creativity thrives on a certain amount of turmoil, and bureaucracies calcify and self strangle if they are left in place for too long.

Challenges facing the industry

How do you run a production sector and guarantee successes? The answer is, you can't. Turnover is what gets you successes. This is a given throughout the international film industry. If it was easy to pick successes, the Hollywood studios would never produce flops.

The priority for a subsidised national industry like Australia's is to create an environment where quality and creativity are encouraged, by an enlightened and competent bureaucracy. This bureaucracy should be turned over regularly, to ensure fresh enthusiasm and different tastes for ideas to be funded.

If marketplace success was to be the only criterion, then the subsidy should all be spent on low budget horror films. But a national subsidised industry, I would argue, exists exactly not to do such films, except as career development initiatives.

A national subsidised industry should have as its priority the national identity, past, present and future, and should have the resources to reflect who we are, in all our diversity.

The harder you try to make films attractive to foreign audiences, the less relevant those films become. While a certain amount of commonsense must be applied to ensuring product for the marketplace, if the priority is on quality films which are relevant to Australia's national identity, films will be made which reach audiences here and internationally.

As an example, if the film *Ten Canoes* had to be assessed in purely commercial terms, no fool anywhere would have financed it. Yet this film may come to be seen as creating a ground-breaking shift in the perception of Australians to Aborigines and Aboriginal culture, and it has already enhanced Australia's cultural reputation internationally.

Australia will always face the reality that the subsidised industry develops talent, and that talent will seek its fortune elsewhere. Nevertheless it is vital for a subsidised industry to have its international talent return to it from time to time, to make films which reflect the national identity, and government agencies should actively encourage this to happen.

Mention is made on page 7 of the issues paper of "the existence of a number of viable long term businesses of different structures which are competitive in a commercial environment". This is something certainly to aim for but unless you have a close relationship with a television network or you have a windfall profit from a film (about one every five years), there is no way to support a long term financially viable business as a drama or documentary film producer in Australia. Until there is, once again, high turnover and the opportunity for producers to earn good fees and overheads and make films which go into profit quickly, it will not be achievable. It is particularly unachievable when government funding agencies hold fees and expenses down and direct film makers to make low budget films on which most personnel work for scale. In this environment, film makers will continue to live hand to mouth.

The balance between direct and indirect funding

Traditionally, independent films (i.e. those made outside studios which totally finance budgets) use advances on future income to manufacture. Usually for films from a small industry like Australia's, and especially if the films are very culturally specific – and therefore not obviously accessible to a wide commercial audience - commercial financiers (sales agents, distributors) extract onerous terms to advance funds for manufacture. In most cases this makes quick recoupment next to impossible, given the "end of the line" recoupment position of the manufacturer in the traditional film distribution & exhibition structure.

If a film could be fully financed through the tax system, or by a combination of tax investment and direct subsidy, it would not have to enter into these deals up front in order to secure the production cost. A good film would then sell on completion at much better terms, and thus deliver better returns to the investors. The sales agents and distributors would reduce their risk by not

having to buy up front. This would make them more willing to buy Australian films than they are at present, when they are forced to buy sight unseen. Even unsuccessful films would probably sell on better terms this way.

The first problem with creating tax incentives to private individuals to invest in films is that the opportunity inevitably attracts undesirable elements. The second problem is that without a further benefit at the time of investment, a 100% deduction is just not attractive enough to investors who are now only too well aware of the pitfalls. It has been proved that private investors will not risk funds on something as intangible as film production unless there is some guarantee of benefit.

The recent venture into FLIC tax incentives was ill conceived. Firstly, the incentives were not strong enough to attract a viable number of private investors, and secondly the decision-making responsibility for choosing which projects to invest in devolved to bankers. Thus films which did get made through this initiative were creatively and commercially unsuccessful.

Tax incentives are a popular option among film practitioners and I am sure that most submissions to this review will support them. There are three problems to be solved:

- To decide what level of gearing is viable to the investment community and acceptable to the government.
- To get Treasury to agree.
- To devise a system which is impervious to fraud and which will deliver films which reflect the national identity.

My work as a completion guarantor gave me a worm's eye view of the 1980's 10BA era, and I well understand the benefits and misuse of those geared incentives.

The way to make tax incentives work is to

- make the incentive to the investor attractive at the point of investment;
- ensure that projects are vetted prior to being able to access tax funds. Monitoring should continue constantly until delivery to ensure no slight of hand occurs on the way.

In regard to the latter, the only way to prevent abuse is to have projects vetted and supervised financially by a government agency. In practical terms, this would mean a producer submitting the project to the government agency, which would examine all the elements and make a decision as to the people involved and the quality of the script, and ensure that the funds to be raised were appropriate to the realisation of the script and did not contain any benefits not related to the production. Transparency would be essential. Being under the microscope with the threat of withdrawal of the investors' deductions for inappropriate behaviour would be a deterrent, provided the film makers are bona fide in the first place.

The mechanisms to do this are not so different to the mechanisms which already exist within the Film Finance Corporation and could be managed by such an organisation. Some emphasis would be different, and some differently qualified personnel would be required. But it would be a comparatively simple matter to set up such a vetting and approval branch of an agency.

It should be said that a “pool” of tax funds is not the way to approach the marketplace. That was one of the things which was wrong with the FLICS. You just put one more barrier in the way of good projects finding finance. Producers should be able to operate directly to the market on a project by project basis.

One of the things which holds back “viable businesses” is the lack of working capital. Producers must run a string of projects in development if they are to have a chance of getting films regularly into production. The current system of government agencies doling out development funds to writers with nothing for producers, is one of the reasons there is a paucity of great film ideas. Attention should be given, when considering tax incentives, to making incentives eligible for development as well as production.

Obviously there must be a “cap” on loss to revenue under a tax investment scheme. One of the legitimate fears of government is that a scheme which is attractive enough to bring investors back to film, will run away with otherwise taxable income. If the scheme had to pass through a government agency vetting gate, the funds raised per year could be capped at, say, \$150 million. Once the agency had signed off on that amount in any one year, the door would be closed until the start of the next year. With some practical fine tuning this would be a simple and effective method of capping investment.

One thing is certain – if the industry which has been built by thirty years of bipartisan government support is to survive the current crisis, increased government subsidy – either direct or indirect – is an essential requirement. If this does not happen, any changes resulting from this review will be just moving the deck chairs on the Titanic.

The most appropriate model for Government support to the film industry

The current federal film funding arrangements are a bit like Topsy – they just grew. The “many doors” are popular and most experienced practitioners are wary of recommending change because change usually means less, not more, opportunities.

Taking the list on page 12 of your issues paper, the organizations which are relevant are as follows:

- FFC
- AFC
- Film Australia
- NFSA

NFSA is only relevant because it has become an arm of the AFC – a transition which was mismanaged by the AFC. In spite of some backing off by AFC management, the marriage is still a bad fit and needs addressing. (When I was Chair of the AFC we successfully integrated the Commercial Television Production Fund into the organization, and the administration of it was very popular. The Archive could have been absorbed as successfully).

For a long time the complementary roles of the FFC and AFC worked quite well. However in the current climate the arrangement is not entirely conducive to the development of fresh and successful films.

For instance – a film comes to the FFC for investment. It is close to ready for production, but along with the financing more development work is necessary to polish it to its best. As things stand, the FFC cannot fund any development work. The producer must go to the AFC, and wait for the processes of that organization to approve funds for the final polish. This either slows down production, or the film goes ahead without that final polish, resulting in a film that is less good than it might have been.

To run a grown-up film industry at the top professional level, the major government funding agency ought to have the ability to provide funds for the final polish and development if required, at the same time as greenlighting production. This facility should be at the discretion of the manager and the board, but available when in their judgement, they will facilitate a better film.

There is, therefore, an argument for amalgamation into one super federal film funding agency. With two proviso's:

- it will only be as good as the person who runs it and the chair of the board;
- it must retain some of the historically important initiatives currently covered by the existing organizations. Film Australia's "National Interest" documentary programme is a case in point.

A new organization could amalgamate the FFC, AFC and Film Australia. These three bodies all perform functions related to development and production of films and television.

It would be unworkable to fold AFTRS into this mix. NIDA – the National Institute of Dramatic Art – is not mentioned in the issues paper. In fact, consideration should be given to amalgamating AFTRS and NIDA as a closer relationship of these two organisations would have dynamic benefits for all the students.

ACTF should continue to be funded independently as it is co-funded by state government agencies as well as the federal government and its quasi-independent production company structure would not fit with agencies with a "hands off" brief.

NFSA should return to a statutory government organization with its own chair and specialised board and independent funding. If this was unacceptable to

the government, NFSA could be run as an independent organization with financial administration through the new super body, with its CEO reporting directly to the board of the super body, and not to the CEO as is currently the case at the AFC. There should then be at least one person with archive experience on the board.

The new super body would be divided into:

- feature films
- television drama
- documentaries
- industry development
- culture and new technology

Each department would have its own manager and professional staff, with a central finance and admin.

In this way, development and investment for each discipline would be managed by specialists in the one department, thus more productively integrating these two elements. Development has been the poor relation since the beginning of film subsidy. Writers are remunerated reasonably if not always appropriately, but historically little assistance has been given to producers/directors in the development phase, often resulting in weakness in preparation of films for production.

“Industry development” would cover the early development now handled by the AFC – first time script writers, short films, fully funded career development 50 minute dramas and low budget feature films.

The department managers would report to the CEO and the board.

One spin off benefit of amalgamation would be the reduction of three boards to one. There is only a small pool of experienced practitioners to draw on, and this would result in more choices for board appointments.

New Technology

It is true that the technology of delivery is changing rapidly in the film and television industries as it is in all other spheres of endeavour, and government agencies must keep abreast of the changes, as must the creators of content.

However no matter how much the technology and delivery systems change, the world will always require content, and content is what a subsidised film and television industry is all about.

A country without a strong culture is a country without a soul. If you don't have your own dreaming, you are adrift in the wilderness.

Recommendation

I would suggest that a small panel of senior industry experts be appointed to canvas ideas for change, and methods of implementation, in consultation with the Department and Government. This panel should have the ability to retain financial or legal advice as and when it becomes necessary. Extensive consultation with the industry and government could get a very good result.

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SUE MILLIKEN

Producer

Sue Milliken is one of Australia's most experienced producers. She began producing in the late 1970s with her husband, Tom Jeffrey. Together they produced "**Weekend of Shadows**" (1977), "**The Odd Angry Shot**" (1978) and "**Fighting Back**" (1981).

In 1980 she set up the Australian operation of the completion guarantor, Film Finances. Her company, Samson Productions, has represented Film Finances in Australia for twenty six years.

In 1985 she produced Bruce Beresford's "**The Fringe Dwellers**", Australia's official entry at the 1986 Cannes Film Festival, which was nominated for best picture in the 1986 AFI Awards.

In 1990/91 she was Australian producer of "**Black Robe**", the first official Australia/Canada feature film co-production. "Black Robe" was nominated for ten AFI Awards and won Best Film, Best Director and several other major awards at the 1992 Canadian Genies.

In 1992 she chaired a review of the West Australian film industry for the W.A. Department for the Arts, which set wide-ranging recommendations for a revitalised film industry in that state. In 1994 she produced the feature film "**Sirens**", starring Elle Macpherson and Hugh Grant and directed by John Duigan and in 1995, "**Dating The Enemy**", starring Guy Pearce and Claudia Karvan, directed by Megan Simpson for Total Film & Television.

In 1996/97 she produced, with Greg Coote, "**Paradise Road**", directed by Bruce Beresford, for Village Roadshow Pictures and Twentieth Century Fox. "**Paradise Road**" starred Glenn Close and Cate Blanchett. In 1999 she co-produced "**Sydney - Story of a City**", a large-format ("Imax") documentary on the history of Sydney for the millenium. In 2001 she produced the mini series "**My Brother Jack**", directed by Ken Cameron, for the Ten Network. "**My Brother Jack**" was nominated for 7 AFI Awards and won Best Telemovie/Miniseries, Best Actress in a Telemovie or Mini Series (Angie Milliken). William McInnes won a Logie for Best Actor and Russell Bacon was awarded Cinematographer of the Year by the ACS for his cinematography.

From 2000 to 2002 she provided production services and acted as either producer or executive producer on series II to IV of the science fiction TV series "**Farscape**", produced in Australia for the Sci Fi channel on the USA cable network in the United States. In 2005 she was executive producer on the Project Greenlight million dollar movie for the Movie Channel, "**Solo**". She is currently producing "**Crocodile Dreaming**", a half hour drama starring David Gulpilil and Tom E. Lewis, for director Darlene Johnson.

Sue Milliken is a past President and Vice President of the Screen Producers' Association of Australia. She was made a Life Member of the Association in 1991. She is a former Chairman of the Australian Film Commission. She served for five years as a member of the Federal Government's appeals board for censorship in Australia, the Film and Literature Board of Review. She is currently a member of the board of Screen West.

In 1993 she was awarded the Australian Film Institute's Raymond Longford Award for her contribution to the Australian film industry, and in 2003 she was awarded the Australian Government's Centenary Medal.