

**Submission To
Review of Australian Government Film
Funding Support
(Department of Communication, Information
Technology and the Arts)**

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Overview

The purpose of this paper is to provide a summary of key points in response to the Department's request for submissions regarding the Australian Government's funding support for film and television.

Production deadlines and other time-constraints have made it impossible to submit a more complete and detailed paper and I intend to submit supplementary notes in relation to specific areas as soon as possible.

The key points I would like to address here include:–

1. Agency Overlap or Let a Thousand (well, 2) Flowers Bloom?:-

There has been discussion re the potential for the overlap between the FFC and the AFC in particular and thus whether a “super” film/TV agency should be created combining all film/TV funding and operations under one roof.

I believe that the AFC and FFC should be kept separate. There are significant creative/cultural advantages in having “different doors” and that different corporate cultures and different management skills and styles are required for the two functions of commercial investment and the development and promotion of the national/cultural/social industry in film/TV.

However the two organisations need to be clearly differentiated in terms of the FFC focusing on investment decisions re potentially commercial film/TV productions and the AFC taking the lead in cultural/creative development and research/training.

2. Why is the Government Directly Subsidising Two Organisations who then compete against independent producers?

There is no justification for federal government support for Film Australia or the Australian Children's Television Foundation when these organisations are competing directly with independent film and television producers and companies.

Why should the ACTF be subsidised to produce TV series for the commercial networks in Australia while independent producers are trying to develop shows for exactly the same networks? The same question applies to Film Australia.

Any federal funding of such organisations should be restricted to specific endeavours which are of national importance and which cannot be mounted by the private sector. For example, the ACTF produced an innovative and potentially exciting pre-school series call “Lift-Off” several years ago. It may not have been the greatest success but it was a creative step into this market and a good example of using public funds to go where other producers could not afford to take the risk.

3. Do Not Let the ATO Anywhere Near Film!

The ATO has been a disaster for the film and television industry. As a result of their interference:-

- The tax benefits of 10BA and 10B that were enshrined in straightforward “black letter” legislation have been made unusable to most of the investment community and the industry.
- The costs and delays in getting rulings from the ATO mean that the single most expensive item in most Australian film and TV production would be the legal and advisor costs in getting a tax ruling. This is a ridiculous state of affairs.
- The ATO have unilaterally and retrospectively disallowed tax deductions by investors who have invested in productions funded by other federal, as well as state, government agencies and which were vetted by DOCITA. If the expert professional staff of the AFC and a state government film authority have vetted the contracts, approved the budgets, inspected the distribution agreements and monitored the production, why does the ATO unilaterally get the casting vote re the film’s status?
- Every May-June for over ten years the ATO issued press releases specifically calling into question the validity of film/television investments. While undoubtedly claiming that such announcements were intended to protect investors from unscrupulous promoters the announcement had the effect of discrediting the entire industry rather than specific “bad eggs”.

If an agency is required to review any incentive schemes that may rely on assessment of budgets, Australian content etc, then the government already has such an agency already involved in the process and with experience in the area: The Department of Communication, Information Technology and the Arts.

4. Of Tax deduction, Rebates and Income.

The bottom line is:-

- We might as well keep 10BA and 10B as is because the ATO have thrown enough PR hand grenades, and made it so expensive, that investors are unlikely to be interested anyway. And they won’t believe the ATO even if they claim to have had a change of heart.
- Besides, the commercial future of the industry will be determined by income and returns, not tax deductions.

- An Off-set or Rebate scheme similar to that used in Canada is recommended. But it must be open to all productions that are approved as 10BA/10B films by DOCITA, not just big American films.
- Consideration should be given to letting investors in accredited 10BA/10B films treat income to a designated level as being tax-free. In effect income from sales becomes a franked dividend. Government agencies such as the FFC or the SAFC can be nominated to collect and disburse sales returns and to vet the distribution and sales agreements to check that they are bona-fide contracts. Investors may then treat all income received as tax-free up to 50% of their original investment.

By improving the net cash returns to the filmmakers and investors the government will help focus the industry and the key issues of sustainability and profitability. This in turn will reduce the industry's dependence on direct government financing.

Even Treasury should be happy in that investors are not getting increased deductions; they are simply getting a tax break on income that would otherwise not have been received if the films had not been made.

5. The AFTRS

The AFTRS is a "good thing" and an acknowledged success. Support the staff and students.

6. Give it the F.L.I.C.

Flics were misconceived and have not attracted investor interest. This is partly because the ATO is even against film/television (in which the FLIC's were innocent, but injured, civilians), partly because an investment in a production/media company actually makes more commercial sense if you are interested in the media sector and partly because most of the applicants did not have a clear vision as to the nature and future of their product (they tended to adopt a what-have-you-got approach rather than setting clear corporate-style goals and objectives).

"Say No" to any similar ill-defined, catch-all "production fund" concepts.

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