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20 December 1999

Ms Delwyn Rance
Productivity Commission
Broadcasting Inquiry
LB 2 Collins St East
MELBOURNE VIC 8003



Dear Ms Rance,

Re: Film Australia Response to Productivity Commission Draft Report

In June 1999, Film Australia made joint submission with the Australian Film Commission to the Productivity Commission's Broadcasting Inquiry. Film Australia endorses the submission made by the Australian Film Commission and Australian Film Finance Corporation in response to the Productivity Commission's Draft Report. This response focuses on specific issues for the documentary sector.

We commend the Commission for its recognition of the need for content regulation for Australian documentary on free-to-air television:

"The existing quotas for Australian first-release drama and documentaries should be maintained" (Recommendation 9.1)

The 15 hours (20 hours from 1-1-2000) of first release documentary mandated in the March 1999 Australian Content Standard underpins a commitment to audiences of the importance of Australian documentary in "... developing and reflecting a sense of Australian identity, character, and cultural diversity".¹

However we cannot support the second part of recommendation 9.1 which suggests that the 'creative elements' test would be improved:

"... by removing criteria that require non creative cast, crew and production processes to be Australian".

¹ Broadcasting Services Act, 1992, object 3(e).

In a process such as the development, production and post-production of documentary programs, the team is often very small. Delineation between "creative" and "non-creative" crew is a fine line; often all elements of a small crew contribute creatively to the finished program. Similarly technicians in the post-production process can offer "creative" solutions to technical problems and thus also contribute enormously to the success, or otherwise, of a documentary program.

The report does not appear to go into sufficient detail to argue the case as to how the "better targeting of eligibility criteria, including the central 'creative elements' test for Australian programs, would improve the effectiveness of these mechanisms"².

In regard to Recommendation 9.3 that the overall quota for Australian content of 55 per cent be removed, Film Australia supports the arguments in the Australian Film Commission/Australian Film Finance Corporation's joint submission and makes the following comments.

The Australian film and television industry is a fragile eco-system in which the majority of professionals move from one sector to another depending on a number of factors, including work opportunities. Therefore any change to the overall content quota will have flow-on effects to all sectors, including the documentary sector.

Film Australia notes with concern the comments made in the Draft Report in regard to subscription television, in particular that:

"The Commission is not convinced that Australian programming or other content regulation should apply to subscription television"³.

Given the lack of regulation for Australian documentary on Australian pay television, current content levels of Australian documentary on pay TV may provide a useful example when considering an unregulated content environment for subscription television in general.

It was a recommendation to the Minister in the ABA's May 1997 report that documentary channels not be subjected to Australian content regulation:

"Given the present state of documentary channels on the Australian scene there seems insufficient justification for making predominantly documentary channels subject to Australian content regulation at this time. However, the Australian content performance of documentary channels should be monitored to allow future consideration of this issue"⁴.

In April 1998, the Minister supported this recommendation and the development of an enforceable scheme for subscription television progressed without the inclusion of documentary.

² Broadcasting Draft Report, Productivity Commission, October 1999, p. 235.

³ *Ibid*, p.237.

⁴ "Australian content on pay TV: Investigation in connection with subsection 215 (2) of the Broadcasting Services Act 1992, May 1997, Australian Broadcasting Authority, p. 123.

In early 1999, Film Australia initiated a survey into the amount of Australian documentary programming screened on documentary channels for two weeks in each of the years 1997, 1998 and 1999.

At the time the survey began there were four predominantly documentary channels screening on three platforms: Discovery, screening on Foxtel & Austar; National Geographic, screening on Foxtel & Austar; The History Channel, screening on Foxtel; and Odyssey, screening on Optus Vision. (There is now at least one more channel, Animal Planet, screening on Optus Vision). These channels screen a total of over 30,000 hours of documentary programming annually.

Total subscriber reach of these three pay TV providers is now over one million viewers with the National Pay TV Report⁵ consistently ranking Discovery in the top ten channels by share of viewing and National Geographic in the top twenty.

It should be noted that, due to the lack of regulatory mechanism covering documentary, the Australian Broadcasting Authority is not collecting data on these channels. The Australian Film Commission continues to collect data on Australian titles screened on pay TV and assisted the survey by cross-checking the data with its records.

All documentary channels were contacted directly for information: data for National Geographic and Discovery is based on programming lists which they supplied; Odyssey and The History Channel did not respond to requests for information (Odyssey's 1997 and 1998 information was sourced from lists provided to the AFC).

The following figures show the percentage of total Australian documentary hours of the total number of hours programmed over the six weeks surveyed for each channel. The results are divided into two columns: "Confirmed Australian" and "Total Australian". The "Total Australian" column contains figures for both "Confirmed Australian" and "To Be Confirmed" titles, as some titles submitted as Australian content by the documentary channels could not be sourced in the AFC's Australian production database.

Survey Results

Channel	Confirmed Australian	Total Australian
National Geographic	4.0%	6.9%
Discovery	0.3%	4.7%
Odyssey	3.1%	3.9%
The History Channel	figures unavailable	figures unavailable

The breakdown of figures per channel per year is as follows:

Discovery

Year	Confirmed Australian	Total Australian
1997	0.9%	3.1%
1998	none	5.8%
1999	none	5.1%

⁵ National Pay TV Report: Pay TV Homes, published fortnightly in *Digital Broadcast Australia*, Acocia Press.

Survey Results (cont.)

National Geographic

Year	Confirmed Australian	Total Australian
1997	1.5%	3.3%
1998	1.8%	5.5%
1999	8.6%	11.9%

Odyssey

Year	Confirmed Australian	Total Australian
1997	4.6%	4.6%
1998	3.1%	3.7%
1999	1.5%	3.3%

NB: Only programs that met the Australian Broadcasting Authority's Australian Content Standard's definition of documentary were included in the survey, ie. news and current affairs, sports coverage, magazine, infotainment, and light entertainment programs were excluded.

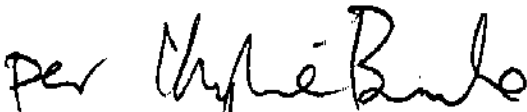
Whichever way the figures are viewed, the survey results clearly demonstrate the very low levels of Australian content screened when there is a no Australian content regulation.

However, it appears that regulation for documentary is back on the broadcasting agenda. In early December, during his second reading speech on the Broadcasting Services Amendment Bill (No.3), the Hon. Peter McGauran, Minister for the Arts and the Centenary of Federation made the following statement:

"The simple fact is that the government is aware that the production industry is very concerned that the provision be extended to documentary. Senator Alston will therefore be asking the ABA, as a matter of priority, to consider the need to extend the requirement of 10 per cent of expenditure on drama to documentary, and to report back to him within 12 months. This is consistent with the Australian Film Commission and the Australian Film Finance Corporation's recent report ... It recommended that the issue of extending the pay TV requirement to documentary channels be reviewed next year."⁶

In view of this statement and the results of the survey, Film Australia requests that the issue of local content regulation for subscription television, including documentary channels, be reconsidered by the Commission.

Yours sincerely



SHARON CONNOLLY
Chief Executive Officer

⁶ House of Representatives Hansard, 7 December 1999.