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Mr Peter Young
Assistant Secretary
Film and Creative Industries Branch
Department of Environment, Water, Heritage and the Arts
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Dear Mr Young

FILM AGENCY LEGISLATION

Free TV welcomes the opportunity to comment on the draft Bill to create a new screen agency, Screen Australia.

The majority of the bill is concerned with the corporate governance, staffing and other arrangements for the new agency. Free TV has no comment on these aspects of the Bill.

Certifying and financing functions of Screen Australia

Whilst the Bill does not specifically address this issue, the Minister's media release notes that administration of the Producer Offset will be made a responsibility of Screen Australia through consequential legislation.

This will result in a concentration of decision-making within the new organisation, which will have responsibility for the certification of projects and financing activities.

Subparagraph 6(3)(b)(iii) of the draft Screen Australia Bill 2008 requires Screen Australia to place emphasis on, amongst other things, 'programs with a high level of artistic and cultural merit' in performing its functions.

There is a danger that the cultural objectives of the new organisation could influence the administration of the offset. Eligibility requirements for the offset are set out in the *Tax Laws Amendment (2007 Measures No.5) Act 2007* and should be the only determinants for the provision of the Offset.

Consideration should be given to separating these two functions to minimise this possibility. Given the level of controversy around the Producer Offset and how it is applied, this is a particularly sensitive issue and should be addressed.

The policy objectives of the Producer Offset should not be compromised by the structure of its administering agency. If Screen Australia were to administer the offset, there must be a clear and well-established structural boundary between the certifying and financing activities of the organisation.

Structure of Screen Australia

The structure of the organisation should reflect and support the needs of all sectors within the production industry. As you are aware, commercial free to air broadcasters have made and continue to make a significant contribution to the production industry. In 2002/2003, television broadcasters contributed \$850.7 million to the Australian production industry. Commercial free to air broadcasters are a significant stakeholder in the production industry. We believe that this role has not been given due recognition in the past. Free TV would like an organisation established that is inclusive, collaborative and accessible to all stakeholders.

Further, a separate work-stream should be instituted for television as distinct from films to recognise the distinct characteristics and needs of these two sectors.

Finally, the leadership of the new organisation must also properly reflect the diverse nature of the production industry, and the Government should give high priority to candidates with direct experience in television and candidates who have broader commercial and open market experience and expertise.

We note that there is requirement for the Government to review the Producer Offset within twelve months of commencement and that the legislation specifically requires the review to consider levels of production in the in-house and independent sectors. We also believe the review should examine whether some industry participants are using the offset as a basis to preclude a full range of funding options for new projects and whether the current structure adequately encourages the participation of investors in the film industry.

Free TV welcomes further consultation on these issues in the lead-up to the establishment of Screen Australia and the review of the Producer Offset.

Yours sincerely

A handwritten signature in black ink, appearing to read "Julie Flynn".

Julie Flynn
Chief Executive Officer