



**Submission by
Free TV Australia Limited**

2010 Review of the Australian Independent
Screen Production Sector

Department of the Environment, Water,
Heritage and the Arts

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1 Executive Summary

- Australia's commercial free-to-air broadcasters have made and continue to make a significant contribution to the production industry. Commercial free-to-air broadcasters continue to be the major underwriters of Australian content.
- Free TV strongly supports the Producer Offset as introduced by the *Tax Laws Amendment (2007 Measures No. 5) Act 2007*.
- A clear objective of the Producer Offset was to create a more viable and market focused Australian production industry through increased production and additional employment. It also aimed to encourage private investment in the industry. We are confident that the Producer Offset is achieving these aims.
- There is no evidence that the introduction of the Producer Offset has, or indeed will, impact on the sources of production.
- Broadcasters make production and programming decisions based on new and creative concepts which appeal to audiences – irrespective of whether they are generated in-house or externally. This has not changed since the introduction of the Producer Offset.
- For the Producer Offset to achieve its state aim of stimulating and supporting all forms of Australian production, it must continue to apply equally to all producers.
- There would be no benefit to audiences or the production industry as a whole from changing the existing arrangements that have delivered a lively mix of independent and in-house productions of a quality that has long been recognized both here and overseas.
- Broadcasters continue to be strong supporters of the independent production sector and work with a number of producers and production companies of varying size and experience.
- In-house production contributes significantly to the Australian production industry and underpins key cultural objectives.
- There is no evidence that the introduction of the Producer Offset has detrimentally affected negotiations between producers and broadcasters regarding licence fees or other terms.
- Free TV is aware of calls for further regulation as regards recoupment structures and terms of trade. Free TV is strongly opposed to regulatory intervention in these areas.
- Restrictive rules governing recoupment structures and commercial terms would be unwarranted, inequitable and would provide a strong disincentive against private investment, to the detriment of the Australian production industry.
- Subject to the findings of this review, Free TV submits that no further reviews into the availability of the Offset to television productions should be scheduled for the immediate future.
- Commercial broadcasters and film investors require as much certainty as possible in order to make forward planning decisions and a constant state of review does not promote this.

2 Introduction

Free TV Australia represents all of Australia's commercial free-to-air television broadcasters. Free TV welcomes the opportunity to provide a submission to the 2010 Review of the Australian Independent Screen Production Sector.

Commercial free-to-air broadcasters have made and continue to make a significant contribution to the production industry.

Commercial free-to-air broadcasters invest almost \$800 million a year in original Australian programming including drama, children's programs, documentaries, sport, news and current affairs and local content.¹

Figures released by Screen Australia confirm that Australia's commercial free-to-air broadcasters continue to be the major underwriters of Australian content.²

Every year commercial free-to-air broadcasters produce more than 500 hours of original Australian drama, including 96 hours of children's drama. They also consistently exceed the 55 per cent local content quota.³

Screen Australia's national production survey shows that in 2008-09, as in previous years, the largest contribution to the combined TV drama slate came from the commercial free-to-air broadcasters.⁴

Australian TV drama spend increased to \$294 million, up from \$229 million last year and well above the 5-year average of \$227 million. 614 hours of Australian TV drama were produced, up from 606 hours last year, and again, well above the 5-year average of 581 hours.⁵

The Australian film/TV industry provided the majority of investment for the 2009 TV drama slate (71 per cent), contributing \$231 million to 42 productions.⁶ 2009 was a bumper year for drama on free-to-air television, with big audiences for such quality productions as *Underbelly – The Tale of Two Cities*, *Wicked Love*, *Packed to the Rafters*, *City Homicide* and *Rush*.

Despite an historically challenging period for the television industry, Free TV broadcasters continue to invest in quality Australian content. No other platform has contributed or is likely to contribute in the future to Australian content in this fashion.

The introduction of the Producer Offset in 2008 was an important and timely initiative designed to encourage increased production levels. We are aware of concerns that the introduction of the Producer Offset would encourage broadcasters to commission in-house productions, to the detriment of external producers.

The past 2.5 years show that these concerns are unfounded. Commercial broadcasters have continued to base their decisions as to which programs to commission and produce on those substantive factors which stand to impact on the likely success of the program and their longstanding individual production models.

The stated aim of the Producer Offset is to stimulate and support Australian production. For this to be achieved there must continue to be a level playing field and no distinction

¹ ACMA Broadcasting Financial Results 2006-07

² Screen Australia *Get the Picture*

³ ACMA Report *Compliance with Australian Content Standard and Children's Television Standard* 22 May 2009

⁴ Screen Australia *National Survey of Feature Film and TV Drama Production 2008/09* (refer to 'sources of finance')

⁵ Screen Australia *National Survey of Feature Film and TV Drama Production 2008/09*

⁶ Screen Australia *National Survey of Feature Film and TV Drama Production 2008/09*

between different production houses. Both external and in-house productions make a significant contribution to the overall health of the production sector in this country.

Free TV strongly supports the continued application of the Producer Offset equally across all sources of production of Australian programming. Refusing broadcasters access to the Offset would be detrimental to the overall production industry and would not be consistent with the Government's stated cultural aims of ensuring a diverse range of quality Australian film and television productions. Most importantly, it would represent a poor outcome for Australian viewers, who place great value in the availability of high-quality Australian drama and other programming on free-to-air television.

Since the introduction of the Offset, there have been calls from some producers for the introduction of standard terms of trade, to address matters such as recoupment structures and revenue share. Consistent with Free TV's previous submissions to Government, we reiterate our view that productions, by their nature are not standard products which lend themselves to standard terms. Every production and producer is different.

Regulated terms of trade and recoupment structures which do not appropriately prioritise at-risk investors are inconsistent with the underlying objective of the Producer Offset – to create a more viable and market-focused Australian production industry.

The review's terms of reference cover a variety of issues affecting the independent production sector, but also include matters which are of direct relevance to commercial free-to-air broadcasters and their viewers. The financial commitment commercial television broadcasters make in the sector and the employment they provide means they are a crucial contributor to the independent sector. The availability and operation of funding mechanisms within the independent production sector directly impacts and is directly relevant to commercial broadcasters and their viewers.

In particular, the terms of reference seek to consider the findings of the Statutory Review of Division 376 of the *Income Tax Assessment Act 1997* relating to levels of production by the Australian independent production sector compared to levels of production by Australian television broadcasters. The effect of the Producer Offset on licence fee negotiations with broadcasters will also be considered under the review's terms of reference.

The terms of reference also include consideration of the extent to which the Government's support measures help achieve the stated screen cultural objectives, including:

- Ensuring the creation of a diverse range of quality Australian film and television productions which appeal to audiences, and
- Developing a sense of Australian identity, character and cultural diversity.

This submission primarily focuses on these aspects of the review but also addresses additional issues which have arisen regarding recoupment structures and terms of trade.

3 The Producer Offset and sources of programming

The review is considering the findings of the Statutory Review of Division 376 of the *Income Tax Assessment Act 1997* relating to the levels of production by the independent production sector compared to levels of production by Australian television broadcasters. The review is also considering whether the Australian Screen Production Incentive, of which the Producer Offset is a key component, is assisting the stated screen cultural objectives, including “ensuring the creation of diverse range of quality Australian film and television productions which appeal to audiences.”

Whilst we welcome the opportunity to comment on the operation of the Producer Offset, it remains the case that the source of programming (which was the issue of primary concern to the Statutory Review) is not relevant to the objectives of the Producer Offset or the Government’s stated cultural objectives.

The stated objective of the Producer Offset is to support the Australian screen media industry and to improve the market responsiveness of the industry. It is intended that increased production will deliver increased diversity and choice to audiences and encourage stable and sustainable production companies.⁷

The Government’s cultural objectives are, appropriately, focused on the availability of a diverse range of quality productions to audiences.

The focus of Government support measures must remain on boosting overall production levels and delivering greater benefit to viewers. The source of programming is irrelevant to both of these important objectives.

3.1 The introduction of the Producer Offset has not impacted decisions regarding the source of programming

The introduction of the Producer Offset has had no impact on the manner in which commercial free-to-air broadcasters commission and produce drama, other than to make it more attractive generally to invest in quality drama production.

Prior to the introduction of the Producer Offset, the priority for commercial free-to-air television broadcasters was to deliver the highest quality and most popular programs irrespective of origin. This has not changed since the introduction of the Producer Offset.

As outlined in more detail below, broadcasters’ programming decisions are not based on the availability of the Offset.

The Offset has not influenced the source of programming selected by broadcasters, with the majority of Australian drama still delivered by independent producers.

During the period from 2008 to date, of the 19 first run Australian adult dramas broadcast by the commercial broadcasters,⁸ only five were produced in-house

⁷ Explanatory Memorandum to the Tax Laws Amendment (2007 Measures No. 5) Bill 2007, page 184

⁸ Packed to the Rafters, Underbelly, City Homicide, Sea Patrol 2, All Saints, Home and Away, McLeod’s Daughters, Rush, The Strip, Neighbours, Canal Road, Out of the Blue, Kenny’s World, The Informant (telemovie), Emerald Falls (telemovie), Mark Loves Sharon, Rescue Special Ops, A Model Daughter – The Killing of Caroline Byrne, Wicked Love: The Maria Korp Story

(*Canal Road, All Saints, City Homicide, Packed to the Rafters, Home and Away*). The only new in-house production to be broadcast during 2010 will be *Cops L.A.C.*, by the Nine Network (this is intended to replace *Canal Road*). Please note that both *Canal Road* and *COPS L.A.C.* draw all creative (including script producer, series producer, writers, directors, actors) and technical crew from the independent production sector on freelance rates and conditions. This is much in the same manner as external producers such as Southern Star would employ resources on a run of show basis.

In each case, these productions were developed and commissioned on their creative and programming merits and prior to the introduction of the Producer Offset. All children's dramas broadcast in the past 2 have been externally produced.

There continues to be a healthy balance between independent and in-house productions. With in-house productions such as *City Homicide* and *Packed to the Rafters* sharing success during 2009 with externally produced dramas such as *Underbelly, Sea Patrol* and *Rush*, it is clear that audiences do not make viewing choices based on the origin of productions.

Further, commercial free-to-air broadcasters each take different approaches to sourcing Australian drama. These approaches have been developed over a long period of time and reflect each Network's creative requirements, resources and commercial positioning. The funding provided by the Producer Offset is not a sufficient inducement to change approach, as this would mean a change in creative direction as well as significant upfront investment through the establishment or expansion of internal production capabilities. The introduction of the Producer Offset has not altered the reliance by some broadcasters on independent production. For example, all of Network Ten's adult and children's drama continues to be commissioned from independent producers.

The primary effect of the Producer Offset has been to make drama a more attractive genre by increasing the available budget. In other instances, it has buttressed the budgets of existing dramas, allowing the quality of existing projects to be enhanced. For example, having the Offset as part of the funding mix allowed the Seven Network to expand and enhance the production quality of *City Homicide*. The additional funding allowed an increase in the more expensive aspects of production, such as location shoots, stunts and the use of helicopters.

The Offset has also contributed to more pilots being made. The Seven Network has two pilots currently in development, made possible by the availability of the Offset. The availability of the Offset can be factored into the budget for these pilots up-front and this greatly enhances the salability of a program proposal to the Board.

3.2 Source of programming is not relevant to the objective of the Producer Offset or the Government's stated cultural objectives

There is, and has been for many years, a healthy balance between in-house and external drama productions for television. Independently produced adult programs such as *Sea Patrol, Neighbours, RUSH, McLeod's Daughters, Joanne Lees Murder in the Outback, Underbelly, Rescue: Special Ops, Wicked Love* and in past years, *Secret Life of Us, Last Man Standing, Mary Bryant, Blue Heelers, Young Lions, Through My Eyes, The Alice, Water Rats, Tripping Over,*

Jessica, The Society Murders, The Strip and Scorched are balanced by some in-house dramas such as *Packed to the Rafters, Canal Road, All Saints, Home and Away, Always Greener, Headland, Marshall Law* and *City Homicide*.

The balance is driven by the fact that broadcasters make production and programming decisions based on new and creative concepts which appeal to audiences – irrespective of whether they are generated in-house or externally. The source of programming will not drive a broadcaster to reject a superior concept and risk the project being picked up by a competitor and potentially the loss of hundreds of thousands of viewers.

If the best idea for a program comes from an independent production company, it belongs to that producer. A broadcaster cannot produce the program without the participation of the owner of the concept. If the concept is considered the one that will deliver the maximum audience, that is the driver for the commissioning decision.

Put simply, the business model for commercial broadcasters is to deliver the highest quality and most popular programs irrespective of origin.

The origin of programming is also not relevant to viewers. The standard of Australian productions – whether externally produced or in-house – is of primary interest to viewers. If a production is not of a sufficient standard, viewers will not watch it. This is the case regardless of how a particular production is produced. Nothing about the eligibility for the Producer Offset can change this basic commercial reality. When broadcasters commission productions, they will have most regard to the likely success of that production. In any event, Division 376 sets minimum expenditure thresholds to ensure that only high quality productions are able to benefit from the Producer Offset.

As can be clearly seen from ratings figures, viewers do not differentiate between in-house and independently produced programs. Both in-house and independent programs regularly feature in the top rating programs on Australia television. Top rating dramas on commercial television in 2009, such as *Underbelly – A Tale of Two Cities* and *Packed to the Rafters*, are a mix of in-house and external productions. These programs attracted huge audiences, with the 2009 season final of *Packed to the Rafters* attracting 2.9 million viewers. The 2009 series averaged 2.6 million viewers.

Underbelly debuted to record audiences, delivering an average audience in excess of 3.3 million viewers. The second series averaged 2.9 million viewers. *Rush* was a consistent performer in 2009, with the highest rating episode peaking at 1.8 million Australian viewers. The series ended in 2009 with an average weekly audience of 1.4 million viewers.

The purpose of the Producer Offset is to encourage greater levels of Australian production and this is vital to the sustainability and viability of the independent production sector. This will occur through the production of popular and sustainable Australian programming that meets audience needs and not the commercial considerations of a few individuals. Clearly, in-house productions are capable of meeting those audience needs as well as independently produced programs.

Australian dramas and documentary series on television, given their wide appeal and high audience numbers, are critical to developing and reflecting a sense of Australian identity, character and cultural diversity.

In this way, the availability of the Producer Offset to television productions is consistent with the Government's stated cultural policy objectives.

It should also be emphasised that there are many examples of independent producers working cooperatively with broadcasters to develop and commission high-quality projects. For example, an independent producer may approach a broadcaster with a concept for a high quality documentary series (such as *Gangs of Oz* or *000 Heroes*). Broadcasters will, in these circumstances, fully-fund the cost of production and bear the entirety of the commercial risk. The subsequent apportionment of the Offset to parties involved is determined through commercial negotiation recognising the value of each party's contribution. The Offset is shared according to a reasonable assessment of contribution and risk.

Restricting the availability of the Offset to in-house productions would be unnecessary, counter-productive and detrimental to independent producers, broadcasters and their audiences.

3.3 In-house production contributes significantly to the Australian production industry and underpins key cultural objectives

In the context of the current review, it is worth noting the significant contribution of in-house productions to the production sector and the achievement of cultural objectives – particularly in relation to serving audiences and the development of Australian cultural identity.

In-house production departments provide many people with valuable training and an opportunity to increase their skills base. It allows aspiring producers and others to take risks, make mistakes and learn from a wider creative team without the fear of adverse personal financial consequences. Many of today's independent producers got their start working for broadcasters with strong in house production departments such as the Seven Network or the ABC.

The opportunity to move between run of show regular employment with a broadcaster and independent projects is a welcome one for many in the production industry. Many independent producers, directors, writers, cameramen etc take the opportunity to work on in-house productions while they go about securing their next independent project and move between the two sectors throughout their career.

Reliable and steady employment is also valuable to women or those with family responsibilities, who may wish to remain in the production industry but may also need the security of ongoing and regular employment.

There is also a healthy proportion of productions where, other than producers, production staff are drawn from the freelance community and contracted on a run of show basis. In this way, both in-house and external productions can be seen as drawing from the same pool of creative and technical talent and resources and providing those freelance professionals with an additional source of employment. Furthermore, by supporting the availability of a wider talent pool for all productions, in-house productions support the overall health of the production sector.

3.4 Developing and reflecting a sense of Australian identity, character and cultural diversity

Free-to-air television services reach more than 99 per cent of the population and, despite an ever increasing range of media choices, Australians spend more time with television than any other media. Over two-thirds of Australians continue to rely exclusively on free-to-air for their television service.

The ongoing availability of high-quality, first-run Australian drama on free-to-air television continues to deliver to the Australian public a common understanding of Australian culture and a shared experience of Australian identity.

It is free-to-air television that has consistently delivered on Australian production – it is free-to-air television which delivers strong and clear Australian voices and Australian stories to millions of viewers week in, week out.

In this way, the availability of the Producer Offset to television productions supports the continued attainment of the Government's cultural objectives.

3.5 Independent producers are a very small part of the broader production community

It is also worth noting that independent producers form only a very small part of the overall Australian independent production sector. Production teams are made up of large numbers of creative participants, including actors, directors, editors, set designers, writers, composers, cameramen, gaffers and so on.

None of these participants have any interest in or entitlement to any funding arrangement such as a tax offset. Only the producer, who sits at the top of the production pyramid, has any interest in funding arrangements.

For the wider production community, the success of the Producer Offset will be measured in terms of its impact on overall production levels and not in terms of any fluctuations in sources of programming. For most of the production team, it makes little difference whether they are engaged by an independent production company or a broadcaster. It is the joint efforts of the whole production team that will deliver sustainable and popular programming.

3.6 The findings of the statutory review of the Producer Offset

As part of the legislation introducing the Producer Offset, a review was required after 12 months of its commencement. This requirement was included as a concession to concerns that the introduction of the Producer Offset may affect sources of production.

The review concluded that the evidence available suggested no significant impact on the balance of productions between in-house and independent sector productions.

Nevertheless, a further review (the current review) was required, again to give consideration to the impact of the Offset on the sources of production.

As outlined above, broadcasters continue to make production decisions with the aim of delivering the highest quality and most popular programs irrespective of origin. This has not changed since the introduction of the Offset.

Subject to the findings of this review, Free TV submits that no further reviews into the availability of the Offset to television productions should be scheduled

for the immediate future. Commercial broadcasters and film investors require as much certainty as possible in order to make forward planning decisions and a constant state of review does not promote this.

4 The operation of the Producer Offset and Terms of Trade

4.1 Impact of the Producer Offset on licence fee negotiation

Free TV notes that the review will consider any impact of the Producer Offset on licence fee negotiations with broadcasters.

In the commercial broadcasters' experience, the availability of the Offset has not impacted negotiations with producers as regards licence fees.

Free-to-air television licence fees have not declined since the introduction of the Producer Offset and, for a number of productions, licence fees have increased significantly. Indeed, increasing licence fees reflect healthy and robust negotiations between independent producers and broadcasters.

It should also be noted that commercial television broadcasters contribute to a project over and above the free-to-air licence fees through:

Distribution advances/guarantees: these are payments for the acquisition of distribution rights in a project (excluding the Australian free-to-air rights). The levels of any advances/guarantees paid by commercial broadcasters have been at or significantly above market levels. Distributions advances/guarantees are provided above and beyond any free-to-air licence fees and investments made by commercial broadcasters.

Investment: Commercial television broadcasters often make contributions in addition to licence fees and distribution advances/guarantees. In doing so, broadcasters take on risk as an equity investor in a project.

Production cashflow: Distribution advances/guarantees, additional investment and licence fee contributions from free-to-air television broadcasters are typically paid in advance during production, well ahead of delivery of a project and at no cost to independent producers. This is a major benefit for independent producers and comes at significant cost to commercial broadcasters, particularly in the current credit market conditions. Financiers providing Producer Offset cashflow to independent producers are charging significant establishment fees and interest and obtain significant security for such loans.

Development cashflow: Commercial broadcasters contribute significant development funding for projects (in some cases, all development funding is provided by broadcasters). In many cases, these projects are never commissioned and such funds are lost to the broadcasters.

It is not unusual for commercial broadcasters to provide several or all of the above contributions and the introduction of the Producer Offset has not significantly affected broadcaster contributions. In some instances (particularly with regard to observational documentaries), broadcasters have contributed 100% of production costs.

Free TV notes that the Treasury's review of the Producer Offset found that the quantum of licence fees and other aspects of financing, should remain matters for commercial negotiation and agreement. Free TV supports this finding.

4.2 Other impacts

Whilst not specifically raised by the Discussion Paper for the review, Free TV would like to comment on a number of issues which have arisen since the introduction of the Producer Offset.

4.2.1 *Commercial negotiations regarding recoupment structures*

The legislative framework for the Producer Offset sets out the conditions for the availability of the Producer Offset but does not set down any requirements or restrictions as regards the treatment of the Producer Offset in recoupment structures.

Free TV strongly supports this approach, whereby such matters are left for commercial discussions. This approach is consistent with normal business practice and with the Producer Offset's objectives of encouraging private investment and a more sustainable and commercially focused production industry.

In commercial negotiations since the introduction of the Producer Offset, a number of independent producers have suggested that the Producer Offset entitles them to an 'equity share' in a production. In negotiations to date, there has been a dispute as to the proper meaning of 'equity share'.

Some independent producers have claimed that the introduction of the Producer Offset means they are entitled a priority corridor to access project revenues – ahead of other investors who have provided at-risk investments. Free TV is aware of calls for legislative change to mandate such recoupment structures.

If the objectives of the Producer Offset to create a more market-responsive industry are to be met, recoupment structures must not be artificially constrained through regulation or legislation in the manner suggested by independent producers.

Investors who are considering contributing to a project expect reasonable rates of return and will not be attracted to at-risk investments where independent producers are provided priority access to revenues. Indeed, the tendency for such recoupment structures to discourage private investment has already been observed by broadcasters.

Prescriptive and inequitable rules which give independent producers automatic revenue entitlements will discourage private investment and would therefore undermine the objectives of the Producer Offset.

Further, there are no grounds for additional regulation of these issues, with independent producers faring quite well in commercial negotiations, having obtained substantial concessions.

In circumstances where commercial broadcasters have invested in a project (this investment being in addition to other contributions, such as free-to-air licence fees, distribution advances/guarantees and interest-

free loans to cashflow the Offset), independent producers have successfully negotiated with broadcasters to obtain:

- Ownership of a project to the value of the Producer Offset (and in some cases more than the value of the Producer Offset); and
- A share of project revenues to the value of the Producer Offset (and in some cases more than the value of the Producer Offset) but only after private equity investors have secured recoupment. In some cases however, broadcasters have made significant concessions and have provided independent producers with access to recoupment before commercial broadcasters have recouped investment.

These are very substantial concessions, especially when it is considered that in such scenarios, independent producers are not making at-risk contributions and are paid significant production fees from within a project's budget. In addition, in most such cases, broadcasters are already providing much of the funding for a project and may already have brought the project to the relevant producer.

The clear objective of the Producer Offset is to create a more viable and market focused Australian production industry through increased production, additional employment and greater private investment in the industry.

Recoupment restructures which favour non-risk parties will be a significant disincentive to investment. Private investors expect reasonable rates of return for at-risk investments and would not be attracted to projects where independent producers share revenues before investors have recouped their capital. Such investors are answerable to financiers and shareholders, who require reasonable recoupment and return on their investments.

To introduce restrictive rules governing recoupment structures would be unwarranted, inequitable and would provide a strong disincentive against private investment, to the detriment of the Australian production industry.

4.2.2 *Terms of Trade*

Free TV is aware of support within the independent production sector for regulated terms of trade for television productions. Free TV does not support such an approach.

Productions are not standard products or business operations and do not lend themselves to standard terms. Productions vary greatly in budget, production funding arrangements and production models.

There is also great variety within the independent production sector, ranging from very experienced producers to producers with no experience. Producers can operate in very large production houses with significant infrastructure, or may work as individuals. Some independent producers are able to bring funding to projects through distribution deals while others rely on commercial broadcasters to source all funding. The acquisition and exploitation of various rights is complex, particularly given the rapid developments in distribution technologies.

There is no evidence to suggest the current, open-market approach is deficient or is delivering unwanted outcomes. Terms of commercial arrangements are most appropriately dealt with between the commercial parties. A commercially-focused approach is also consistent with the underlying objectives of the Producer Offset.

The current market arrangements are delivering a positive outcome for audiences and the industry at large and are consistent with the objectives of the Producer Offset.

As noted above, the Treasury's review of the Producer Offset found that financing arrangements should remain a matter for commercial negotiation and agreement. Free TV supports this finding.

Regulatory intervention in the determination of commercial terms would be inefficient and impractical. It would be a significant discouragement to private investors and is inconsistent with the fostering of a market-based industry.

5 The operation of the Producer Offset – timing of assistance

Free TV noted concerns regarding the timing of the Offset payments in its submission to the Statutory Review of Division 376.⁹ Free TV reiterates those concerns in the context of the current review.

The two administrative measures put forward by the Australian Tax Office (refer to pages 8 and 9 of the Discussion Paper) would not provide adequate assistance:

- Liquidating the special purpose production entity – this still leaves a production with the problem of cashflowing a production schedule spanning many months.
- Reducing income tax paid in installments – a special purpose production entity and many production entities do not have adequate income tax payable to cover the amount of the anticipated Producer Offset.

At the very least, the financing costs associated with the cashflow of the Producer Offset component of a budget should be allowed as Qualifying Production Expenditure for the purposes of calculating the Producer Offset.

6 The impact of the Producer Offset

It is important to also recognise that the Producer Offset has delivered many benefits to the independent production sector, when compared with the previous arrangements, which increase their attractiveness as a production partner.

Prior to the introduction of the Producer Offset, the main avenues for top-up investment for producers was funding from the Film Finance Commission and the Division 10B and 10BA tax concessions. The Producer Offset has removed commercial and administrative barriers in the previous system, for example, by extending eligibility for support to long-form television series.

⁹ http://www.freetv.com.au/media/Submissions/2008-0022_SUB_Statutory_Review_of_Division_376_in_Relation_to_Certain_Production_Levels_281108.pdf



7 Other sources of funding

Free TV supports the continued assistance offered through the support programs managed by Screen Australia, the Australian Children's Television Foundation and the State and Territory funding bodies as important sources of funding for Australian drama and documentary production. These support programs in addition provide important sources of funding during the development phases of many projects.