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By email: [tvreview@screenaustralia.gov.au](mailto:tvreview@screenaustralia.gov.au)

Dear Sir/Madam

### **Television funding – a review of Screen Australia’s Role and Objectives**

I refer to the above review and recent consultations with commercial free-to-air television broadcasters. Free TV Australia welcomes the review and the opportunity to meet with Screen Australia staff to discuss issues of concern relevant to the review.

This submission provides an overview of the key issues arising from those consultations.

Even with the introduction of the Producer Offset, Screen Australia funding plays a crucial role in the industry and we strongly support the television funding program and its objectives. Direct funding by Screen Australia remains vital to the commercial free-to-air television industry and ensures Australian programs that deal with matters of national interest or importance or aspects of the lives and activities of Australians reach the broadest possible Australian audience. The combination of Screen Australia funding and commitments from the commercial broadcasters working with independent producers has led to increased productions and audiences with projects such as *Hawke*, *Underbelly* and *Sea Patrol* making their way to Australian and international screens.

The review, and the direct consultations undertaken by Screen Australia, have provided a welcome opportunity to strengthen the working relationship between Screen Australia and the free-to-air television industry.

As an outcome of the current review, Free TV would warmly welcome the introduction of a framework for regular, scheduled one-on-one consultations with stakeholders.

### **Background**

In their discussions with Screen Australia, free-to-air broadcasters noted the ongoing importance of the industry as the key point of context for the television funding review:

- Commercial free-to-air broadcasters invest over \$950 million a year in original Australian programming including drama, children’s programs, documentaries, sport, news and current affairs and local content (2008-09 ACMA Broadcasting Financial Results).
- Figures released by Screen Australia confirm that Australia’s commercial free-to-air broadcasters continue to be the major underwriters of Australian content.
- 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.

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- 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.
- 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. 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*.
- Australian children's drama spend increased to \$90 million up from \$41 million the previous year and well above the five-year average of \$56 million. Australian Children's drama like *Lockie Leonard* and *H2O – Just Add Water* are recognised as quality Australian programs locally and internationally.

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. Screen Australia's submission to the Australian Government's 2010 Review of the Independent Screen Production Sector illustrates the health of the sector is reliant on television production. The funding of productions broadcast by the commercial free-to-air broadcasters is crucial to the viability of this sector and should continue.

A number of specific issues were also raised in discussions and these are summarised below.

### Key issues

#### *Screen Australia guidelines and terms of trade*

Free TV has previously raised concerns regarding the extent to which investment recoupment structures are consistent with Screen Australia's objectives of encouraging private investment in the Australian production industry.<sup>1</sup> Free TV would not support any recommendations arising from the current review which would give rise to inflexible and prescriptive rules (terms of trade) which hinder the ability of stakeholders to obtain financing for the production of programs. Productions and projects are not standard businesses or products and do not lend themselves to prescriptive and restrictive rules.

The commercial broadcasters were pleased to receive confirmation from Screen Australia during the consultation process that investment recoupment structures outlined in Screen Australia guidelines do not preclude (and have not precluded) other stakeholders and producers agreeing after commercial negotiations to investment recoupment structures that differ from those set out in Screen Australia guidelines.

#### *Level of licence fees*

Free TV has also consistently raised concerns regarding any attempt to strictly regulate licence fees for television productions.

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<sup>1</sup> December 2008 – Free TV Submission on *Screen Australia: Draft Terms of Trade*  
 December 2009 – Free TV Submission on *Screen Australia Revised Guidelines and Terms of Trade*  
 May 2010 – Free TV Submission to the *Review of the Australian Independent Screen Production Sector*

The consultation process with Screen Australia was a good opportunity for commercial broadcasters to confirm with Screen Australia that licence fees paid by commercial broadcasters have increased materially in recent years particularly when such licence fees are compared with those paid for foreign programs. This trend shows that despite concerns raised by independent producers, there are healthy and robust negotiations between independent producers and commercial broadcasters. These negotiations have also extended to other terms such as investment recoupment made by commercial broadcasters.

The level of licence fees should remain a matter for negotiation between commercial parties. This is particularly important as regards children's programming, given the ever increasing restrictions on the kinds of advertising which can be shown to support such programming.

### *Rights and holdbacks*

The limited free-to-air rights granted to free-to-air broadcasters for the prescribed licence fees paid under Screen Australia guidelines need to be reviewed. Free TV would support an increase in the number of runs to reflect the emergence of the free-to-air multi-channel platforms and also the addition of digital portals (eg, catch-up TV).

The ability to acquire digital rights for television productions is important as viewers increasingly expect to be able to access content online and such exploitation is important in the promotion of programming.

Free TV would not support regulation of hold-back provisions as these are commercial matters most appropriately dealt with in the context of individual productions. Hold-backs affect the value broadcasters derive from licence fees paid (ie, in terms of exclusivity against other media). Hold-back provisions are determined according to forward planning and release dates which are often unknown at the time of production. Also, different genres of programs require different hold-back arrangements and they may need to vary over time.

### *Contestability of funding*

In the context of the current review, Free TV is aware of proposals to introduce greater contestability of television production funding amongst television platforms. Free TV does not support the current pool of available funds being diluted by allowing pay TV productions to access funding. The limited reach and requirement to pay substantial monthly fees means this would be an inappropriate use of public funds and contrary to Screen Australia's objective of producing material of national significance.

The current mix of funding arrangements should continue. In comparison to pay television, funding of projects on commercial free-to-air television delivers programs of national significance to the widest possible Australian audience in furtherance of Screen Australia's objectives. Australian drama programs like *Underbelly* and *Packed to the Rafters* are watched by an average of over 2 million people. The telemovie *Hawke* was watched by 2.2 million Australians.<sup>2</sup> This compares to much lower audiences (and access) for content on pay TV, such as *Tangle Season 2*, which attracted an average of only 29,000 viewers.<sup>3</sup> The relative investment in productions broadcast on commercial free-to-air television leads to a much greater audience.

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<sup>2</sup> Source: OzTAM and RegionalTAM, 5 Cap Cities and 4 Agg markets, Total Ppl, Weeks 7- 39, Metro and regional audiences are added to form a combined average audience total.

<sup>3</sup> Tuesday 20:30 premier episodes on main channel

We would be concerned if funding for adult and children's television drama, documentaries and other productions was reduced or redirected to other platforms as a consequence of this review. If funding decreased, some productions would not be produced and the quality of productions would be compromised.

*Screen Australia support for projects initially developed by commercial broadcasters*

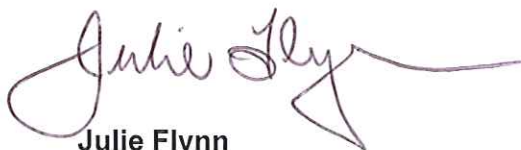
Free TV has consistently expressed strong concerns regarding the exclusion of drama projects from the television funding program which have initially been developed by a broadcaster provided such programs are produced with independent producers. The current review provides a valuable opportunity to review and repeal this restriction.

In its submission regarding Screen Australia's draft program guidelines in November 2008, Free TV noted that the exclusion of an entire category of television production does not appear to be consistent with the objective of assisting in the "production of high-quality adult drama, providing a rich and diverse range of high-quality Australian programs to audiences both here and overseas."

Given the vital role of television production, the Television Drama Program should take a broad view of the production industry. As part of this review, Free TV strongly urges Screen Australia to repeal this restriction and thereby ensure the Television Drama Program is able to increase production and broaden underlying business arrangements. The development of projects (including the origin of concepts or ideas) should not be relevant. This will help encourage the development of innovative, flexible, sustainable and high quality productions and contribute overall to the overall Australian production industry.

Thank you once again for the opportunity to meet with Screen Australia and contribute to the review.

Yours sincerely

A handwritten signature in purple ink that reads "Julie Flynn". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

**Julie Flynn**  
**CEO**