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Submission in Response to
Supporting Australian Stories on Our Screens
Options Paper
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Introduction

Thank you for the opportunity to respond to the thoughtful Options Paper from the ACMA and Screen Australia considering how to best support Australian stories on our screens in a modern, multi-platform environment.

I have been involved in the Australian screen sector for nearly 20 years, initially as a senior executive in the pay television sector. I also served for 8 years on the board of Screen Australia including as Deputy Chair, and I remain a member of its Gender Matters taskforce. In 2012 my investment company WeirAnderson.com invested in, and I became Chair of, Hoodlum, one of Australia's most successful independent production companies. We also invest in technology companies, including Ai-Media, and Seer Data & Analytics. Our philanthropic foundation, The WeirAnderson Foundation is an active supporter of Australian documentary films via the Documentary Australian Foundation.

In more recent years, WeirAnderson.com has been investing directly in Australian feature films such as *Babyteeth*, *I Am Woman*, and *Miss Fisher and the Crypt of Tears*. I am also the Chair of the Sydney Film Festival.

Through these various experiences, I have a good understanding of the market and economic challenges and opportunities facing the Australian screen sector. Over this period, I have also become increasingly passionate about the critical importance of Australian screen stories. Representation on screen of our culture and our people is critical to our understanding of our own society and our place in the world, to social cohesion, and to the mental health and wellbeing of Australians. Screen content is the most pervasive cultural product of our times, so it is critical that our own stories are part of the content we absorb. Today's global market means that there is a wealth of high-quality English language content available to Australian viewers, so our stories must compete for attention in that highly competitive environment.

In light of this, the ongoing federal and state government support of the Australian Content ecosystem is critical, and greatly appreciated by the sector. A sustainable industry is critical to the creation of quality stories, the development of valuable intellectual property, and the employment of many thousands of Australians across the country. Inevitably, as technology disrupts existing business models and global and domestic market conditions change, there is a need to reconsider how that government support can be most effective. For all of these reasons, the industry has welcomed the Options Paper, and the opportunity to urgently update legislation to ensure that regulation and incentive structures are fair and effective.

I have had the opportunity to review the submission to which Hoodlum is a signatory, and I support its contents. The purpose of this individual submission is not to repeat those points, rather it is to follow up to comments I made at Minister Fletcher's Roundtable on May 26, regarding 'blue sky' ideas outside of the specific options put forward in the Options Paper. In addition to the government adjusting the existing quota and incentive schemes which support the creation of Australian content, I believe there is a significant opportunity for the government to support Australian content producers accessing new kinds of private commercial investment similar to the investment we are seeing in innovative start-up companies and for-purpose content production. If such investment could be encouraged, it would be a very welcome new investment door for producers who are likely to see less support from traditional investment sources such as broadcasters and distribution companies. This is particularly the case with the feature film format given the significant uncertainties facing the independent film distribution model post COVID-19.

This submission summaries an approach that was developed in conjunction with my industry colleague Cass O'Connor, and was discussed with Screen Australia and members of the Department in 2019. The COVID-19 crisis has only made the challenges facing the sector, in particular feature film projects, all the more urgent, and this suggestion all the more worthy of consideration.

Background:

The globalised content market creates significant opportunities for locally relevant, internationally appealing Australian stories, especially in quality film and television drama. However as outlined in the Options Paper, structural changes in the media and entertainment sectors are putting huge pressures on traditional funding sources of Australian content: television networks are losing advertising dollars and cinema attendances are falling, and now completely disrupted by COVID-19. This coincides with audiences requiring higher and higher production values, in line with global competition.

Successive national and state governments have supported Australian screen production through direct investment and a range of tax incentives for content producers and – historically – investors[1]. The premise of this proposal is that

[1]. The investor tax incentives of the 1980s carried with them material cost to government / taxpayers, partly because of overly generous (>100%) tax deductions and income exemptions from 1980/1981 through 1987/88, but also because of a much higher percentage of taxpayers paying top marginal rates and thus aggressively seeking to lower their tax payments. From 1970 to June 1987, the top marginal tax rate was between 57% and 67%, and lower thresholds meant >20% of taxpayers were subject to them. Contrast that with today's top marginal rate of 45% plus Medicare levy, with around 3% of taxpayers subject to those rates suggests an investor scheme today carries less risk of material cost to government / taxpayers.

the widening investment gap in screen production makes it critical to encourage additional third-party private investment. In this globalised world, if we don't keep telling Australian stories, our children may miss out on our unique perspective on the world, on hearing our accents and seeing our multitude of faces on screen. And our stories have material value: Deloitte Access Economics estimates the screen production sector adds over $3bn per annum in economic value to the Australian economy, and over $17bn per annum in consumer welfare benefit, which they categorise as 'cultural value'. (*Report for Screen Australia 2016 'What are our Stories Worth?'*)

Third party private investment is active in philanthropy, early stage venture funding and social impact content such as documentaries. It is not a big leap to see it carry over into commercial screen investment.

Impact Investment as a new form of funding:

The content production sector already has a great example of successfully leveraging new sources of funding. Through the Documentary Australia Foundation and *Good Pitch*, over $20m in philanthropic funding has been raised to support social impact documentary stories over the last 10 years. Many of the same people who have been willing to *donate* funds to content projects may also be willing to consider *investment* in more commercial content projects under the umbrella of 'Impact Investing'. Impact Investors are focussed not only on financial return but also on positive social impact, which would include development and expression of Australian culture and talent.

The 2014 report '*Delivering on Impact'* by Impact Investment Australia estimates the Impact Investment sector in Australia could be worth up to $32bn by 2023, so there seems significant scope for the content sector to access a share of this funding.

Analogy to Start-up ventures:

Content investments, in particular feature films, might be seen as having a similar risk profile to Angel Investment in start-up ventures. Start-up ventures are also seen by many investors as a form of Impact Investing, as many ventures are aimed at products or services that will also have societal benefits, in employment, development of intellectual property and new industry sectors. In 2016-17, some 3400 angel investors invested an estimated $300m in 340 start-up companies, taking advantage of new tax benefits introduced under the Federal Government's National Innovation and Science Agenda, allowing them to access a 20% non-refundable carry-forward tax offset on investment, capped at $200,000. These angel investors will also be exempt from capital gains taxes on increases in the value of those investments as long as each investment is held for at least 12 months.

Similarly, to help encourage small business owners to invest in their business, in 2017 the government extended the benefits of an instant write-off provision for capital purchases of up to $20,000.

The COVID-19 crisis has seen the Federal government act quickly to encourage ongoing business investment across the board. In conjunction with adjustments to be made as a result of the Options Paper, providing further encouragement for private investment into screen stories could help accelerate a sustained return to production, in particular for film projects.

Proposal:

Encourage private investment in Australian content projects by treating qualifying third party investments the same way as angel investments in Early Stage Investment Companies (ESICs) under Division 360 of the Income Tax Assessment Act 1997.

The investor would then be entitled to two kinds of concessional treatment:

- non-refundable carry forward tax offset equal to 20% of the amount paid for their qualifying investments. This is capped at a maximum tax offset amount of $200,000 for the investor and their affiliates combined in each income year; and
- modified capital gains tax (CGT) treatment, under which capital gains on qualifying shares / copyright interest that are continuously held for at least 12 months and less than ten years may be disregarded. Capital losses on shares held less than ten years must be disregarded.

For investors, the carry forward tax offset would allow them to consider their investment only 80% risky, which should encourage those with a social impact focus.

For the Government, the modified CGT treatment should cost very little, as very few Australian screen productions exhibit significant capital gains. In both cases, the investor is motivated by a combination of hope and social purpose. Any Producer Offset could be excluded from the calculation of Capital Gains, so as to further make capital gains unlikely as well as negate "incentive double dipping".

The appropriate mechanism needs to be determined, but could be as simple as allowing investment in screen projects that already qualify for the Producer Offset regime to qualify as eligible investments under Division 360. This would ensure that the content projects are being produced by Australian companies and also that the project has been determined to contain 'significant Australian content'. It is hoped that this inclusion in the existing Division 360 regime could be achieved without any significant legislative changes.

WORKED EXAMPLE:

Screen Investor						
Assumptions:						
Sophisticated Investor						
- invests $200k in:	ESIC	Small Biz	DGR entity	Screen Production		
				DAF	Non DAF	**Proposal**
Gross Taxable Income $300k pa	$300,000	$300,000	$300,000	$300,000	$300,000	$300,000
Less: income deduction	$0	-$40,000	-$200,000	-$200,000	$0	$0
Net taxable income	$300,000	$260,000	$100,000	$100,000	$300,000	$300,000
- Prima Facie income tax	$114,097	$96,097	$24,097	$24,097	$114,097	$114,097
- Tax Offset	-$40,000	$0	$0	$0	$0	-$40,000
- Income tax payable	$74,097	$96,097	$24,097	$24,097	$114,097	$74,097
Gain to Investor	*$40,000*	*$18,000*	*$90,000*	*$90,000*	*$0*	*$40,000*
Gain as % of income	*13%*	*6%*	*30%*	*30%*	*0%*	*13%*

This proposal could be examined further by reviewing screen and tax offset data from Screen Australia and the Department's screen and tax offset data, noting of course the highly confidential nature of the tax related data. I do note that Cass O'Connor[2] undertook similar work for the Australian Film Commission, whose joint work informed the Producer Offset changes in late 2006 / early 2007.

It is not a stretch to equate investment in content projects with investment in start-up businesses. It matches the risk profile, gives a very clear proposition to both potential investors and content producers, and will allow the production industry to 'productise' investment in content products, giving them a common language with which to speak to the investment community.

The removal of Capital Gains Tax Liability would provide screen project investors the incentive of potential upside. Access to more detailed statistics from Screen Australia would allow for comparison of the historical profile of return on investment in screen projects across the sector to that of returns from start-up companies, but our working hypothesis is that the amount of Capital Gains Tax revenue forgone would not be significantly different. It is also worth noting that the end result of a screen production is a cultural artefact that can have a long shelf life as it is capable of distribution across multiple platforms in Australia and around the world.

I would be pleased to discuss further as appropriate, and can be contacted on 0402865300, or via email via deanne@weiranderson.com.

Yours faithfully,

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[2] As lead of the Carnegie, Wylie team consulting on the project