

# INDUSTRY LEADERS' RESPONSE TO THE OPTIONS PAPER

## BACKGROUND

We are four of Australia's leading drama production companies. We find unique stories, develop those stories into scripts, transform these scripts into premium content and sell them to broadcasters - both locally and internationally. We are 100% Australian owned and employ thousands of people. We innovate, we export, and we reflect Australia to Australians.

As we are the small to medium businesses working at the coalface of scripted content production in Australia, we feel compelled to outline the challenges we face and offer our responses to the Options Paper. The PricewaterhouseCoopers (PWC) study found that investing money in small to medium enterprises is the most efficient way of creating jobs and keeping the maximum number of dollars in Australia. Therefore, ours is the grassroots system that needs to be supported.

We are:

Jungle Entertainment: Producers of three US series in 2019: *No Activity* (Stan / BBC2 - US remake for CBS), *Mr. Inbetween* (FX / Disney), *A Moody Christmas* (ABC - US remake for Fox) and the team behind *Review With Myles Barlow* (ABC - US remake for Comedy Central). Other productions include *Wakefield* (ABC drama shutdown in Covid-19), *Here Come The Habibs* (Nine / Sundance Now) and *Squinters* (ABC).

Lingo Pictures: Producers of *The Secrets She Keeps* (Network Ten - sold to BBC1 for primetime, to Sundance US and TF1 in France), *Lambs of God* (Foxtel - sold to fifty territories and winner of a record 9 Australian Academy Awards in 2019) and *Upright* starring Tim Minchin (Foxtel and Sky UK co-production, and sold to Sundance US).

Revlover: Producers of *Diary of an Uber Driver* (ABC - format sales to France and Poland, German remake for Joyne).

Hoodlum: Producers of *Harrow* (3 Seasons) on the ABC, *Five Bedrooms* (2 Seasons) on Network Ten, and Australia's first original commission *Tidelands* on Netflix. Previous TV dramas include: *Secrets and Lies* (remade for Network TV in the US); *Strange Calls*; *Australia Day*; *Find 815*; *Conspiracy 365*; *Spooks Interactive* and *Fat Cow Motel* - amounting to over 60 hours of Australia Drama, winning 2 Emmys and 2 BAFTAs.

## COVID-19

Our businesses have all been severely impacted by the pandemic with production shutdowns, staff cuts and the immediate loss of new commissions (including shows that were in long term development with broadcasters). For example, Hoodlum halted two major productions resulting in over 400 people being stood down, and a loss of approximately \$500,000 per week in wages for these employees. Jungle halted production on *Wakefield*, standing down over a hundred cast and crew, most of whom were not eligible for wage support. Lingo has seen a \$10.4 million production disappear due to the resulting advertising downturn, it was to start shooting in September in Far North Queensland.

The suspension of Quotas for 2020, in response to Covid-19, has meant that broadcasters are reluctant to commit to any new development, let alone production. Continuing the suspension into 2021 will absolutely threaten our survival. We ask that there be no further forbearance given to the Networks and Foxtel, until steps have been taken to fix the system for us all.

Prior to Covid-19, we were on a trajectory of success, growth and expansion. The drivers of that growth were: the popularity of Australian drama at home; the worldwide boom in demand for high-end television content; the increasingly sophisticated quality of Australian storytelling; and our significant production cost advantage over the US and the UK (we are more efficient and offer a favourable exchange rate).

With the right support and regulation, we've got the potential to become a much bigger employer and one of Australia's greatest export industries. We can also strengthen national cohesion, champion innovation and promote tourism.

## **LOCAL COMMISSIONS**

Australian content, drama in particular, is immensely popular with Australians. It is the number one way that Australians see stories about themselves, their culture and their place in the world. However, drama is more expensive to produce than other genres, and more expensive to produce locally than it is to buy imported drama (created in other countries, using their subsidies).

Existing mechanisms, including content quotas, tax offsets, and direct funding (both State and Federal), have provided the necessary support to ensure regular quality Australian programming on our screens. These mechanisms have delivered excellent outcomes for culture, industry, jobs and exports for more than fifty years. Almost nothing in the way of local television drama could have been made without this support.

However, we acknowledge that this framework urgently needs updating to be fit for purpose in an era where streaming is on the rise. Assistance must continue to be given, but fairness requires that quotas to produce Australian drama must be put onto all players in the Australian marketplace.

## **JOBS & EXPORTS**

We're currently presented with an incredible opportunity to grow the sector by updating the legislative and funding framework to increase the number of local commissions. Should we not correctly guide the sector into the next decade, the effects of failure will be felt for many years, and a rebuild will be near impossible.

Local commissions are crucial, as international sales are dependent on domestic sales, i.e. our first buyers are almost always Australian. Whether it is *Stateless*, *Mystery Road*, *Doctor Doctor*, *Lambs of God*, *The Heights*, *Harrow*, *Miss Fisher's Murder Mysteries*, *Secrets and Lies*, *Mr. Inbetween*, *No Activity* or *The Secrets She Keeps*, our shows start as Australian commissions, and then we sell them to the world. While the international demand for our shows has grown exponentially and we are bringing far more money per show into Australia, most of our buyers still require a local anchor broadcaster.

Short-term jobs can be created by attracting foreign films and TV and by making local versions of foreign reality shows, but these don't have long-term IP or cultural value. We don't want to be labourers in a service industry where the bulk of the profits leave the country. We are creative entrepreneurs building globally competitive businesses that will be resilient in the longer term. But we need Government support to ensure we have the means to make meaningful, memorable Australian content that has every chance to compete on the world stage.

## THE OPTIONS

1. We support Model 3, Option B - that is, for all players to be mandated to spend a percentage of revenue on scripted Australian content and for the specifics of each plan to be determined by the ACMA. This will be platform neutral, forward facing, and offer flexibility to our buyers (the Networks and Platforms). It will bring significant new finance into the sector.

The ACMA will crucially need sufficient powers to collect data, negotiate plans with platforms, set obligations and monitor compliance. This could be based on the OFCOM (UK) and CRTC (Canadian) models.

2. We would support the ACMA being able to set the Terms of Trade for the sector, in a similar manner that is being contemplated for news organisations. This would address bargaining power imbalances between Australian producers and broadcasters/digital platforms.
3. We support harmonising the Producer/Location and PDV Offsets at 30% with a 10% cultural uplift for SAC qualifying drama, feature films, documentaries and children's television.

We do not support any relaxation of the regulations to include light entertainment and reality content in the Producer Offset. These genres have a very transparent and successful business model and generate strong revenues without a need for taxpayer support. Their inclusion will erode the level of scripted content, as broadcasters able to reduce the amount of drama and comedy they commission in favour of lower cost light entertainment.

4. We support the re-tying of ABC funding, so that the federal funding is spent as it was intended on adult and childrens' drama, as well as documentary.
5. If we want drama to be one of our greatest export industries, we need to put more money into the development of world-class scripts. Excellent production is always about high quality development. This funding is increasingly difficult to obtain from broadcasters, many, like Netflix, do not fund development at all. The government should reduce the support it gives to reality TV via the PDV offset loophole and use this money to subsidise the development funds available to Screen Australia. This would reduce broadcasters' risk and encourage investment in new IP.
6. We support the current discretionary SAC test but strongly recommend the SAC requirement be broadened to mandate an Australian writer OR director (rather than both), along with an Australian Production Company. We are now competing for our own creatives with the international marketplace and requiring the writer AND director (as well as production company) to be Australian is too restrictive. Access to foreign creatives can sometimes be essential for green lighting larger scale projects (often brand-new money flowing into the Australian economy).

7. We ask the Government to review the agreement that allows New Zealand second run content to qualify as Australian content for the FTV broadcasters in meeting Quotas. This is extremely detrimental to the Australian industry as the benefit is not mutual to both countries.

## THE TRANSITIONAL ARRANGEMENT

How we make the transition is absolutely critical to our survival. Now that production is restarting, existing Content Quotas must be re-instated for 2021 as soon as possible. The longer that uncertainty around this continues, the longer our development teams and the industry as a whole will be in limbo.

Existing Content Quotas should stay, running in parallel to setting up the platform neutral mechanisms over a 3-year period. Any spend by the networks can count towards their agreed revenue commitment. The message to them must be clear – there will continue to be a content requirement and it will be expanded to all players.

As the PWC study, quoted in the Screen Australia/ACMA paper, predicts: **“If quotas are dropped from commercial television, children’s TV production in Australia will end, drama production will fall 90% and documentary making will halve”**.

Thank you for the opportunity to present our thoughts. We are very encouraged by how hands-on the Minister and his team have been throughout this process of engagement with the industry. While we fear what will happen if bold decisions are not made, we are excited by this tremendous opportunity to transform our industry for future success.

We look forward to discussing these matters with you in more detail in due course.

Kind regards,

Hoodlum – Nathan Mayfield, Tracey Viera

Lingo Pictures – Helen Bowden, Jason Stephens

Revolver – Martha Coleman

Jungle Entertainment – Jason Burrows

