Submission on Options Paper - Supporting Australian stories on our screens

Village Roadshow Limited welcomes the opportunity to comment on the Supporting Australian Stories on our Screens: Option Papers.

1. Village Roadshow's businesses

Village Roadshow is a proudly Australian company and is one of the largest producers and distributors of filmed entertainment in Australia. Our core businesses are cinema exhibition, theme parks, film distribution, film production and Australian TV production. The scope of Village Roadshow's entertainment businesses is broad and includes the development and production of filmed content in collaboration with producers John Edwards and Dan Edwards and as one of the owners of Blink TV , the development and distribution of filmed content, film production as one of the owners of the global production company Village Roadshow Pictures and the provision of studio services on the Gold Coast.

In making this submission, Village Roadshow draws upon its experience as a major supplier of Australian, US and UK feature films to the Australian market including to Free and Pay Television broadcasters including Channel Nine, Network TEN, Channel 7, ABC, SBS and Foxtel. Roadshow is one of largest suppliers of films to Subscription VOD services for Australia including Netflix, Amazon, Stan and Binge as well as digital transactional services including Apple, Google and Telstra. We also distribute UK and Australian TV series and as a Producer we develop and produce TV series for services such as the ABC, SBS, Channel 7, Stan, Starz, BBC2/BBC3 and AMC-Sundance.

Village Roadshow is a significant employer of Australians and provides unique opportunities for Australians to see Australia's culture, whether through the production or distribution of films like the *Mad Max* movies, *The Castle*, *Bran Nue Dae, Red Dog, the* upcoming *The Dry* and Australian TV programs that reflects Australian society such as *Romper Stomper, Les Norton, Australian Gangster* and *Bump* which is to commence production shortly.

2. Australian jobs and Australian culture

As our industry, alongside Government, grapples with how best to provide obligations to invest in Australian content and effective incentives to encourage production and to stimulate the film and television sector, Village Roadshow believes it is important to step back and consider why these decisions are so critically important.

The first reason is jobs! The focus needs to be on implementing a set of obligations to invest in Australian content and effective incentives to maximise Australian jobs in content production and related Australian screen industries.

The economic stimulus that results from local content expenditure has been quantified to be a significant contributor to the Australian economy.

According to Olsberg SPI - "In 2017-18, the Australian screen industries (Production, Cinema Exhibition, Television Broadcast, Home Entertainment including VOD) generated a total output of A$22.50 billion, generating A$9.19 billion in Gross Value Added, and 84,982 total FTE jobs. A$2.59 billion in taxation was associated with the activities of the sector." [1]

Of these amounts, Production generated a direct expenditure of $1,601.1 million and overall output (including re-spending of wages) of A$4,5741 million, generating A$1,638 million in Gross Value Added and 26,570 FTE jobs. [2].

However Olsberg SPI also reports a much better performance in the UK. The report states that the UK has operated a comprehensive policy for the production of screen content since the introduction of the Film Tax relief in 2007 with a compound annual growth rate (CAGR) for Film Production for the FY 2013 – 2018 of 10.5% . In comparison the CAGR for Film Production in Australia over the same period was negative at -1%. The CAGR for TV Drama over the FY 2013 – 2018 in the UK was an impressive 23.1%. Again, In comparison the CAGR for TV Drama in Australia over the same period was negative at -2.5%. [3]

Village Roadshow is very grateful that the Government's Job Keeper subsidy has enabled it to maintain its workforce as COVID-19 and the related restrictions have had a dire impact on the Australian screen industries.

It is vitally important in the current climate and as content production resumes in Australia that Australian content obligations and incentives provide a durable framework to create jobs for Australians.

The second reason is the cultural value of our Australian stories. The Australian production sector is, at its heart, the engine for our audio and visual story telling for this generation and for future generations. The stories that we tell are not all of equal importance, some will stand the test of time, while others will diminish over the years, but they will be the record of our history and what made us, as memory recedes.

The Olsberg report entitled *Measuring the Cultural Value of Australia's Screen Sector* considered the instrumental value, institutional value, and intrinsic value of screen content. The report and its survey of 1049 people demonstrated overwhelmingly that Australians value Australian screen content with 64% saying that local content accounted for up to half of their 'media diet'.

The report went on to say that Australian screen productions play a role in bringing about 'change in the way Australia sees and runs itself, and the way the rest of the world sees Australia'[4]. These findings from The Olsberg report are highly useful in establishing the cultural contribution of the sector.

The content sector has been witness to enormous change in recent years with the explosive growth of Subscription Video On Demand (SVOD) services that have created extraordinary demand for content from all parts of the globe – there is a tremendous opportunity for our stories to be shared globally and for Australian stories to find their place in this ecosystem – naturally this is and will continue to be a competitive space and Australian creatives are ideally placed to gain an even greater foothold via the opportunities that these services have created.

Most importantly, we believe it is important to consider what the 'media diet' of Australians truly contains – for if we do not provide Australians with content that is borne out of this country and tells our own stories, this 'media diet' will be saturated with content from other countries – not only will we miss an extraordinary opportunity but more so we must ask ourselves the most important question – how much do we value our own culture, our own stories, our own history?

<u>3. All platforms should be obliged to invest in Australian content</u>

We agree with Model 3 of the Options Paper. The purpose of Model 3 is to establish platform-neutral, future facing obligations and incentives that take into account platform offerings and audience engagement.

Model 3 of the Options Paper proposes under the heading Obligations amongst other things that all commercial content service providers, including subscription services, that meet scale thresholds, would be required to invest a percentage of their revenue (across all services) in new Australian scripted programming and report their investment to the ACMA. The investment rate, as a proportion of Australian revenue, would be approved by the ACMA, potentially reflecting the various platforms' business models, program formats and content genres. The proposal outlines options for how this investment requirement might be implemented.

Village Roadshow agrees that all providers of content platforms, whether they be Free TV, Pay TV, BVOD (such as Catch-Up and advertising supported VOD) and Subscription VOD services that derive a significant financial benefit from Australian consumers should be obliged to contribute a percentage of their revenue (across all services) in new Australian scripted programming.

Village Roadshow is of the strong view that minimum requirements or sub-quotas should continue to apply to Australian TV drama on commercial FTA and on Pay TV and recommends that further modelling should be undertaken to identify a minimum number of hours of programs for various platforms.

This contribution is fundamental to support jobs in the Australian film and television industry and to ensuring that the stories that reflect our culture are widely available to Australians and to the world.

Free TV quotas need to be maintained

Village Roadshow strongly disagrees with a model that would allow a reduction in the commitment to creating Australian scripted content by the FTA broadcast sector. Quotas for Free TV guarantee that Australian programs are available to Australian audiences for free.

The Options Paper states that in recognition of the cultural importance of free, televised content, FTA broadcasters access broadcast spectrum at comparatively low rates and gain the first opportunity to purchase broadcast rights for events on the anti-siphoning list (page 11)

Commercial Free TV broadcasters (Channel Nine, Network TEN, Channel 7) abide by a minimum 55% Australian content quota with a "points system" that governs first run drama, documentaries and children's entertainment. The minimum number of hours the quota equates to and the sub quota for Australian drama, is detailed at page 13 of the Options Paper.

Quotas (minimum number of hours) has historically been the cheapest-to-government and most effective means of creating quality Australian content. A number of arguments against quota have been made recently by the FTA networks saying in effect "they really know their business and they really should be in complete control of how requirements are met." John Edwards, one of the producers in our television production company, thinks this does not reflect the experience of quotas, across his 650-hour production history, all but one of the successes were originally unwanted by their networks, and all but the two that were made at the ABC, only made because of quota requirements. *Police Rescue, The Secret Life of US, Love My Way, Tangle, Rush, Paper Giants, Howzat, Beaconsfield, Puberty Blues, Offspring* – 31 Logies and 40 AFI/AACTA Awards. All of the series in that connection were made without significant government investment.

Village Roadshow rejects the argument that scripted content is particularly impacted by the growth of the SVOD business in Australia nor do we agree with the economic argument that scripted drama is a cost prohibitive programming decision for the FTA networks. We can demonstrate recent examples of Australian drama series that performed well in attracting an audience yet they represented substantially less than the investments being made by FTA networks in other genres – most notably reality series. One such series was *Les Norton* a 10x 1hr series produced for ABCTV in 2019. The combined live and catch up numbers per episode averaged 1.0M viewers at a cost to the ABC of approximately $600k per hour.

In Nov 2017 the CEO Nine Entertainment publicly stated *"we look at our business and revenues and cost across all platforms. Love Child was a good example of a program doing well on free to air but suffering fragmentation as audiences increasingly split their time across many platforms. But the Love Child numbers on 9Now are fantastic. Guess what – that's an experience that lasts 5, 6, 7 years probably a decade. So I can monetise that constantly. The success of drama in revenue terms now has to be assessed across conventional broadcast programming and catch up services."*

The advent of SVOD services has impacted the way audiences engage with scripted drama. These services have facilitated the habit of on demand viewing as well as binge viewing. The BVOD services developed by the FTA broadcasters also service that growing market well, so that despite a decline in live viewing of scripted drama series on FTA, Australian audiences are still consuming these series in big numbers when the numbers are consolidated with BVOD – and these businesses are able to monetise these investments per the comments of the CEO Nine Entertainment.

This is consistent with the observations in the Options Paper regarding FTA including that Australians still spend most of their viewing time watching broadcast television, although this share is decreasing, driven by younger Australians' demand for online content (page 17). While drama audiences on FTA and recorded playback services are declining, drama viewing online is growing. Drama content is the top-rating genre on broadcast video on demand (BVOD) services and makes up 28 per cent of all BVOD viewing (page 19 Options Paper).

Quotas for drama production have always been necessary in Australia, and variously networks have railed against them, especially in periods when drama was not 'working'. But even in this low point of FTA drama production, it remains so that it is a relatively inexpensive prime time cost. By way of example, for three of the recent Roadshow's TV series for the first production cost was $1.45m per hour cost with the network contributing $588K; on the second with a shorter run the production cost was $1.3m per hour with the network contributing $668K; for the third, the production cost was $1.1m per hour with the network contributing $495k. These TV series have brought considerable international investment and can go on earning on digital channels and catch-up in ways that Reality shows do not.

The investment in scripted drama by free to air broadcasters in 2020 is consistently falling in the $440 - $550k per hour range. Attracting a combined audience of over 1.0m viewers for shows like *Underbelly: Chopper* (1.455M), *Mystery Road* (1.275M), *Russell Coight* (1.076M), *Jack Irish* (1.3m cons), *Harrow* (1.011M), *Doctor Doctor* (1.218M). The FTA broadcasters are regularly picking up an additional 25-40% of their viewing audience in an on-demand environment in the four weeks immediately following broadcast.

Village Roadshow would support the quota for Free TV being decoupled from the broadcaster's primary channel and rather be applicable across all the broadcaster's channels and BVOD services.

Channel Nine, Network TEN and Channel 7 have all screened more local Drama than is required of them in 2019 but recent reports that 49.88% of the total Drama screened by Nine in 2019 were from New Zealand was disappointing. [5] This loophole in the quotas should be addressed as the quotas are to support Australian production - any quotas for Free TV should be used to support Australian drama though additional content may come from NZ.

The growth of SVOD and SVOD platforms

The advent of streaming services has challenged traditional broadcast businesses everywhere, but the drama production business in North America, the UK and in Europe have never been healthier.

The proliferation of international SVOD services has led to an unprecedented explosion of drama production in North America, the UK and Europe. Australia, by contrast has so far missed out on this – flat footedness in regulation may well mean we'll be too late to capitalise before the inevitable consolidation of these services occurs. One of the challenges of this enquiry is to enable Australia to make use of its considerable advantages to establish a production ecosystem for TV that can thrive.

SVOD is now a dominant element of the Australian entertainment landscape - Netflix is the clear market leader according to Roy Morgan with 11.5m Australians now having a Netflix subscription in their household. Stan is now accessible by 2.9m Australians [6].

Newer entrants that provide a SVOD platform in Australia include Disney+, Apple TV+ and Amazon Prime. The market will continue to grow with services such as Peacock (NBC Universal), CBS All Access and Hulu.

International position on local content quotas for SVOD platforms

The European Union has taken a firm stance on the importance of local content with a mandate on SVOD platforms to maintain a minimum of 30% of their catalogue as content produced in the EU by the end of 2020. On-demand platforms have also been asked to contribute to the development and production of local content, either directly in content creation or via a contribution to national subsidies - the contribution is to be agreed on a country by country basis. The detail of these agreements is not yet finalised.

In Ottawa Canada, Netflix has agreed to a 5 year deal with a commitment of $500m (US$400m) in local content spend over the period. A recent announcement from Netflix stated that Netflix had already met the 5 year target within a two year period.

An SVOD platform contribution to Australian content

The structure of quota programs across FTA and Pay TV differs due to the differences in business structure. Pay television broadcasters operate under an alternative model where the content quota is directly linked to a percentage of overall production expenditure – currently 10%.

We agree that the obligation to contribute to Australian content should be flexible enough to accommodate different business models. For SVOD, Village Roadshow recommends that the contribution of SVOD platforms to Australian content be based on a percentage of revenue that the SVOD platform derives from Australian consumers.

We do not recommend the Pay TV approach based on the level of production expenditure, for SVOD providers, as most SVOD providers are global entities that are creating content with global rights and assigning value to a particular territory would be fraught with difficulty. Nor does the 55% Free TV broadcast quota (and sub-quotas) have application to the SVOD content model of on-demand viewing across a large catalogue of content.

4. Producer Offset Rebate for Feature Film

Film incentives are a key factor in ensuring a long terms sustainable film production industry that is an industry for our times and into the future – an innovative and highly skilled industry that has huge economic benefits and creates sustainable jobs as well as contributing to our national identity and culture.

Funding for Australian film provided by Roadshow Films
Our Roadshow Films division has been a staunch advocate for the production of Australian feature films providing development funding, minimum guarantee funding and/or investment funding in a vast array of Australian feature films over many decades. The risk on this funding is increasing significantly as traditional revenue streams contract (such as from Cinema, DVD and TV) and new revenue streams grow (such as transactional and subscription video on demand) but not to the level of the contraction of traditional revenue streams. The advertising cost for cinema release is another form of investment by Roadshow and is a very major expenditure. This is amplified for Australian feature films where there is a need to get attention to compete with major U.S franchise films.

Despite these challenges, Roadshow's support of the Australian film industry remains incredibly strong. This year Roadshow has provided funding for and will release Australian feature films *Go!, Miss Fisher & The Crypt of Tears* (starring Essie Davis), *Rams* (starring Sam Neil, Michael Caton) , *The Dry* (starring Eric Bana, directed by Robert Connolly, producer Bruna Papandrea) and *Penguin Bloom* (starring Naomi Watts, producer Bruna Papandrea). Another film supported by Roadshow *The Drover's Wife: The Legend of Molly Johnston* (written by, directed by and starring Leah Purcell) has recently completed filming and Roadshow has invested in up- coming production *Blueback* (director Robert Connolly). This funding also comes from a fundamental belief by Roadshow in the importance of the Australian film industry and the potential of the feature films the industry produces.

The importance of the Producer Offset
The Producer Offset provides critical funding for feature film production. A series of surveys conducted by Screen Australia of over 81 production companies (feature and TV producers) unanimously declared that the Producer offset was important to their business, with 91% declaring it as "critically important". [7]

The importance of the 40% rebate for Feature Films
The main sources of funding for Australian feature film are the 40% Producer Offset, a minimum guarantee/advance from an Australian distributor, Screen Australia direct funding and State funding. Producers try to raise the remainder of a film's finance plan, the funding gap, from local private investment, overseas market attachment (advance sales) or overseas investment.

The funding of the gap is already the most significant impediment to the financing of Australian feature films, particularly films with scale and ambition. With producers already facing challenges in securing financing, any reduction of the Producer Offset for feature films would dramatically reduce the number of films that will be made as producers will struggle to fund any increase in the funding gap.

Following the introduction of the 40% Producer Offset, the Screen Australia report on the impact of the producer offset highlights that the average annual foreign finance for feature films increased from $82m to $126m per annum. [8]. The level of international funding would inevitably decline.

The importance of the Producer Offset equity for Feature Films

The Producer Offset is the producer's equity in the film enabling producers to participate in the profitability of their work. As a direct result of access to downstream revenues, this in turn drives both quality of content, and further stimulates content development and investment.

Under the current model the 40% Producer equity can be used as an additional lever in financing negotiations with other participants (such as investors, talent). At a time when feature film investment is under more pressure than ever (largely as a result of lower available minimum guarantees and declining ancillary revenues - dubbed the "Netflix effect"), the Screen Australia survey found that 37% of feature film producers had traded/leveraged their equity stake received via the Producer Offset. [9]. This shows that within the feature film industry, the producer offset mechanism is more than just a tax rebate – it provides equity and a valuable tool in financing the production.

The cost/benefit of the Producer Offset

Olsberg measured the economic effects of the Producer Offset for feature film for the 10 years since 2007 (that is a yearly average) at $240.2 million Gross Value Added, Total Full Time Equivalent Jobs at 25,000 and Direct income to Australians engaged in the offset-supported productions (the multiplier effect) at $1,575 million. [10]

Model 3 of the Options Paper

Model 3 of the Options Paper proposes under the heading Incentives amongst other things:

- That the Producer, Location and PDV Offsets would be set at a single rate for content on all platforms, creating a platform neutral approach. The Location Incentive would not be continued.
- A 'cultural uplift' could be introduced to provide further support via the Producer Offset for feature films. A points-based test for significant Australian content could measure factors such as presence of lead Australian writers, producers and directors; presence of Australian cast and whether most of the production occurs in Australia.
- Screen Australia would continue to directly fund quality content of cultural significance.

Village Roadshow supports these recommendations in principle However Village Roadshow would strongly recommend that the Government not change the Producer Offset for feature films from 40% as it provides critical financing support for Australian feature films. An exception could provide for a lower rate of 30% for feature films that do not have significant Australian content.

We support that the applicable rate for the Producer Offset for TV and the Location and PDV Offsets be set at 30%.

An overall reduction in the percentage of the Producer Offset for Australian feature films would have a significantly negative impact on the production of feature films and the economy. It would lower the volume of feature films produced in Australia thereby significantly limiting the opportunity for iconic Australian stories for all Australians to be made for the big screen. It would decrease investment in feature films in Australia negatively impacting the economy and it would increase the reliance on Screen Australia funding for feature films.

Roadshow spends significant amounts on advertising the films it releases so that it reaches the widest possible audience in Australia and releases most of the films it distributes to each of cinemas, on digital transactional services e.g Apple, Google and Telstra, on DVD, on Pay TV (Foxtel), on SVOD (e.g Amazon, Stan, Netflix and Binge) and on Free TV, again so that the film reaches a wide audience in Australia.

Provided SVOD platforms were legally obliged to invest in and contribute to Australian content, Village Roadshow considers there may be merit in providing that the Producer Offset apply to content that is to be released straight to a SVOD service. However as this may mean that the film is only available (or for a period is only available) to Australians on a paid basis on the one SVOD platform, the percentage of the Producer Offset Rebate available for a straight to SVOD release should be at a reduced rate and direct funding from Screen Australia should not be used for this purpose, particularly for SVOD services that are global businesses. The alternative is limiting the exclusivity and licence period granted to the SVOD platform under standardised Terms of Trade so that the film reaches a wider Australian audience and the producer can benefit from other downstream revenues.

5. Location Offset increase to 30%.

The Location Offset is a rebate of 16.5% of qualifying Australian production expenditure. It is designed to attract large budget international productions.

At 16.5%, this is not globally competitive. For example, British Colombia (Canada) operates a 28% incentive, Georgia (USA) operates a 30% incentive, Illinois (USA) 30%, New York 30%, New Zealand 20+5% uplift and the UK 25%. [11]

In 2018, Olsberg measured the economic effects of the Location Offset (including discretionary top-up grants) for 2016-17 at $427m Gross Value Added, Total Full Time Equivalent Jobs at 34,715 and Direct income to Australians engaged in the offset-supported productions (the multiplier effect) at $2,330.7m. [12]

Olsberg also noted that Australia has been much more attractive to international productions in recent years, but only with productions that have received discretionary top-up funding. This underlines the strengths of Australia as a production destination, but also the weaknesses of the current Location Offset in the international market. [13]

The Location Offset is currently supplemented by a Location Incentive grant of 13.5% of qualifying Australian production expenditure. The Location Incentive funding is for 4 years from 2019-20 capped at a total of $140 million. While the Location Incentive has been successful it does not provide the certainty that global production companies require when making decisions on the location of a production. Australia's competitors provide that certainty. Village Roadshow also understands that most of the Location Incentive amount has already been allocated.

The Location Offset needs to be permanently lifted to 30% to be competitive.

The global reality is that the major Hollywood studios and global production companies, like Village Roadshow Pictures (the Global film division in which Village Roadshow has an interest in partnership with Warner Bros. and others) will continue to spend around US$10 billion a year producing their films in the countries and locations that offer competitive rebates. For Australia to maintain a long- term sustainable film industry, and all the significant benefits that follow, Australia needs to continue to offer a location offset rebate that gives the global film production industry a reason to allocate some of this US$10 billion to Australia.

A globally competitive Location Offset is critical to the Australian film industry and the overall Australian economy and job market. We therefore recommend that the Location Offset is permanently lifted to 30% under Model 3 of the Options Paper.

Your faithfully

Joel Pearlman, CEO Roadshow Films Pty Ltd

References

1. Olsberg SPI *Study on the Economic Contribution of the Motion Picture and Television Industry in Australia* 13 November 2019 page 6.

2. Ibid page 7.

3. Olsberg SPI, *Measuring the Cultural Value of Australia's Screen Sector*, 2016, page 2

4. Olsberg SPI *Study on the Economic Contribution of the Motion Picture and Television Industry in Australia* 13 November 2019 page 60.

5. News article Nine still draws on NZ for local Drama quote, June 6th 2020 by David Knox.

6. Roy Morgan – *Almost 14 million Australians have Subscription or Pay TV* – July 01 2019. http://www.roymorgan.com/findings/8036-svod-netflix-foxtel-stan-fetch-youtube-amazon-pay-tv-may-2019-201907010501

7. Screen Australia – *Skin in the game.* Page 5. https://www.screenaustralia.gov.au/getmedia/cbd7dfc8-50e7-498a-af30-2db89c6b3f30/Skin-in-the-game-producer-offset.pdf

8. Ibid. Page 17

9. Ibid. Page 6.

10. *Impact of Film and TV Incentives in Australia, A Report for the Australian Screen Association* by Olsberg SPI, 12 March 2018 Page 35.

11. Global Production Incentives, Olsberg SPI, May 2019.

12. Impact of Film and TV Incentives in Australia, A Report for the Australian Screen Association by Olsberg SPI, 12 March 2018, page 3.

13. Ibid. Paragraph 2.3, page 8.