

**Third Supplementary Submission to the House of Representatives
Standing Committee on Communications, Information Technology
and the Arts Inquiry into the future opportunities for Australia's
film, animation, special effects and electronic games industries.**

We wish to set out a vision of an industry that is a strong and confident player in an increasingly competitive world which **reflects the new realities of a 21st century global market.**

The following supplementary submission should be read in conjunction with our earlier submission and two supplementary submissions and the submission by Ambience Entertainment, Atlab Australia, The Omnilab Group, Panavision Asia Pacific and Spectrum Films

We argue strongly that urgent action needs to be taken if we are to succeed on the world stage. We are in danger of losing our major infrastructure both in terms of hardware and technical skills, built up over the past twenty (20) years unless there is a substantial increase in local production. The fact is film is both a commercial enterprise and an artistic endeavour and in recognition of this interdependency, we will recommend **it needs nothing less than a far reaching re-invention.**

Every major film producing country, such as England, France, Italy and even Spain now considers media and entertainment to have moved beyond culture. The reason is this. Intellectual Property is a commodity which has become a major driving force in the global economy, a significant concept and model which is driving the establishment of Singapore as a global IP hub and global media city, filling **a regional business gap.** It has the prime objective of generating wealth and film and multi-media activity for future generations. The fact that it is subsidizing of employment is merely seen as a valuable by product.

The real economic challenge facing a small film producing nation, such as Australia, is to increase the potential value of what our creative and

technical talent, (intellectual capital) can add to the global economy by enhancing their skills and capacities. This is achieved by improving our means (marketing and distribution) of linking those skills and capacities to the world market.

We strongly recommend the Coalition Government's introduce a **"whole of industry" approach** to the film industry sectors without further delay (See 'Arts for All – Our future action plan' for the 2001 Federal Election) **and shift all departmental responsibility for the film industry from the Department for the Arts and Sport to the Department of Industry, Tourism and Resources, staffed by more informed and appropriate people** with industry development experience, to emphasise the industry's economic goals. After all the ABC and the free to air and cable/pay television networks are not part of the Arts portfolio but are vital to any commercial success films may have in Australia.

We must stop talking about the Australian film industry and **start considering how to integrate our film industries** – feature films, television, commercials, documentaries, studios and post-production houses, cinema exhibition and distribution, free-to-air networks and cable, DVD distribution companies etc.

The core function of the Australian Film Commission, Film Finance Corporation and the Australian Film, Television and Radio School is to help **build a stable and growing industry – not to run one.**

We need to stimulate the growth of an industry that embraces the international market. At the same time, we must maintain an environment which supports the production of Australian films of enduring cultural significance. It's not either/or. It is both.

It's time for a reality check and a time for reinvention.

A recent study, "A Reflection on the American Domination of the Film Industry: An historical and industrial perspective" by an interdisciplinary

team based at the University of Hertfordshire Business School in the UK concluded that "until there was widespread recognition in Europe that, in film, there is no natural separation between commerce and art, Europe will continue to lag behind their American counterparts."

Further, "the structural problems which are seen to dog the European industry emanate from the organisation of the industry itself combined with a reluctance on the part of the Europeans to adopt industrial and marketing tactics embraced by Hollywood." See attached.

Again the members of the Committee should remember that the Australian Film Commission and the Australian Film, Television and Radio School were established in the early 1970's along European lines and in the case of the Film School along Eastern European lines which concentrated on developing production skills NOT training media management professionals.

Australian talent does not lie just with actors and DOP's or the odd director. We also have very talented writers' editors and producers and who never see their projects produced as the only means for their production (to date) is through film corporations or broadcasters, the latter offering assessment procedures which are not trusted and regarded as somewhat dubious. It means creating either highly commercial projects to the point of being ridiculous (such as The Block) which are also very easily adapted and adopted, or on the other end of the pendulum are highly "cultural", which is what the film bodies demand, and therefore not exportable.

Neither "opportunity" creates links into the international arena. The middle ground where so much of our talent lies, is floundering, and either go offshore or change direction. Our talent, and our wealth creating opportunities therefore are dying.

We strongly recommend positioning Australia as the Asia-Pacific centre for global film-making activity, a financial and film production hub – a creative core.

- ◆ **A film hub which is a natural destination for international investment.**
- ◆ **A film hub which is a natural supplier of skills and services to the regional and international film market.**
- ◆ **A film hub which consistently creates Australian films that attract worldwide distribution and large audiences, while still using subsidy to support cultural production and new talent.**

How do we make it achievable?

By reinvention. If we are to succeed, what is needed is not mere change, but transformation. And not transformation in one sector, but at every level of the Australian film business.

How can the Government help the industry achieve that transformation?

By making financial incentives much more flexible.

We need to revise the definition of an Australian film, geared to the twin issues of cultural expression and industry economics, finding ways to recast and reconceptualise it to reflect the fact that actual production increasingly will take place in countries with a lower cost base than ours.

We are not one film industry, but many industries. The "solution" therefore also needs to be multifaceted. One solution doesn't fit all;

We need a robust financial and production infrastructure that will enable us to make those films here and around the world and also compete in the world marketplace;

In the immediate future, we are going to have to compete on the basis of creative and artistic talent and technical skills, even more than costs, so we need to rapidly expand the quality of our talent and skills base because it is the life-force that will guarantee our ability to make films.

We strongly recommend the Government create a coherent training strategy for film, organised at the centre, but delivered at colleges and training schools around the country. A strategy in which the Australian Film, Television and Radio School, operating under the auspice of the Department of Communications, Information Technology and the Arts, has a prominent role.

We must begin to view and embrace the world beyond Australia.

PricewaterhouseCoopers in their latest 'Entertainment and Media Outlook: 2003-2007 forecast that the filmed entertainment (theatrical films and DVD's) industry will grow to more than a trillion US dollars in 10 years, with 70% of revenues coming from Asia. Where is Australia's future and participation in this market share?

We need to encourage greater Australian involvement in regional and international film production, by creating strategic alliances and co-production agreements. **This will** obtain the maximum cultural and economic benefits for Australia with countries in the Asian time zone, particularly South Korea, Japan, China, India, Philippines, Thailand and Vietnam and New Zealand and Fiji who are already playing host to big-budget productions and are hungry for more, at the same time ensuring that Australian talent – technicians and craftspeople – work on these films.

We will need to strengthen our traditional links with the American and European industries at every level; encouraging them to invest in production here in order to develop our infrastructure to the benefit of jobs and skills – even in an increasingly competitive environment.

In Asia, it will mean focussing on the obvious benefits of being part of the fastest growing region in the world. Encouraging financial bridges (based on the 20/80 UK/Canadian Co-production Agreement) with Asia's major film companies across the region, and bringing additional investment into Australia.

And, crucially, we must increase our presence at film festivals and forums throughout the Region.

We need the Government to examine whether there are existing fiscal incentives which might be adapted to stimulate investment into the infrastructure, most notably into post-production companies.

We believe it is now beyond doubt that after 30 years, the Australian Film Commission, Film Finance Corporation and the Australian Film, Television and Radio School, with no business courses, have failed to establish a sustainable industry producing theatrical feature films capable of competing successfully in the international marketplace.

Brian Rosen's, Chief Executive of the FFC, admission at a recent public parliamentary hearing into the future opportunities for Australia's film industry that, "there is a certain arts funded mentality in the industry" only highlights the difficulties we face in building a sustainable industry.

Again, the AFC has just held its inaugural residential workshop ENTERPRISE AUSTRALIA "designed to equip Australian producers with business skills that will help make their companies globally competitive." The FFC has spent nearly A\$ 1 billion dollars over the past 15 years on films and television programs and the AFC has only now realised that the producers didn't possess the proper business skills? This lack of

accountability by public servants to build an industry has been going on for over 20 years. See

http://www.afc.gov.au/funding/fd/enterprise/fund_39.aspx

Variety reported, November 17-28, 2003, the FFC had "invested in 169 feature films in the past 15 years of which only eight have turned a profit, and only two more - Phillip Noyce's "Rabbit Proof Fence" and Ray Lawrence's "Lantana" - will do so soon."

There obviously needs to be a major government/industry investigation into the AFC/FFC script selection and development practices as part of an overhaul of the organisations to better suit the current and future needs of the industry.

First, the FFC's investment managers need to be made accountable for their decisions and placed on success based contracts and fired if they do not perform.

As a result we are left with a 30 year old system - inflexible in the face of change - still looking to the government to solve its problems and run the industry. The wisdom and knowledge implied in such a high degree of government control, is now with all due respect, proving to be totally inadequate to the reality.

Although government control over the industry was "well-intentioned" and undertaken out of good motives; that have not made it any less harmful to the industry's long term artistic and wealth creating potential in an increasingly competitive international market place. And disappointingly we have nothing on the horizon to reverse it other than the limited efforts Brian Rosen will undertake. Even he appears hamstrung by bureaucratic process. For example after a meeting a few months ago his business advisor refused to sign as NDA with myself and my colleagues an ex Barrister and an Australian banker and lawyer. This really talented banker was partly responsible for over US\$280 million worth of production including Lord of The Rings.

If there is not urgent reform we believe the industry will experience accelerated worsening of job prospects, already the worst for *15 years*, and an exponential increase in the growing flight of those with professional skills, talent and ability to other countries, a process which threatens to become a flood, with the inevitable decline in film and television program standards.

Can you imagine – the Australian people accepting this decline?

To achieve our aims, we need the Government to act in a more cohesive 'whole of government' way so that "the industry" can work with different departments to achieve our objectives – without running into turf wars every five minutes. If "the industry" is to have a real chance of creating a new and meaningful film industry in this country we will need to work not only with the Department of Communications, Information and the Arts, but also Treasury, Finance, Industry and Small Business Development, Australian Tax Office, Department of Foreign Affairs and Trade/Austrade, Department of Defence and other parts of Government.

We are at a crossroad. We can retreat back to "parochial Australia" or we can mount a sustained assault on wider horizons. The choice is there.

The basic truth of the film industry is that it is a consumer/distribution-led business. The formula used now by Hollywood majors is exactly the same as it has been for 80 years. The Hollywood studios' mathematics are simple: money spent on production is more than earned back in distribution, profits are taken and the balance is used to help finance the production and distribution of more films.

Again, the FFC/AFC's obsession with comparing Australia to Hollywood hides the uncomfortable fact that of the 450 films made in America in 2002 over half were made by the independent sector which is what we should perhaps be comparing our industry to.

The current bureaucratic approach to fostering film and television production in Australia **has sustained Australia's immaturity of the business.** It has left a negative legacy in the dynamics of the industry with many talented actors, directors, and technical crew continuing to move off-shore in search of employment and opportunities no longer available here.

While the American Studios/Distributors thrive on high-risk full market capitalism, Australian producer and union groups are enmeshed in political straightjackets designed to defend the "national interest".

If the Australian film and television production sector is to realise its commercial and creative potential, it must be able to do so in collaboration with the rest of the world. **The vested interest groups** who have over the past few years come to dominate the sector and are now stifling its economic development.

Consequently content quotas and subsidies have herded Australian films and television programs into a cultural ghetto from which it is very difficult to conduct a rational debate.

The limitations on the growth and development of the Australian film and television production sector are first, the local market is too small, and the costs of production too high for any but the most lucky or imaginative films to provide a satisfactory return in Australia alone, and secondly, the difficulty in developing continuing and lucrative export markets.

The weaknesses in Australia are the lack of scale, difficulties in linking local/regional production to distribution on an international scale and the ad hoc nature of film financing and the lack of knowledge and expertise or respect of expertise in the banking/financial services sector.

The local/national production sector must be coerced into adopting the "global" industry concept that survival of an Australian film and television

sector facing rising costs, increasing domestic competition (Australian films took only 4.9% or A\$41.8m of the total A\$ 844.8m gross box office for 2002 down from 7.8% in 2001) and expanding international opportunities is dependent on its ability to produce films which are also capable of being sold in overseas markets.

Surely it's about time the AFC/FFC started using public money to make better, more popular and more profitable films in a real partnership with the private sector and being held accountable for their decisions.

Creative concepts alone will not sell these projects or secure the deals. The industry and investment bank proposal has the capacity to introduce a more sophisticated business model.

The main obstacle to this strategy has been that Australian producers operate 16 hours from Los Angeles and Hollywood and 26 hours from London. Unless they have privileged contacts and talent relationships, it is very difficult to access top scripts and "name talent".

In order to compete successfully within an international marketplace, it is essential to have established contacts with agents, lawyers, producers and film financiers as well as access to the top people who can greenlight a production within the international system, plus an understanding of their editorial agenda.

What has also previously made it difficult for Australian film makers is that their experience of the world and world events has been regarded as parochial and a dull rendition of lives that are lived more interestingly elsewhere.

Audiences for Australian films are 25% down on last year and indications are that this year's poor performance is unlikely to get any better next year. We are reminded of the famous 1930's Variety headline of 'HIX NIX STIX PIX' by Claude Binyon which referred to "unsophisticated people from small rural towns rejecting movies about

their world." Is the same now happening in Australia where the film "The Night they Called it a Day" collected A\$192 000 at the box office in its first week from 177 theatres, an average of less than 100 people per theatre for the week?

Again, it has to be pointed out that less sophisticated audiences may be led to assume that the average American has the upper-middle class living standard typically presented in American films and therefore prefer them to the working class living standards generally presented in Australian films.

The conditions are very favourable for the financing and production in the Asia Pacific Region of English-speaking films and television programs that can compete successfully in the international marketplace. This will:

- a. take advantage of the recent international acclaim of Australia's most talented filmmakers and actors;
- b. take advantage of the increasing demand for quality English-speaking films in Europe and Asia;
- c. attract increasing levels of private and institutional Australian and foreign investment;
- d. take advantage of the increasing opportunity for co-financing and co-productions in the Asia Pacific Region.

For example, we have recently been approached by a major production company in Los Angeles, whose principals have over 30 years experience working in Hong Kong, Shanghai and S.E. Asia, which has a co-financing arrangement with a US Studio seeking US\$100 million in equity to provide production funding for a portfolio of fifteen (15) films to be made over four (4) years at a total cost of US\$ 500 million.

The key advantages of such an investment are:

- a. A portfolio of films, including 2-3 films from Australia, by negotiation, reduces the risk and volatility usually associated with single picture investments and enhances the likelihood of a substantial return on investment;
- b. The Studio retains worldwide distribution at a reduced fee;
- c. The production company will recoup its production investment parri passu with the Studio;
- d. The portfolio will largely comprise films developed by the Studio, thereby benefiting from the Studio's annual investment in development. (In 1999 the US Studios spent over US\$ 500 million on development).

"However as is usual, commercial realities have run ahead of political connections. While John Howard wins plaudits for his major personal contribution to winning the LNG contract, Australian political leaders are still ill-equipped to deal with China's growing economic and political influence over the region and Australia."

Ivor Ries, The Bulletin, 28 January 2003.

For example, we are aware that,

Department of Communications, Information Technology and the Arts has refused (15th October) an application by James Mitchell for a certificate under Division 10B, Section 124K of the Income Assessment Act, 1936, for FLATLAND a one hour x 78 episode television series on the basis that he was not satisfied that the film has been, or is to be, made wholly or substantially in Australia.

A letter has been sent to the Minister, Senator Rod Kemp requesting an urgent meeting to point out the dangers inherent in giving administrators,

with very limited corporate memory or experience in the film industry (as opposed to the "arts"), the power to decide, with delegated authority, on issues involving so many important subjective and commercial factors and the serious consequences now set in train by what seems to be an arbitrary and very narrow interpretation of the legislation based on a claim for superannuation in the Queensland Supreme Court in 1986.

Again, *Green Card* (1990), Peter Weir's last *qualifying* Australian film, starring Gerard Depardieu and Andie MacDowell, shot entirely in New York, also attracted criticism from the Unions at the time on the basis that it did not reflect Australian cultural values. Peter Weir has not made an "Australian" film since.

The opportunity to establish a relationship with senior creative members the film community in Shanghai/Beijing over the next two years was unprecedented for an industry suffering the worst downturn in 15 years and struggling to create a significant presence in the Asian time zone.

The Series is being made in Shanghai, Sydney and around the world. The first 22 episodes have been completed employing a significant number of leading Australian actors, directors, an award winning cinematographer and heads of department for sound, design and editing etc in Shanghai.

The producers were proposing establishing an Australian production company to purchase the copyright in the first 22 episodes and raise funding from private investors to finalise production on the remaining 56 episodes on the basis that at least 10% of principal photography would be in Australia and all post-production, at a cost of US\$ 22 million and employing over 40 Australians over the next two (2) years, would be moved from Los Angeles to Sydney. The fees to Australians represent approx. 60% of the budget of US\$ 85 million.

The opportunity for the production services company, The Ruddy Morgan Organisation, represented by Andre Morgan, (producer of "The Man From Hong Kong" (1975) and the first Australian-Hong Kong co-production)

with over 30 years experience in the Asian time zone, *to open a conduit between the Australian film industry and the film production community in China especially Shanghai and Beijing and Los Angeles is unprecedented.*

The factors driving the international film and television sector include:

- a. the audiences are global with regional variations,
- b. the technology is global complemented by the internet,
- c. the vertical integration of the big international media companies is driving the link between production and distribution via cable and satellite television,
- d. the cost and place of production will become more and more important as more countries introduce production subsidies for film and television producers who will not only go where its cheapest, but stable, talented and resourceful.

My company has assembled a team of cross-border tax specialists, former investment bankers, entertainment lawyers and producers who present an unusual combination of local and international industry knowledge, with the experience and capacity to attract private and institutional investors into film and television programs; the ability to bring together teams of highly qualified people experienced in international film and television selection and production; risk capital management and international marketing and distribution.

The great wild card in the entertainment economy is the creative element which is a little scary for businesspeople used to making decisions on the basis of exhaustive spreadsheet analyses. There is no spreadsheet that can fully predict whether a movie strikes a chord with the public or disappears into oblivion.