

Submission to the Review of Growth and Sustainability of the Australian Screen Sector

SUMMARY

This submission is that the Government should abolish the anomalous requirement for compulsory union consultation over temporary employment visa applications for the screen industry. This will assist to increase private finance for production and support more screen production.

SUBMISSION

My name is Roy Billing, and I am a successful actor, writer and voice-over artist with over 40 years experience. I am a director of The Broad Picture Pty Ltd, a company which provides my services as an actor, voice over artist and writer, and my wife's services as a business consultant to creative industries including the screen sector. We have a wide range of friends and colleagues in the screen sector and are committed to its growth and sustainability.

For the last two and a half years I have been spearheading a campaign to abolish compulsory union consultation over applications for temporary visas for foreign actors. This practice negatively affects the flow of private investment into screen productions, particularly Federal and State subsidised productions, thus hindering the growth and sustainability of our Australian screen sector.

From November, 2016 a new 408 Temporary Activity Visa replaced a number of temporary work visas, including the old 420 Entertainment Visa for visiting actors, musicians, entertainers and crew. The new framework was designed to make the process of applying for a temporary visa simpler for business, industry and individuals.

This is a result of the Skilled Migration and Temporary Activity review, which the Department of Immigration and Border Protection commenced in December 2014.

It's a welcome step forward, but the entertainment industry, including the screen sector, will still be at an unfair disadvantage. That's due to a

legislative requirement in the Migration Regulations for compulsory union consultation over temporary visa applications. Our industry is the only one in the country with such a requirement. And what's more, we have to pay "consultation" fees to the union, on top of visa application fees charged by the Department of Immigration and Border Control.

The process that the actors' union, the Equity Division of the Media Entertainment and Arts Alliance (MEAA), helped establish well over twenty years ago for screen industry "consultation" requires producers to pay MEAA a fee and give it commercially sensitive documentation. This information goes far beyond the reasons for importing overseas talent. As well as the script and personal details of local cast and crew, MEAA must get the finance plan.

MEAA assess each application and pass on their recommendations to the Department of Communications and the Arts who then pass on their recommendations to the Department of Immigration and Border Control who issue (or not) the temporary visa.

The fees MEAA demands and has received for this compulsory process, across the entertainment industry, totalled \$467,355 in 2013-14 and \$421,712 in 2014-15.

The whole process is unwieldy, time consuming, expensive and unnecessary. Like the other industries in the country the whole process could be administered by the Dept of Immigration and Border Control. I believe that in recent times the Dept of Communications and the Arts have overruled many MEAA decisions and approved visa applications in the interests of keeping screen production flowing.

The screen industry is increasingly worried that private finance, necessary to trigger production subsidies, is drying up. The statistics support that concern.

Data compiled by the Federal Government screen funding body, Screen Australia, reveals that private investment in subsidised screen production has halved in the last 10 years.

Investors are naturally more confident about getting their money back when a "bankable" actor is cast: that term just means "an actor that many people will pay to watch". If one of our own Australian stars is unavailable or unsuitable for a role, producers must have the option to cast an overseas "name" that can attract investors. More private finance means more and bigger productions, and so more work for everyone in the industry. The current visa application process has been a real barrier to that happening.

A 2015 report from Deloitte Access Economics commissioned by the Australian Screen Association revealed that our screen sector supports more than 46,600 full time jobs. Actors, and the relatively small proportion of film crew who are MEAA members, make up a minority portion of these jobs. Think about the credits at the end of a film...they are still rolling long after the cast list. It's not just about actors!

MEAA's actor membership hovers around the 5000 mark. Because of the nature of the entertainment industry **85% of actors are thought to be unemployed at any one given one time**, according to Zoe Angus, Equity Director of MEAA. I would hazard a guess that, at most, about 25% of MEAA members actually earn their primary source of income from acting in screen productions. That's about 1250 workers out of an industry pool of 46,600 or 2.6% of the total screen industry workforce, yet their union has the ability to potentially veto foreign imports who would attract investment, thus undermining work opportunities for the great majority of the screen industry's full time workers.

Early in 2015 the Government called for submissions for a review into the possibility of simplifying the application process for temporary visas for the screen industry.

Throughout that process it was clear that a whole range of people and organisations supported sensible reform – from fellow actors, independent producers, directors, cinematographers, composers, writers, distributors and sales agents, TV networks, casting directors and actors' agents, large screen production companies, through to the main screen business association, Screen Producers Australia.

It is really only the union who oppose any changes to the compulsory consultation process and I wonder whether this is mainly to do with the

prospect of them losing the substantial income from the “consultation” fees they charge. They certainly don’t seem to have a genuine desire to see more work opportunities created for their members.

During that review of the temporary visa application process for offshore actors MEAA ran a disingenuous campaign called SAVE OUR STORIES in which they made unsubstantiated claims that, taking the union out of the visa consultation process, would somehow lead to government-subsidised screen productions being cast and crewed by Americans and not telling Australian stories. This has no basis in fact. For a start, the cost of importing a whole cast and crew from overseas would be completely financially prohibitive.

More importantly, all tax payer subsidised productions must pass the Significant Australian Content test (SAC), which means that Screen Australia must be satisfied that the project has a significant level of Australian content and satisfies Australian cultural aspirations. The SAC test was signed off by all screen industry stakeholders including MEAA. The Australian taxpayer will not have to fund American car chase movies cast with B grade US actors!

MEAA claims that roles in Australian productions should be kept for Australians to support their career growth. That’s old-school thinking. We are long past the 1980s. Now, with so many Australians playing roles in offshore productions, there is no need to score a lead role in an Aussie film to be “discovered” internationally. Our reputation is such that our actors are very successful in getting international work, some going straight to the US after graduating from acting school. Ausfilm keeps a list of Australian actors working in the USA. It runs to 4 pages of names and is constantly growing.

I can’t see why the ability for producers to cast “name” foreign actors in some roles in Government subsidised productions should be of concern. More productions will mean more work for everyone. If Cate Blanchett or Geoffrey Rush, for example, can play American or British characters in offshore films I, for one, have no problem working in Australian films alongside respected and popular actors who may be American, Indian,

British, Chinese , or whatever.

Here is a simplified typical funding structure for an Australian feature film (or high-end TV production)....

Typical Feature film Finance Plan:

Let's say Total Budget is \$6 million - i.e. that is the cost of making the film. The producer 's job is to put together sufficient funding.

Distributors are in effect wholesalers who on-sell to retailers. Their customers ("retailers") are cinema chains like Hoyts, Palace or Dendy, broadcasters like BBC in UK or HBO in the USA, legal download sites like Netflix, and DVD sellers.

In this scenario, *all* the investors are relying on the Distributors to sell usage of the film to cinemas, TV stations, and retailers around the world, so as to generate enough cash, from cinema tickets, TV, downloads & DVD sales to (first) recover the money the distributors originally contributed, and then profit to be shared among the Investors to recover their investments.

Nature of contribution	%	\$
Production Investment		
Screen Australia	25%	\$1,500,000
Screen NSW (shoot in NSW)	5%	\$300,000
Film Victoria (post-production in Vic.)	5%	\$300,000
Private investors	5%	\$300,000
Pre-sale of Rights		
Australian TV rights - Network 7 or Nine, say	8%	\$500,000

Distribution Guarantees		
– Sales agent for World excluding Aust. & NZ	10%	\$600,000
Distribution - Aust. & NZ excluding Aust. TV	2%	\$100,000
Tax rebate* <i>cash flow has to be borrowed by producer</i>		
Producer Offset	40%	\$2,400,000

* Tax rebate is not available until after the end of the financial year in which the film is completed

None of the Government investors will contribute unless a credible Distributor has been secured; they must be sure that someone is genuinely trying to get the film out to paying audiences.

This is why the Distributor’s opinion on the cast is taken so seriously, and why high-profile actors are called “bankable”- even if a distributor does not put in its cash up front, it still has to spend serious money to promote and sell any film. Local and international film markets are flooded with films. Buyers have many other choices.

A distributor will not risk their cash and resources on a project they do not expect they can sell. So, for example, an overseas actor may be requested to increase the recognition or saleability of the film in a specific territory e.g. Germany. The distributor can then secure a commitment in advance and that sale becomes part of the production financing.

The knock-on effect is that any fees paid to the foreign actor reduce the amount of the tax rebate, as the maximum 40% rebate is calculated only on qualifying Australian expenditure. This is audited by Screen Australia on behalf of the federal tax authorities. Film producers have to find other funding to cover any foreign element.

Federal and State funding is unlikely to increase beyond the levels shown so the only way to increase production budgets, and to increase the number of productions, is to attract more private finance, those figures shown in red.

The old-fashioned, compulsory requirement for union consultation into the visa application process for foreign actors undermines the confidence of private investors to put their money into Australian government subsidised productions, particularly when there are more attractive options in other countries.

New Zealand, for example, has an "open door" policy for foreign actors. NZ Actors' Equity claimed this would be the death knell of the local industry. On the contrary: the NZ screen industry now flourishes with highly successful local films cast with local actors as well as overseas productions filmed there. Films like BOY, WHALE RIDER, and HUNT FOR THE WILDERPEOPLE break box office records for home-grown Kiwi screen productions. The freedom for producers to cast whoever they want, from wherever, has not resulted in the meltdown of the New Zealand screen industry as predicted by the local union.

It is time for our Australian screen sector to take its place as a twenty first century player in the global world of screen production. The Government should stop a trade union enforcing protectionism and preventing Australian screen producers from tapping into global sources of screen production investment. This will enable the Australian screen sector, and all those who work in it, to flourish.

(Documentation supporting claims and statistics in this submission available on request.)

Roy Billing
March 27, 2017