

**AUSTRALIAN WRITERS' GUILD
SUBMISSION
TO JOINT STANDING COMMITTEE
ON TREATIES
INQUIRY INTO AUSTRALIA'S
RELATIONSHIP WITH THE WTO
MARCH 2001**

The Australian Writers' Guild is the professional association for writers in television, film, theatre, radio and multimedia. Established in 1962 the AWG is recognised throughout Australia as being the voice of all performance writers.

The AWG welcomes the opportunity to make a submission to the Joint Standing Committee on Treaties inquiry into Australia's relationship with the World Trade Organisation.

Australian policy makers need to ensure that Australians are able to tell their own stories. Why? Because our stories give meaning to who we are as Australians. They help shape our sense of identity and enable us to communicate that to others. The most powerful and pervasive vehicle for these stories is the audio-visual sector: namely: movies, television drama and documentary).

To quote Lord David Puttman:

“Movies, along with all other activities which are driven by stories and the images and characters that flow from them, are now at the very heart of the way we run our economies and live our lives. If we fail to use them responsibly and creatively, if we treat them simply as so many consumer industries rather than as complex cultural phenomena, then we are likely to damage irreversibly the health and vitality of our own society... Stories and images are among the principal means by which human society has always transmitted its values and beliefs, from generation to generation and community to community”

That is, cultural goods and services are more than simply a commodity.

Successive Australian governments have supported a cultural objective that recognised the role of the film and television industries and broadcasting services in developing and reflecting national identity and cultural diversity.

The Australian content standard and film and television subsidy have been the major pillars of support for this cultural objective for several decades. It is important that the government remains free to retain and adapt these mechanisms and develop new ones appropriate to the evolving technological environment.

These measures should not be equated to old style protectionism. The need for cultural measures stems from the economics of the audio-visual sector. This is particularly true for the vulnerable areas of drama, children's drama and documentary. These formats are extremely expensive to make and are easily substituted by imported programming despite the popularity of local programming. Australian costs are not high by world standards but imported product in these categories is always significantly cheaper because it has recovered its costs in its home market.

For example, American productions which cost \$2m an hour to produce sell here for A\$50-60,000. The cost of producing an Australian drama program ranges from A\$90,000 an hour for a serial to A\$1-1.8m an hour for a mini-series.. Hence imported programs are attractive to the networks regardless of the respective ratings of local and imported programs.

The benefits of ensuring we retain a viable film and television production sector go beyond the direct cultural benefits to our own population.

Culturally specific product is what now sells internationally, rather than pale imitations of American product. As countries become more economically integrated there is an increased need for strong domestic cultures to maintain a sense of identity – indeed there is a trend to reaffirmation of local cultures.

The critical and commercial success of Australia's film and television industry has major benefits in terms of Australia's international profile which have significant flow ons in promoting other trade interests (notably tourism) and in promoting an understanding of our culture among citizens of other countries.

There would therefore be serious cultural, economic and political ramifications to trading off cultural support measures in the WTO.

If we damage our film and television production sector it will in turn impact on our overall industry infrastructure and down the track we will be less able to position ourselves as a major supplier of content in the global information economy.

The WTO has already made a commitment to negotiate agreements on trade in services and agriculture.. In future negotiations there will no doubt be pressure to liberalise. This was evident in the MAI negotiations.

In May 1999 AWG was party to an industry submission to DFAT on the MAI which concluded as follows:

The Production Industry Group believes the Australian Government's overriding goal in any further multilateral trade negotiations should be to preserve its capacity to maintain, adapt and introduce measures to sustain and develop Australia's audiovisual industries and culture. This goal was accepted, pursued and, to a large extent, implemented in the Uruguay Round negotiations.

There are three elements to this.

First, the GATS should include a broad acknowledgement of importance of cultural activity, and of the need for member states to preserve the policy-making flexibility in this area. This could take the form of an exemption, allowing countries to maintain, adapt or introduce measures for cultural purposes, perhaps with a specific Annex or Reference Paper, articulating the special requirements and rules for this sector. The Canadian Government is developing a proposal in this area, which the Group believes deserves serious attention.....

Second, the present structure of the agreement is critical to maintaining this essential policy-making flexibility. In particular, the capacity for MFN exemptions

Third, the GATS includes only a weak obligation about subsidies, which are a very important form of support for audiovisual activities. If this obligation were to be strengthened, Australia would need to take corresponding action to safeguard existing and possible future (subsidy) measures. (Emphasis added)

We note that the Trade Minister Mark Vaile has undertaken to ‘ensure that any negotiations in the audio-visual sector take account of Australia’s cultural policy objectives’.

Our concern is that other imperatives may override cultural objectives unless there is a clear commitment to a cultural exemption in all trade agreements.

GATS incorporated MFN exemptions in audio-visual services. Australia - like other countries,- made no commitments on national treatment or market access in audiovisual services.

The right to regulate for cultural sovereignty is already internationally recognised To cite just one example: the UN Covenants on Social and Economic Rights and Civil and Political Rights have a common article as follows: "*All peoples have the right to self determination. By virtue of that right they freely determine their political status and freely pursue their economic and social and cultural development*". (Article 1, para 1).

At this point there are a number of options, as we understand it, which the government could pursue in its relationship with the WTO:

- A cultural exemption strategy which takes culture off the table in all international trade negotiations
- A country specific sectoral reservation
- a revised GAT which incorporates an acknowledgement that cultural goods and services are more than simply a commodity.

- A new international instrument which specifically addressed the need for cultural diversity and acknowledges that cultural goods and services are different from other goods and services and that cultural policy is different from other policies,

The Australian government needs to develop a negotiating strategy which is consistent with its cultural policy objectives, as opposed to merely taking account of these objectives.

There is also a need for greater transparency in all trade negotiations and involvement by industry representatives. The debacle over CER may have been avoided had the industry been properly consulted over the CER Trade in Services Protocol.

It is widely accepted now that the protocol should have contained a cultural reservation - why it didn't is a matter we will leave to the political historians. We are now concerned to prevent its reoccurrence.

SUMMARY POINTS

1. Cultural goods and services are more than simply a commodity.
2. Our stories give meaning to who we are as Australians, help shape our sense of identity and enable us to communicate that to others.
3. The Australian content standard and film and television subsidy have been the major pillars of support for the government's cultural objectives for several decades and it is important that the government remains free to retain and adapt these mechanisms and develop new ones appropriate to the evolving technological environment.
4. Cultural policy is different from other policies. Cultural measures should not be equated to old style protectionism.
5. The Australian government needs to develop a negotiating strategy which is consistent with its cultural policy objectives, as opposed to merely taking account of these objectives. Other imperatives should not be allowed to override cultural objectives.
6. The right to regulate for cultural sovereignty is already internationally recognised
7. There are a number of (not necessarily mutually exclusive) options which the government could pursue in its relationship with the WTO:
 - ◆ A cultural exemption strategy which takes culture off the table in all international trade negotiations
 - ◆ A country specific sectoral reservation
 - ◆ A revised GAT which incorporates an acknowledgement that cultural goods and services are more than simply a commodity.

- ◆ A new international instrument which specifically addressed the need for cultural diversity and acknowledges that cultural goods and services are different from other goods and services,
8. There is a need for greater transparency in all trade negotiations and involvement by industry representatives.