Chapter 11

Schedule 10 – Film production offsets

Overview

11.1 Schedule 10 amends the *Income Tax Assessment Act 1997* to alter the tax incentives provided to the Australian film industry.

Background and summary

11.2 The existing tax incentive scheme for Australian filmmakers will be replaced by refundable tax offsets. Currently, section 10BA of the *Income Tax Assessment Act 1936* allows investors in certified projects (Australian films) to claim a 100 per cent tax deduction against their taxable income for the year the investment is made. Section 10B is open to a wider range of formats and allows a 100 per cent tax deduction over two financial years, beginning when the film first derives an income.

11.3 The recent Government review into film funding support found the effectiveness of the scheme had been limited.

11.4 No new provisional certification applications under this regime will be accepted after the date of Royal Assent of this bill.

11.5 If the bill is passed, a refundable tax offset of 40 per cent for Australian feature films and 20 per cent for documentaries, television series, telemovies and animations will be introduced for producers. This will be available for expenditure incurred after 1 July 2007 and certification will be administered by the Film Finance Corporation (FFC) until the new Australian Screen Authority comes into existence on 1 July 2008. Minimum Australian production expenditure thresholds will apply and the 'Australianness' test will be based on existing section 10BA criteria.[1]

11.6 The current 12.5 per cent location offset will be increased to 15 per cent. Minimum expenditure thresholds will apply.

11.7 A refundable tax offset of 15 per cent will be introduced for post production, and digital and visual effects (PDV) production in Australia. Minimum expenditure thresholds will apply.[2]

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1 The minimum Australian production expenditure thresholds for the various types of films are outlined at pages 196-197 of the EM.

2 EM, pp 184-186.

Intended benefits of changes

11.8 These new tax incentives are designed to strengthen the Australian film industry by encouraging greater private sector investment and improving the industry's market responsiveness.[3]

Issues with the bill

11.9 The committee heard concerns relating to the following matters:

- the potential effect of the bill on the allocation of resources between in-house and independent producers in the television production sector;
- the accessibility of the production offset to animators;
- the depreciation of low value capital assets used in film production;
- the level of qualifying Australian production expenditure thresholds for feature films; and
- assessing production expenditure that occurred around the transitional date to the new regime.

Effect on the independent production sector

11.10 The Screen Producers Association of Australia (SPAA) raised concerns over the possibility of Australian commercial television networks exploiting the 20 per cent producer rebate at the expense of the independent television production sector.

11.11 Commercial television broadcasters presently rely heavily on the independent production sector to meet their statutory Australian content requirements under the *Broadcasting Services Act 1992* and the Broadcasting Services (Australian Content) Standard. According to the SPAA: 'Currently, with the exception of the Seven Network, 80% of Australian documentary, children's programming and adult drama is outsourced to the independent sector'.[4]

11.12 The SPAA queried why the publicly funded producer offset should be available to broadcasters meeting their statutory obligations: 'This is effectively awarding them a discount for meeting a licence condition'.[5] It argued that a consequence of allowing the commercial television networks to access the producer offset would be to encourage a shift from the independent sector to in-house production, contrary to the bill's purpose of 'building sustainable and stable production companies'.[6]

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3 EM, p. 183.

4 SPAA, *Submission 1*, p. 4.

5 SPAA, *Submission 1*, p. 6.

6 Mr Robert Campbell, Member, Screen Producers Association of Australia, *Proof Committee Hansard*, 28 August 2007, Adelaide, p. 25.

11.13 According to the SPAA, a shift away from independent production would lead to less competition and innovation in the production sector, as well as a reduced diversity of viewpoints on Australian television.[7] In evidence, it also claimed such a shift would increase the volume of long-running in-house drama series at the expense of 'high-end miniseries and telemovies', which have 'built our significant reputation overseas'.[8]

11.14 The SPAA recommended that broadcasters only be allowed to access the rebate for the production of Australian content in excess of their statutory obligations.[9] The Media, Entertainment and Arts Alliance also proposed such an amendment:

> The Alliance recommends the Bill be amended to ensure that the Producer Offset is used to drive greater levels of Australian television drama series than that mandated by the Content Standard by specifying that series made with the support of the Offset cannot be counted as eligible programs for the purpose of satisfying the Content Standard.[10]

11.15 The South Australian Film Corporation (SAFC) told the committee that:

> ...there is some merit in the idea of only allowing broadcasters to claim the rebate when the program does not count towards their content obligations, particularly their sub quota obligations in regard to drama, documentary and children's programming.[11]

It added:

> ...there is an in-principle argument that is about the extent to which a broadcaster that has a privileged access to a public resource is then able to use a government subsidy to fund the obligations that they have in order to use that public resource. From an in-principle point of view, that does seem to be an anomaly.[12]

11.16 FreeTV, representing the free-to-air commercial networks, rejected the notion that the legislation should discriminate against in-house producers by limiting their access to the rebate:

> There should be no distinction between different production houses such as those housed in entities such as Southern Star, Fremantle, Beyond, the Nine Network, Seven Network and Network Ten. Both independent and in-house productions make a significant contribution to the overall health of the production sector in this country.

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7 SPAA, *Submission 1*, p. 7.

8 Mr Robert Campbell, *Proof Committee Hansard*, 28 August 2007, Adelaide, p. 22.

9 SPAA, *Submission 1*, p. 8.

10 Media, Entertainment and Arts Alliance, *Submission 3*, p. 3.

11 Mr Richard Harris, Chief Executive Officer, South Australian Film Corporation, *Proof Committee Hansard*, 28 August 2007, Adelaide, p. 40.

12 Mr Richard Harris, *Proof Committee Hansard*, 28 August 2007, Adelaide, p. 41.

> Production will be maximised if the market effectively allows and encourages production by all Australian producers.[13]

11.17 FreeTV also repudiated the claim that commercial networks' access to the rebate would shift production from the independent sector in-house. It argued that generating quality television content will always take precedence over maximising available tax rebates:

> ...broadcasters make production and programming decisions based on new and creative concepts which appeal to audiences – irrespective of whether they are generated in-house or externally. A minor difference in budget is simply not going to drive a broadcaster to reject a superior concept and risk the project being picked up by a competitor and potentially the loss of thousands of viewers.
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> If the best idea for a program comes from an independent production company, it belongs to that producer. A broadcaster cannot produce the program without the participation of the owner of the concept. If the concept is the one that will deliver the maximum audience, that is the driver for the commissioning decision.[14]

11.18 FreeTV noted that it would not make sense, simply to maximise access to a tax rebate, for commercial networks to reinvent their existing infrastructure arrangements in order to source a greater proportion of their content through in-house production.[15] Mr Richard Harris of the SAFC commented that: 'I am not convinced that it would be enough to change their model'.[16]

11.19 While the SAFC supported the notion that commercial networks should not be offered a rebate for meeting their statutory obligations, it remained unconvinced that the effect of the bill would be to cause a shift to in-house production. The SAFC noted, though, that the Government ought to 'be concerned about if it was an outcome'.[17]

11.20 The SAFC's major concern related to the prospect of the rebate being transferred to the commercial networks through the project negotiation process, rather than being built into the producers' businesses. It commented that this concern is:

> ...the extent to which broadcasters dealing with independents in the future will be able to use their market power to coerce producers to hand over their rebate as part of their commercial dealings. In other words, the rebate, which was supposed to be about building equity and sustaining businesses, could be lost. If this is the result, the introduction of an offset for TV

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13 Free TV, *Submission 4*, p. 2.

14 Free TV, *Submission 4*, p. 3.

15 *Proof Committee Hansard*, 28 August 2007, p. 31.

16 *Proof Committee Hansard*, 28 August 2007, p. 41.

17 Mr Richard Harris, *Proof Committee Hansard*, 28 August 2007, p. 41.

> production could well end up being a pyrrhic victory for the independent sector.[18]

11.21 It emphasised that utilising the benefits of the rebates was critical for independent producers to be able to build a business capable of continuing production, particularly in the context of needing to adapt to a future where content will be sold to, and broadcast on, platforms other than television.[19]

11.22 The SAFC suggested that the Government review the effect of the new regime in three years time.[20]

11.23 FreeTV denied that producers would be paid less because the rebate would lower costs of production. It explained that independent producers are paid a set licence fee for producing Australia drama so commercial networks can obtain the 'points' required to meet their statutory obligations:

> Under the Australian content standard point system for adult drama, a higher number of points are awarded to independent productions with a licence fee over a set amount.[21]

It added:

> ...budgets are tied to the points system. If we drop below a certain budget, we basically shoot ourselves in the foot because we do not get the amount of points. They are our compliance points, so we lose our licence if we do not meet that. So it is not logical for us.[22]

11.24 It is, however, logical for the commercial networks to demand extra content for the same price, given producers' lower costs of production. When queried as to the difference the rebate would make, FreeTV representative and Head of Drama at the Nine Network, Ms Jo Horsburgh, indicated:

> The hope is that it will mean that you can make more hours—so, for example, you can make a longer-running series because you know that you will have that rebate going back into production.[23]

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18 Mr Richard Harris, *Proof Committee Hansard*, 28 August 2007, p. 41.

19 Mr Richard Harris, *Proof Committee Hansard*, 28 August 2007, pp. 42–43.

20 Mr Richard Harris, *Proof Committee Hansard*, 28 August 2007, p. 42.

21 Ms Julie Flynn, Chief Executive Officer, Free TV Australia, *Proof Committee Hansard*, 28 August 2007, p. 30.

22 Ms Jo Horsburgh, Head of Drama, Nine Network (Free TV), *Proof Committee Hansard*, 28 August 2007, p. 35.

23 *Proof Committee Hansard*, 28 August 2007, p. 34.

Departmental response

11.25 Departmental officers told the committee that the Government did not support commercial networks being excluded from accessing the producer offset. DCITA officers said that the independent production sector already receives additional, specific assistance from which commercial networks cannot benefit. This includes:

- commercial networks acquire greater 'points' toward meeting their statutory obligations by sourcing production from the independent sector;
- public broadcasters ABC and SBS receive Government funding to generate or acquire independently produced content;
- pay television drama channels are obliged to spend ten per cent on local content and have little in-house capability; and
- commercial networks are unable to receive funding from state and Commonwealth film agencies to co-produce in-house projects.[24]

11.26 DCITA suggested that these factors mitigate any potential eagerness by commercial television networks to shift production in-house:

> Those sorts of factors will impact and influence the willingness of broadcasters to bring production in house; to invest the associated money required—whether it be for capital or staffing and skill requirements—for that; and also to take on the inevitable risk involved in moving from acquiring a program for a broadcast licence fee which represents something less than 100 per cent of the cost of the program to making the bulk, if not the total, of the investment in that program and seeking to recover that from their commercial activities. There is a transfer of risk there that I presume would also be taken into account.[25]

11.27 It argued that the proposal to exclude commercial networks from the rebate would be difficult to implement, given that independently produced programs used to reach the quota would already have received the rebate:

> ...we already have a situation where programs that are produced in order to meet the Australian broadcast quotas are in receipt of a level of subsidy. Arguably, a compromise arrangement that broadcasters should not be able to receive the produced offset for in-house productions until they have met that quota would not actually change that situation because, to the extent that independently produced programs are made to meet that quota, they will still be in receipt of the rebate and potentially in receipt of direct financing from the screen agency. So there would still be a level of ongoing

24 Mr James Cameron, Chief General Manager, Arts and Sport, Department of Communications, Information Technology and the Arts, *Proof Committee Hansard*, 28 August 2007, p. 45.

25 Mr James Cameron, *Proof Committee Hansard*, 28 August 2007, p. 48.

> subsidy for programs produced which are used by broadcasters to meet their quota.[26]

11.28 DCITA also indicated that the practical difficulty of networks predicting whether a completed program will, at some point in the future, be counted towards a 'points' quota following its broadcast:

> The commercial free-to-air broadcaster quota arrangement counts points for programs when they are broadcast, and often that will be a significant period of time after they have been produced. In fact, those points systems are based on both annual and three-yearly calculations of the points.
>
> It seems to me that there is potential for quite a complex set of rules to be put in place to reconcile when a program, once it has been completed, has subsequently been used to meet the points system and—to the extent that that is a significant period after the program has been completed, and it would otherwise have been able to access the rebate—the cost of money, if I can use that term, of awaiting that points system. That would have a potentially substantial impact on the value of the offset, given that the broadcaster would have to wait for a period of time.[27]

11.29 Finally, departmental representatives outlined the Government's preparedness to monitor the effectiveness of the arrangements and any detrimental consequences. DCITA told the committee that the Minister had said that:

> ...the government would continue to keep an eye on the operation of the scheme and, in particular, on whether there was any evidence that broadcasters or other distributors were misusing the arrangements in a way that was inconsistent with the government's underlying policy intention. He flagged a preparedness to act if there was any evidence of that occurring. So I think it is fair to say that obviously the government will continue to review how the new scheme operates. If it were not operating in a way that is consistent with the original intention, clearly it would be open for the government to act.[28]

Short animation series

11.30 The committee was informed that certain definitions in the bill may unfairly exclude producers that deliver animations in episodes shorter than 30 minutes. The bill currently stipulates that to attract the rebate by producing what is classed as a series, the animation must comprise of two or more episodes with a minimum 30 commercial minutes per episode.[29] Without achieving this status, accessing the

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26 Mr James Cameron, *Proof Committee Hansard*, 28 August 2007, p. 46.

27 Mr James Cameron, *Proof Committee Hansard*, 28 August 2007, p. 46.

28 Mr James Cameron, *Proof Committee Hansard*, 28 August 2007, p. 50.

29 Under proposed subsection 376-65(6). A program that is itself shorter than 30 minutes but runs over a 30 minute period on commercial television is considered a commercial half hour.

producer offset requires meeting the minimum expenditure threshold applicable to a short form animation.

11.31 Evidence to the committee suggested that the minimum length requirement for animation did not reflect industry practice as determined by consumer demand in this field. Specifically, instead of producing 30 minute episodes, Australian producers often adopted a quarter hour format to meet consumer preferences, especially for children's animation. The SPAA claimed that the $250,000 (or $1 million per hour) qualifying expenditure threshold applying to a short form animation would disqualify 85 per cent of Australian animation project expenditure from being eligible for the rebate, discouraging producers from participating in projects seeking to satisfy demand for quarter hour episodes.[30]

11.32 SPAA described the problem is a 'technical issue' that hinders the intent of the bill.[31] It requested that the bill be amended to enable 12 or more 15 minute episodes of animation to be defined as a series.[32] In evidence it indicated that it would also be content to see an amendment that allowed a series to be defined in terms of meeting a total, cumulative, commercial hours threshold.[33]

Departmental response

11.33 In response to a suggestion from the committee, Treasury indicated that providing greater definitional flexibility through the use of regulations, rather than relying on black-letter law, would conflict with the Government's intention to simplify the arrangements. However, Treasury did not rule out a legislative amendment in this area:

> There are two issues here. Firstly, are the thresholds and the criteria as spelt out in the bill appropriate? That is one issue that has been raised this morning. Secondly, there is the related question: to what extent will they remain appropriate through time? Again, because of the desire for certainty, we consider that it is better that, if there is a need to adjust those to reflect changes in policy—it is not so much the industry practice but the policy intent and the policy consistency—then nothing precludes a legislative amendment being made to reflect those.[34]

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30 Mr Geoffrey Brown, Executive Director, Screen Producers Association of Australia; and Australian Screen Council, *Proof Committee Hansard*, 28 August 2007, p. 24; *Submission 1*, pp 11-12.

31 Mr Geoffrey Brown, Executive Director, Screen Producers Association of Australia, *Proof Committee Hansard*, 28 August 2007, p. 24.

32 Mr Ewan Burnett, Member, Screen Producers Association of Australia, *Proof Committee Hansard*, 28 August 2007, p. 23.

33 *Proof Committee Hansard*, 28 August 2007, p. 29.

34 Mr Matthew Flavel, Manager, Industry Tax Policy Unit, Department of the Treasury, *Proof Committee Hansard*, 28 August 2007, pp 48–49.

Depreciation of capital assets

11.34 Fox Studios and Warner Bros. raised their concern over production companies that are part of a tax consolidated group being unable to take into account the economic cost of using low value capital assets when calculating expenditure counted towards the producer offset. These organisations expressed their desire to be able to incorporate the balancing adjustment on assets valued at less than $1000 for the purposes of calculating such expenditure.[35] They claimed that while the low-value pool created administrative efficiencies for income tax purposes, production companies should be entitled to include all calculations pertaining to qualifying production expenditure, including the balancing adjustment on assets in the low-value pool. Warner Bros. explained this somewhat complex taxation issue to the committee as follows:

> The key issue we are concerned about is where a tax consolidated group has, at some stage in its history, elected to run a low-value pool for dealing with record-keeping requirements of assets that cost less than $1,000. Such an election would have been made for administrative convenience only, as it simplifies record keeping for low-value assets; it has no other tax advantages. Such an election is irrevocable and applies to all members of the tax consolidated group. We believe the intention is that subsection (7) will not allow us to include the balancing adjustment of assets included in the low-value pool and the qualifying production expenditure. If this is the case, then a decision made years ago for administrative convenience by one company in a consolidated group may impact on the qualifying expenditure for a production company that did not even exist at the time that the election was made.
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> We believe the reason suggested for not including the balancing adjustment for items in the low-value pool is that it was thought that it was not possible to identify the decline in value, how much the asset was sold for and what the balancing adjustment might be. This is because when you are actually using the low-value pool for income tax purposes you do not need to do those things. However, we think that if we are both able and willing to perform the necessary calculations, separately to the calculations that we do for income tax return purposes and all the other conditions for claiming the balancing adjustment are met, we should be allowed to treat that balancing adjustment as qualifying production expenditure. We think that this is fair, given the nature of tax consolidated groups and the irrevocable nature of the election to go into the low-value pool. It was clear at the time of introducing the tax consolidation regime that the preference was that corporate groups enter the regime.[36]

35 Calculated depreciation or loss incurred on an asset.

36 Ms Louise Houston, Tax Manager, Warner Bros Entertainment Australia Pty Ltd, *Proof Committee Hansard*, 28 August 2007, p. 38.

Departmental response

11.35 Treasury rejected this proposal, informing the committee that it would establish a precedent that could generate additional administrative costs:

> We consider that it would have some precedent effects. In effect, when something goes into a low-value pool—that is, less than $1,000—it loses its character and the pool itself at an aggregate level is written off. The argument that is being put is that assets should be able to be pulled out of that pool so that any decline in value or balancing adjustment should be recognised for the purposes of the producer offset. It seems to go against the grain of the reductions in compliance costs that are associated with having low-value pools to in effect be putting something but then maintaining a separate record for it for the purposes of an offset.[37]

Production expenditure thresholds

11.36 The committee heard that small budget feature films may be excluded from accessing the rebate due to the $1 million qualifying Australian expenditure threshold. The South Australian Film Corporation (SAFC) told the committee that, although the threshold applying to the current incentive regime would not increase as a consequence of the bill being enacted, it is too high:

> ...the SAFC is still concerned that the threshold for feature films remains at $1 million. This threshold would have excluded films like, for example, The Castle and possibly films like Kenny and 2:37—a South Australian film which was selected for Cannes in 2006. These films might have just fallen short of the proposed threshold.[38]

Appropriate arrangements for transition

11.37 Fox Studios provided in camera evidence to the committee on the difficulty of assessing eligible expenditure during the transition period when using a cash accounting system, rather than on an accrual basis. The EM states that:

> 10.230 The amendments made to introduce the producer offset apply to qualifying Australian production expenditure incurred:
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> • on or after 1 July 2007; and
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> • before 1 July 2007, to the extent that such expenditure is attributable to goods or services provided on or after 1 July 2007.
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> ***[Schedule 10, Part 4, subitem 91(3)]***
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> 10.231 In respect of productions which are underway on 1 July 2007, it is intended that expenditure incurred will apply to services provided, or goods acquired, on or after 1 July 2007. This is regardless of when the contractual obligation to provide the services was undertaken. This means that in the

37 Mr Matthew Flavel, *Proof Committee Hansard*, 28 August 2007, p. 49.

38 Mr Richard Harris, *Proof Committee Hansard*, 28 August 2007, p. 40.

> case of any film in production on 1 July 2007, where contracts have been entered into prior to that date, applicants may make a reasonable apportionment of expenses (eg, crew expenses) for services provided and goods used on or after 1 July 2007.[39]

11.38 Although their evidence remains confidential, Fox Studios agreed to make their recommendation to Government public. It suggests that Part 4 of the bill be amended from reading 'before 1 July 2007, to the extent that such expenditure is attributable to goods and services provided on or after 1 July 2007' to the following: 'before 1 July, to the extent that such expenditure is paid on or after 1 July 2007'.[40]

Departmental response

11.39 Treasury agreed to respond to the issue on notice. However, during the hearing officers expressed the view that couching the transitional arrangements with regard to the timing of the economic activity struck a reasonable balance:

> The bill as it currently stands provides that the offset is paid on economic activity broadly defined, which occurs after 1 July 2007. Without wanting to go into great detail, you could think about arrangements where, for example, a film is already in production and the bulk of the costs were to be paid in a cash sense after 1 July 2007 or, alternatively, where commitments or liabilities had been entered into before that date—in other words, accrued or, on a tax law basis, incurred. I think the legislation strikes a reasonable middle ground between those two extremes and says that, as long as the economic activity has occurred after 1 July 2007, that amount should be eligible for the tax offset.[41]

11.40 In its response to the committee's question on notice, Treasury stated:

> The principal of attribution is used elsewhere in the tax law. In this context, it avoids the possibility of the film tax offset being available on activity which occurred prior to the start date of 1 July 2007, simply because the payment for that activity was delayed until after this date.[42]

Committee view

Effect on the independent production sector

11.41 The committee accepts FreeTV's comments that the priority for commercial networks is to obtain quality television content that will attract viewers and maximise advertising revenue. Given the competitive nature of commercial television in Australia and the increasing consumer appeal of other forms of entertainment media,

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39 EM, p. 234.

40 *Proof Committee Hansard*, 28 August 2007, p. 49.

41 Mr Matthew Flavel, *Proof Committee Hansard*, 28 August 2007, p. 49.

42 Treasury, *Response to question on notice*, Appendix 3.

particularly via internet-based content, securing programs capable of attracting viewers and advertising revenue is of paramount importance to the commercial networks. Accordingly, they will continue to seek good programming ideas from the independent sector to achieve an advantage over competing networks and other sources of entertainment.

11.42 The restriction on commercial networks' access to funding from state and Commonwealth film agencies also negates any incentive to move production in-house. DCITA told the committee:

> Commonwealth film agencies have funding guidelines which indicate that they will not co-invest in projects which are in-house produced. The FFC is a particular example of that. We would expect that those arrangements would move into the new environment and sit alongside the producer offset.

11.43 The committee is of the view that this restriction should continue to apply when the FFC is subsumed into the new agency Australian Screen Authority on 1 July 2008.

Recommendation 2

11.44 **The committee recommends that the current restriction on the Film Finance Corporation from co-investing in projects produced in-house continue to apply to funding provided by the Australian Screen Authority after 1 July 2008.**

11.45 The committee is of the opinion that the availability of this rebate is unlikely to provide the catalyst for a dramatic shift away from sourcing content from the independent sector to in-house production. Limiting the producer offset to the independent production sector would also generate a degree of complexity that would not be justified by any discernable public policy benefit. Therefore, the committee does not consider that commercial television networks should be disqualified from accessing the rebate.

11.46 There are, though, reasonable concerns held about the extent to which the producer offset will be retained by independent producers in order to build a sustainable business capable of continuing film production. If the lower costs of production obtained through the rebate are entirely passed on to commercial networks in the form of more content for the same fee, then the intended benefits of the legislation may be jeopardised.

11.47 It would be the committee's expectation that were the availability of the scheme for in–house production to have a detrimental effect on the independent sector then the Government on the basis of that evidence should legislate to restrict the producer offset scheme to independent producers.

11.48 The committee did not have sufficient evidence before it during this inquiry to conclude that the likely impact of the scheme would be detrimental to independent producers. The committee therefore recommends that the Government review the situation in twelve months' time.

Recommendation 3

11.49 **The committee recommends that the Government review the implementation of the producer offset scheme in twelve months to ensure it is not being misused to mitigate the intention of facilitating a sustainable Australian film production sector, including a vibrant independent sector.**

Short animation series

11.50 The committee acknowledges SPAA's concerns about the potential exclusion of animators from accessing the producer offset due to the bill's definition of a 'series' failing to reflect widespread industry practice. The committee agrees that the bill's intent is hindered by the restrictions imposed by the definition and is of the opinion that it should be amended to enable producers delivering animation delivered in short episodes to access the rebate. The requirement to meet a threshold of total commercial hours ought to remain.

Recommendation 4

11.51 **The committee recommends that the bill be amended to allow ten or fifteen minute animation episodes to be categorised as a 'series' for the purposes of qualifying for the producer offset, provided that a total commercial hours threshold is met.**

Depreciation of capital assets

11.52 The committee notes the argument for allowing balancing adjustment calculations on low value assets to count toward production expenditure for the purposes of the producer offset. However, it shares the Government's view that amending the law in this area would generate an unwelcome precedent and add to compliance costs, conflicting with the intended purpose of having low-value pools. The committee is of the opinion that no change in this area is necessary.

Production expenditure thresholds

11.53 While the committee recognises the concerns of low-budget filmmakers that are excluded from accessing this scheme, it does not consider that the Government should actively encourage the production of low-budget feature films in Australia by expanding access to the producer offset. Unfortunately, the long term sustainability of Australian film production companies will not be ensured by making feature films with budgets of less than $1 million. Ensuring the long term sustainability of these enterprises is the purpose of the bill and its application should be targeted accordingly.

Appropriate arrangements for transition

11.54 The committee acknowledges that the arrangements for film producers undertaking projects during the transitional date may generate some administrative complexity. Instead of identifying for eligibility purposes the date an expense was contractually incurred or when cash was paid, film producers in this situation will be

required to assess which goods and services were used before, and after, 1 July 2007. Unfortunately, this is an unavoidable consequence of ensuring that fair and reasonable transitional arrangements apply. The committee does not therefore support any amendment to the transitional arrangements currently outlined in the bill.

Conclusion

11.55 The committee is of the opinion that this schedule of the bill contains necessary measures to improve the long term viability of the Australian film production industry. It believes that its recommendations add to the bill and strongly urges that they be accepted.

Recommendation 5

11.56 **The committee recommends that Schedule 10 of the Tax Laws Amendment (2007 Measures No. 5) Bill 2007 be passed.**