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August 24, 2007

Committee Secretary  
Senate Economics Committee  
Department of the Senate  
PO Box 6100, Parliament House  
Canberra ACT 2600  
Via email: [economics.sen@aph.gov.au](mailto:economics.sen@aph.gov.au)



Australian Writers' Guild

## **Inquiry into the Provisions of the Tax Laws Amendment (2007 Measures No.5) Bill 2007**

The Australian Writers Guild (AWG) welcomes the opportunity to comment on the Bill, specifically on the section regarding the film and television industry.

The AWG has three main points:

1. We support the majority of the Bill.
2. We have two small technical issues that we believe are simple to amend. Following the circulation of the draft legislation, our comments were forwarded to Treasury, and are attached.
3. We have major reservations regarding one aspect of the Bill – access to the rebate for television production for commercial broadcasters.

### **Access for broadcasters**

Commercial broadcasters are given exclusive access to the broadcast spectrum. In exchange for this protection, the broadcasters must meet public service license conditions which include investment in Australian content.

Allowing broadcaster access to the federal 20% rebate effectively subsidises the broadcasters' agreed conditions. The AWG does not believe it is good public policy to provide a financial subsidy to assist a highly protected and profitable oligopoly fulfil their public service obligations.

The argument applies equally to free-to-air broadcasters and subscription television channels in respect of their obligations for Australian content.

Furthermore, the AWG believes that access to the rebate for television production for commercial broadcasters directly contradicts the original stated objectives of the Bill, which were to ensure the growth and sustainability of the industry. Instead both the commercial and cultural diversity of the industry will contract. Broadcaster access to the rebate will lead to a lack of diversity in stories, budgets and regional viewpoints. Australian audiences will be harmed by this unintended flaw in the legislation.

The AWG strongly supports the Bill being amended to remedy this flaw.

As a minimum, the Bill must be amended to ensure that Broadcasters and subscription television channels cannot access the Producer Offset for the Australian content they are mandated by law to

provide. If these entities choose to invest in producing new Australian content beyond their legal minimum obligations, this additional content would be eligible for leveraging the rebate.

This amendment eliminates the public policy issue of broadcasters being subsidised by taxpayers to fund their regulatory obligations. It also provides an incentive for broadcasters to make additional Australian content above the current quotas, which would be a benefit for Australian audiences.

ACMA currently differentiates between "independent producers" and "broadcasters" and would be entrusted with the regulation.

This amendment would ensure the new legislation would deliver a fair and equitable package that will drive new investment and build stronger businesses in the Australian film and television production industry across Australia.

Importantly, it would ensure a diversity of stories and voices on screen for Australian audiences.

We would be happy to provide any further information.

Yours sincerely,

Jacqueline Woodman  
Executive Director AWG  
Signed on behalf of Tim Pye, AWG President

#### **Australian Writers' Guild**

*The Australian Writers Guild (AWG) is the peak professional body representing performance writers in Australia. On behalf of its 2600 members the AWG works to improve professional standards and conditions, to protect and advance creative rights, and to promote the Australian cultural voice in all its diversity, including supporting our members to succeed in the global marketplace.*

*With affiliations extending across the world AWG is recognized internationally as being the voice of Australian performance writers. AWG members are fundamental to the success of the Australian film, television, theatre and new media industries. Without the script and the creators of the script, Australian film, television and theatre would cease to exist. In the current climate the majority of Australian performance writers struggle to make a living wage.*

Attachment 1.

**Provisions of the Tax Laws Amendment  
(2007 Measures No.5) Bill 2007**

**1. Regarding @376-135, Item 7 – Profit Participation.**

The current industry agreement between writers and Producers includes several upfront payments or “buyouts” in lieu of later profit participation. To ensure clarity we recommend a clause of “paid out by the company before the film is completed” in the “Except to the extent to which the expenditure is...” section. So that Item 7 would therefore mimic Item 8 in that respect.

**2. Regarding @376-135, Item 8 – Residuals**

Please note that residuals are payable to writers and other key creatives as well as cast and are regularly paid out before the film is completed. We therefore request that Item 8 reads “Residuals – amounts payable in satisfaction of the residual rights of a person who is one of the key creatives (writer/director), cast or crew”.