



Off the air

Screenrights' newsletter
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screenrights

The Audio-Visual Copyright Society

Home copying: Making it legal. Paying our creators

At the end of last year, Screenrights and APRA (the Australasian Performing Right Association) presented draft legislation for a home copying proposal to the Australian government.

This proposal was endorsed by key players in the audio-visual industry: the Australasian Music Publishers' Association Limited, the Screen Producers' Association of Australia, the Australian Screen Directors' Association, the Australian Writers' Guild, the Music Managers' Forum, the Association of Independent Record Labels, and Viscopy.

The proposal is to bring our law into line with current public behaviour by legalising home copying, while providing payment to copyright owners through a levy on blank recording media.

Since presenting this proposal to government, Screenrights and APRA have met with Stan Moore, Executive Director of the Australian Retailers'

Association, and Charles Britton, Senior Policy Officer, Information Technology and Communication, the Australian Consumers' Association, to discuss the scheme further.

There is no doubt that consumers regularly copy music, film and television at home.

However, this activity is currently illegal under the Australian Copyright Act. The proposal means that consumers will be able to take advantage of copying technology without infringing the law.

From the consumers' perspective, one of the key issues that was raised in discussions was the issue of purchasers who use blank recording media to copy material that falls outside the scheme (for example, to back up their own work).



*Simon Lake,
Screenrights Chief Executive*

As we pointed out, the proposal includes a mechanism that allows for a refund of the levy when the recording media is purchased to copy such material. Similar mechanisms are also incorporated in schemes that operate in over 40 countries.

The Australian Consumers' Association has since stated that it is not opposed to the introduction of such a scheme in Australia under certain conditions.

From the retailers' perspective, the key issues that were raised in discussions were to do with the administration of the legislation.

The proposal is for the levy to be collected by the retailer at the point of purchase. However, this will not create

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an undue administrative burden on the retailer as the levy will be built into the wholesale and retail price of the recordable media.

Monitoring copying practices and distribution of royalties to rightsholders will be administered by a non-profit copyright collecting society to be declared by the government. The proposal is for all royalties to be distributed to copyright owners after the society deducts its administrative overheads only.

It is difficult to estimate the costs of administering such a scheme at this stage. Screenrights' average costs for

administering the educational copying provisions since 1990 have been 15%. Our international royalty collection service has been administered at an average cost of 10%.

The proposal also includes accountability measures for the collecting society declared by the government to administer the provisions. The society would be required to table its accounts before both Houses of Parliament. It would also be bound by the Collecting Societies' Code of Conduct. Compliance with this Code is independently assessed by a former Federal Court Judge.

Our current system clearly doesn't work

for consumers and for many copyright owners. The law does not reflect public behaviour and the right of copyright owners to earn a living from their work is being eroded.

Similar home copying levies work successfully in many other countries, allowing consumers to make legal copies of audio-visual material, while ensuring payment to the creators and producers of this work.

It is time we also took this much-needed step towards ensuring that our own copyright laws reflect the interests of copyright owners and consumers. ■

The documentary is alive and well

Late last year, a delegation of Australian documentary makers was chosen to attend the renowned International Documentary Festival in Amsterdam (IDFA) in November. Pat Fiske, who was part of this delegation, reports on both the conference and The Forum, a platform for pitching projects in front of documentary financiers from around the world.

Pat Fiske reports from IDFA

The Australian International Documentary Conference (AIDC)/IDFA Producer Exchange Program was initiated by the AIDC in partnership with the AFC and FFC, and supported by IDFA and The Forum. Travel grants were provided by the AFC (for seven Australian delegates to attend IDFA 2002) and the Dutch Film Fund (for Dutch delegates to attend AIDC 2003 in Byron Bay).

The Australian filmmakers who attended were: myself, Marc Chapman, Michael McMahon, Andrew Ogilvie, Mike Piper, Monique Schwartz, Karena Slaninka, and Mitch Torres. Gregory Miller also attended and was involved in co-ordinating the Aust/Dutch exchange with Barbara Truyen from Films Transit – Holland. Curtis Levy was there to pitch his project *The President Versus David Hicks*

in the Forum. Also attending were filmmakers Gary Doust (International Premiere of *Making Venus* screening in festival) and Rebecca McLean. Dennis O'Rourke sat on the judging panel for the Joris Ivens Competition (and *Cannibal Tours* screened in the festival). Sitting at the broadcasters' table were Ned Lander and Andrew Golding from SBS and Dasha Ross from the ABC.



Enhancetv news

Where can you promote your programs to schools, TAFEs and universities across Australia for free?

www.enhancetv.com.au has been set up by Screenrights to provide a direct link between the film industry and the educators who use their work.

Enhancetv gives educators free access to study guides prepared by ATOM, email television guides listing upcoming programs by curriculum areas and packaged teaching materials in regularly changing features.

The site is actively promoted by Screenrights to educators across the country.

If you are a filmmaker and have not yet taken advantage of this service, you can do so now by contacting jamie@enhancetv.com.au, for information about how you can promote your content to educators. ■

The Forum

With the exception of Dennis, Curtis and Gary, the Australian filmmakers were all observing at the Forum and trying to pitch projects to commissioning editors during the breaks, lunch, drinks ... wherever anyone could grab their ear for a few minutes which was no easy feat!

The day before the Forum started, the Australian delegation met the Dutch delegation and we pitched our projects to each other. Jan Rofekamp and Barbara Truyen (Films Transit) then gave us the run down of who's who, who does what, who can actually make decisions and what to expect from the players. This was extremely helpful. They gave

The CEs came and went from the table throughout the three days. Each team had seven minutes for the entire pitch including clips and the discussion lasted about ten minutes.

The moderators are very important in the scheme of things. The more they know the more helpful they can be. They always start by asking CEs that they know have at least some interest in the particular project and progress from there. Sometimes it seemed that a lot of deals had already been done with some of the projects being very close to funded. (This is where they get the smaller amounts of money which make their projects possible.) But there were

an outstanding clip definitely worked the best. There were two projects that had clips which stood out for me – *Why We Fight* and *Hugo Chavez* (working title). The first is rather self-explanatory but uses 'Hollywood war movies with training, recruitment and historical films to explore the inner workings of the American war machine'. In the second, the filmmakers were filming a portrait of the Venezuelan President while a coup attempt occurred – this changed the scope of their film and provided them with the most amazing footage. Both clips gave a very good idea of what each film was about and made you want to see more.

Observing the Forum was interesting and informative. There were 48 pitches including three from the 'moderator's hat'. On three occasions, commissioning editors pitched their slots and producers that sat around the table were able to grill them.



Michael McMahon, Pat Fiske, Rebecca McLean, Karena Slaninka, Monique Schwartz and Mark Chapman

us homework – to write a list of the commissioning editors we thought might be interested in our projects. They offered to look at the lists and discuss it with us. They also offered to introduce us to commissioning editors (CEs) we wanted to meet.

Observing the Forum was interesting and informative. There were 48 pitches including three from the 'moderator's hat'. On three occasions, commissioning editors pitched their slots and producers that sat around the table were able to grill them: Olaf Grunert from ZDF/ARTE and Likka Vehkalahti from YLE TV2; Ned Lander and Andrew Golding from SBS; and Tom Koch from WGBH and Nick Fraser from the BBC.

The filmmakers (producers, directors, committed CEs and/or funding bodies) sat on one end of the rectangular table, the moderators at the other, with other CEs around the rest. The moderators never introduced the CEs but they had name plaques in front of them.

other projects which had very little attached that gained quite a bit of interest. Many times, CEs said they were interested and they'd discuss projects later. Producers don't have to take notes – there's a record keeper who provides transcripts of who said what and gave any sign of interest.

There are very good, and varied, ideas for films out there. Most of the projects pitched were one offs – one hour and feature length (some both). They were all quite serious and political. There wasn't much evidence of humour in the three days (except maybe in a film called *Don't Fuck With Me, I've Got 52 Brothers and Sisters* from South Africa.) There was a preponderance of filmmakers with impressive track records pitching. The pitches were delivered without any performance – they were described often without even much intonation. Some filmmakers used video clips or stills which were projected on three big screens around the room. Having

It is difficult to get the attention of the world's broadcasters for subjects about Australians but Curtis and Ned were first up on the third day with *The President Versus David Hicks* and pitched very well. There was some interest from around the table. Fingers crossed!

We observers all had varying experiences. It was helpful to see what the different broadcasters were interested in. It's difficult stealing yourself to go up to CEs and get their attention especially if you've not met them before and they don't know your work. But you have to grit your teeth and do it, and the CEs from Australia can be very helpful – both Dasha and Ned found and introduced me to CEs I wanted to meet which was appreciated very much.

Monique Schwartz found the Forum incredibly useful too, particularly re-connecting with people she'd met in the past. She found it depressing that the range of possibilities here was rather narrow as most of the films had

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a political bent. She and many others felt that the closed shop or maybe even 'cartel' of the big players – the BBC, ARTE, ZDF – wield too much power in terms of what gets funded. (There was talk of the poorer cousin WGBH [PBS, Boston] getting help from the big players so it could be more involved.) The smaller players, Australia included, can seem quite isolated.

Michael McMahon reported that attendance as an observer at the Forum gave him an insight into what a range of broadcasters want in the way of documentary programming and what the filmmakers, the content providers, are actually trying to make. Sometimes there was a 'meeting of minds' between the broadcasters and filmmakers but often it is the beginning of a compromise by the latter to satisfy the former. Never was this more evident than when filmmakers were happy to say, "We will make it any length you want." That said, Michael felt that the combination of observing the Forum activities

and viewing docs in the IDFA Festival was a unique opportunity to test and think about his own projects.

THE IDFA FESTIVAL & DOCS FOR SALE

The film festival is full on, with films in nine cinemas running concurrently from 10 am to midnight. It was hard to get tickets – long queues and no tickets at all for a Mike Moore's *Bowling for Columbine*, Apted's *Married in America* and Broomfield's *Biggie & Tupac*. If you are coming for the festival, get to Amsterdam a couple days before it starts and begin queuing at 8.30 am!

Besides Gary Doust's *Making Venus*, two Australian films were screening retrospectively – Cynthia Connop's *Sacred Sex* and O'Rourke's *Cannibal Tours*.

Docs For Sale had hundreds and hundreds of films for viewing including Mitzi Goldman's *Chinese Takeaway*, Sharine Salama's *A Wedding in Ramallah*, Sean O'Brien's *Two Thirds Sky – Artists in Desert Country* and Frank Rijavec's *A Million Acres*

a Year. There were about twenty viewing stations and they were continually being used. It was a sight to behold.

Many of the distributors were in attendance – I personally had chats or meetings with Jan Rofekamp from Films Transit International (needs no introduction to Australians www.filmstransit.com), Debbie Zimmerman from Women Make Movies (obvious with a fabulous catalogue www.wmm.com) and Robert Norton from TVF International (UK's largest independent distributor of factual programming, they also raise finance through pre sales and co-pros www.tvfinternational.com).

If you are looking for a distributor or distributor interest in your projects, check out their websites.

All in all, the entire experience left me with the impression that the documentary is alive and well and looks likely to continue to survive. The world, however, does not seem to be faring quite so well ■

Royalties for artistic works

To ensure the timely and efficient distribution of royalties to rightsholders in artistic works used in copied programs, Screenrights is encouraging artists and other copyright owners to contact us with information about the incorporation of their work in films.

Following the report of the Visual Arts Working Party, which was established by Screenrights to look at the distribution of educational copying royalties to rightsholders in artistic works, Screenrights made amendments to its distribution policy.

These amendments mean that Screenrights now allocates royalties to rightsholders in artistic works incorporated in **all** programs copied in Australia and New Zealand.

The definition of artistic works in the Australian Copyright Act includes: paintings, sculptures, engravings, drawings, photographs and works of artistic craftsmanship.

The right to claim educational copying royalties for artistic works incorporated in programs is often owned

by the artist. Screenrights is therefore working closely with Viscopy, the visual arts copyright collection agency, and its membership, to research and contact artists and other rightsholders in artistic works.

In addition to this, Screenrights is encouraging artists to contact us with details as to how their works are being used in programs. We are also encouraging producers to provide us with details of the artistic works they use. This can be done by recording this information on cue sheets (similar to the sheets used for music), and when registering titles with us.

Producers who would like further information about providing these details to us, or rightsholders that wish to lodge details of their works used in programs, can do so by contacting Member Services Officer Paul Murnane; email: paul@screen.org, or tel: 02 9904 0133.

Full details of Screenrights' distribution policy can be found on our website: www.screen.org ■

The pitch



Since Robert Altman's, *The Player*, the pitch has had inescapable echoes of securing or losing millions on the basis of a fast-paced often ludicrous 25 words or less wrap of a project. But how important is pitching really and what makes a good - or bad-pitch? On page 2, Pat Fiske talks about her experience observing the Forum, a mega pitching session at IDFA in Amsterdam. Below, Liz Watts, producer of *Walking on Water*, Debbie Lee, a Commissioning Editor with SBSI, and Mark Lazarus, producer of *Australian Rules*, talk about the place and importance of the pitch in the Australian film industry today.

Liz Watts, Porchlight Films, producer of *Walking on Water*

"To be able to communicate your project's creative and financial merits is vital. If you don't know what the project is about, then its impossible to "sell" it to the people with the cheque books. You try to attain a clear vision through your discussions with the writer and/or director and then to carry this vision all the way to a meeting somewhere on the other side of the world.

Targetting the right people is also important. Before I go to Cannes, for instance, I contact sales agents, distributors and broadcasters who have a leaning towards the genre, scale or type of film we are making. Usually you have about 10 meetings a day over the 10 days of the market. This involves a lot of running - make sure you wear the most comfortable shoes you can

and take the indigestion tablets, because part of the idea of pitching is also very much tied into building relationships with people you want to work with. It's not

so much going into a room and doing a 5 minute performance cold to someone you have no idea about - this is mere theatrical antics that really don't get you far at all. Most of the time you are sitting and

chatting about the film in broader strokes - in particular, the story, director and more often than not, the cast in place. That said, you do need to articulate your project in about 2 lines to get their attention. You also need to know your target audience and, of course, the core of what the film is and what its about. Sometimes you use materials, like selling packages and visuals which help the person "see" what you are talking about - it's a pretty organic process...



Liz Watts and Tony Ayres

In terms of getting a deal memo faxed through the next day, I really think it's a combination of factors that bring results. For *Walking on Water*, the final component of finance came about at the last meeting with our sales agent. We had coffee in a hotel bar, and we got on really well. And he liked Tony (Tony Ayres) - the director. The pitch was a description of the film, what we needed financially and Tony's take on the realisation of the story And it worked...

Debbie Lee, Commissioning Editor, SBS Independent

"The verbal pitch hasn't really played much of a role at SBS Independent - although its importance may well be on the rise elsewhere in the Australian film industry.

We ask for written proposals, rather than a "pitch". We think it's fairer in the first instance, in that it doesn't rely on the ability to perform and it also allows us to make a more considered response. Obviously if we're interested in

looking further at a proposal we'll meet face to face, or make contact over the telephone. Although this does involve a degree of selling the proposal to us, generally it will take the form of a conversation. Occasionally people will choose to verbally pitch in those situations but it's not something we expect them to do.

Having said that, I guess the thing that can be useful to take from the idea of pitching is the one or two liner that captures the central premise of a project – the element that makes the project unique. What we look for in a proposal or pitch is a distinctive and surprising perspective on a story or ideas – one we haven't seen elsewhere. We also want to hear or see why someone needs or wants to tell a story. I think the thing that doesn't work in any kind of proposal or pitch is a meandering description of plot.

I've been part of audiences in pitching competitions and I really do admire people who are brave enough to do them. I think it's an incredibly hard thing to do, especially in front of a large audience."

Mark Lazarus, producer of Australian Rules and Executive Producer, Filmgraphics Entertainment

"In the end, it always comes down to the script for me. However, there are a few situations where pitching can become really important. For example, where a writer I already love wants to throw an idea my way, perhaps one that she hasn't written up yet, and wants me to pay for it, the pitch matters; or where a new writer has five minutes with me at some sort of film function and is able to tell me quickly about the movie in a way that makes me excited about its possibilities. At this point, we hope that the script is already at least at first draft stage so that there's something for me to read when I say: 'wow. That's fantastic. Send it to me tomorrow!'

I'm in the position of not only having to hear people pitch, but having to also do it myself. Getting pictures made is achieved through a hierarchy of advocacy in the company you're



Mark Lazarus

"In the end, it always comes down to the script for me. However, there are a few situations where pitching can become really important."

working for (in my case, Filmgraphics Entertainment). I have to turn ideas and material into something that excites both my boss here and then potential investors once he has given the go ahead.

Surprise is the single greatest tool in the pitcher's toolbox. I have read thousands of screenplays, books, plays, etc, and it's pretty hard to surprise me. When I'm thinking, 'oh, yeah... I know where this is going...' and it goes somewhere completely different, I get excited. I try to sustain that excitement as long as I can.

I also like pitches that contain elements that I'm looking for. There's almost no way for people to know that in advance, though!

As for pet hates: bad guys in films who are evil property developers, romantic comedies that are neither romantic nor funny, cliches, stinky dialogue, scripts longer than 100 pages – anything that's boring!" ■

Box office takings reach record high

Australian box office takings reached a record high in 2002, according to figures released by the Motion Picture Distributors' Association of Australia.

With more than \$844.8 million spent on movie tickets last year, the figures show a 4% increase on the previous year's takings.

The top five grossing movies of 2002 were: *Star Wars Episode 2: Attack of the Clones* (\$33.8 million); *Fellowship of the Ring* (\$31.9 million); *Spider-Man* (\$30.8 million); *Harry Potter and the Chamber of Secrets* (\$30.3 million) and *My Big Fat Greek Wedding* (\$24 million) ■.

NZ Screenwriters' Laboratory calls for entries

The New Zealand Writers' Foundation, in partnership with the New Zealand Film Commission, is holding the second NZ Screenwriters' Laboratory in November 2003.

The Foundation is looking for original and compelling feature film scripts that will make great movies. Successful entrants will be paired with top international screenwriters for a week of one on one meetings and script analysis.

As only six places will be available, competition is expected to be fierce. Entry is restricted to NZ citizens or permanent residents and the deadline for entries is 1 May 2003.

The entry form and entry requirements can be accessed on www.nzwritersguild.org.nz/foundation/laboratory.html. Questions can be directed to Angela Zivkovic: angela@nzwritersguild.org.nz ■

Entry call for ATOM Awards

A reminder to all that 2003 ATOM (Australian Teachers of Media) Awards will be held in May.

The Awards recognise excellence in twenty-five categories of film, television and multimedia. They are open to students, industry practitioners, independent filmmakers, digital media artists, educational bodies and educational producers.

For full entry rules and to download an entry form visit www.metromagazine.com.au/metro/07/images/CallForEntriesv2.pdf or email atomawards@netspace.net.au.

Screenrights is pleased to sponsor the awards as part of its ongoing commitment to providing a link between the film industry and the education sector. ■

Screenrights news:

an update on the issues that affect your rights

With the start of the new year, Screenrights has introduced surveys into schools to monitor the communication of copied programs. We have also lodged the next round of registrations with AGICOA in order to collect retransmission royalties, and we have introduced a new scheme of allocation for NZ radio copying royalties. Following is an update on the latest Screenrights news.

New school surveys

With all Australian schools now entitled to communicate programs they copy under their Screenrights' licence, Screenrights has introduced new surveys in order to monitor what programs are being communicated and how this is occurring.

Screenrights Licensing Executive James Dickinson said the new surveys were very simple and should not cause any great additional administrative burden on schools that were selected to have their use of audio-visual material monitored during the survey period.

Full training sessions are given to all relevant staff prior to the survey commencing.

If you would like further information about the new surveys, email licensing@screen.org

NZ radio copying royalties

The Screenrights' Board has adopted a new scheme of allocation in relation to the distribution of royalties for the copying of radio by NZ educational institutions.

The policy is to use the proportions currently used in relation to radio programs copied in Australia, with the addition of an allocation to the copyright in the broadcast signal as required under the New Zealand Copyright Act. This allocation will be 2%, the same allocation as for the

copying of television programs.

To accommodate this allocation, all other allocations in each category of radio program have been reduced proportionately so that no individual class of copyright owner is prejudiced.

The scheme adopts the preliminary view taken by the board, and outlined in the last issue of *Off the air*.

Full details of the policy can be viewed on our web page: www.screen.org

OS retransmission royalties

Screenrights International Relations team have lodged the latest round of retransmission registrations with AGICOA, the international collecting society.

To make sure you don't miss out on our next registration deadline for the collection of overseas royalties, contact us now. Email Vivien Pailas on vivien@screen.org

Deadline for 1997 educational royalties

With the deadline for claiming 1997 educational copying royalties at the end of June this year, Screenrights Member Services team is asking rightsholders with potential royalty claims from this period to assist in processing these claims as quickly as possible.

The deadline applies to royalties collected for programs broadcast on Australian

television or radio between 1 July 1996 and 30 June 1997.

Under Screenrights' distribution policy, educational copying royalties are held in trust for six years. After this period, any undistributed payments are rolled over into the next year's collections.

In order to claim copying royalties, you must own or control the right to copy the program from radio or television in Australia. This right is separate to other rights such as the right to broadcast, exhibit or sell or hire video cassettes of the program.

If your program was broadcast during the 1996 to 1997 financial year and you believe you may have a potential claim to educational copying royalties, email Marc Carter, marc@screen.org

If you are contacted concerning a potential claim, you will need to complete a warranty to state that you are entitled to these royalties and return it to Screenrights as soon as possible.

MIPTV

International Relations Executive Cate Hemmings will be at MIPTV in Cannes from 24 to 28 March. Members who would like to meet with Cate during this time can email her on cate@screen.org to arrange a suitable time. ■

Help us to help you...

Fax to Screenrights on +61 2 9904 0498

Screenrights is updating its database and needs your contact details, in particular we want to ensure that we have all our members' email addresses. If you have not provided us with your latest address details, please complete the following form and fax it back to us.

<i>Name</i>
<i>Position</i>
<i>Company</i>
<i>ABN</i>
<i>Address</i>
<i>Phone</i> []
<i>Fax</i> []
<i>Email</i>
<i>Website address</i>

If you have not yet supplied us with details of your bank account and would like to have your royalties paid directly into your account, please complete the following:

<i>Bank</i>
<i>Branch</i>
<i>Account name</i>
<i>BSB</i>
<i>Account number</i>
<i>Preferred currency</i>



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Off the air is the newsletter of Screenrights, the trading name of the Audio-Visual Copyright Society Ltd.

Editor: Georgia Blain

Level 3, 156 Military Road
Neutral Bay NSW Australia
Post Office Box 1248
Neutral Bay NSW 2089
Australia
Telephone +61 2 9904 0133
Facsimile +61 2 9904 0498
New Zealand
freephone 0800 44 2348
freefax 0800 44 7006

info@screen.org
www.screen.org