AUSTRALIAN FILM COMMISSION

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Welcome all to the Australian Plenary Session.

In Australia there is a convention at the beginning of a speech to recognise the traditional owners of the territory in which you stand.

In New Zealand I understand there is a similar but perhaps more widespread and more established convention related to your indigenous people and culture.

I greet and pay respect to the tangata whenua *(people of the land)* of the Wellington region and beyond.

However, I also want to draw on another traditional greeting used when previously warring parties meet again in friendship.

Me whaikairi nga rakau

"Leave the weapons sheathed" is a message I think I can deliver on behalf of the Australian industry. But in doing so I recognise that our industries have been involved in a dispute, if not a fight.

That this undoubtedly left some bruises, stretched some friendships and I think pushed our industries apart somewhat over the last few years, needs to be recognised.

I'm referring of course to the closer economic relations trade agreement, known as CER. Here's a little bit of history on The Project Blue Sky versus True Blue campaigns.

In 1996, Project Blue Sky representing the New Zealand film and television industry, took the view that the Australian Broadcasting Authority Australian content standard for commercial television contravened Australia's treaty and obligations under the CER trade agreement. The case progressed through the Federal Court for two years, and in 1998 the High Court ruled that the ABA's quotas for Australian content were inconsistent with the CER treaty and must include New Zealand programs. In response, the ABA reviewed the standard and determined a new Australian content standard for commercial television that reflected the High Court's ruling, which came into effect in March 1999.

From the Australian industry perspective, it was an encroachment on to our territory, a challenge to our national sovereignty. And the result?

Bugger all for the moment. But, except for the quantity and impact, exactly as we predicted – a few of your local programs bought cheaply by our networks, with little or no benefit to New Zealand producers and a few hours of our modest quotas displaced. Three hours of New Zealand programs have been counted as Australian first release content since 1999, one movie and one documentary, while our local content system remains largely intact.

But we have learnt an important lesson from this experience: mixing culture with trade treaties can have unexpected consequences.

But a final offering drawing on your indigenous culture and one that will lead me into the substance of this speech –

Kia tau te rangimarie

“Let peace/good intentions prevail”.

Our industries, our countries, our cultures are too close to continue warring. We admire your films, filmmakers, creative talent and technicians. We welcome your creative and technical talent into our industry as you do ours into yours. We congratulate you on your successes – most recently *Whalerider* and of course *Lord of the Rings*.

However, it is important, in the spirit of good intentions, for me, once again on behalf of the Australian industry, to reaffirm our commitment to the principles we espoused and over which we fought during the Project Blue Sky case. Because we are now in the midst of the same debate again, except this time the foe is real and determined and, I may say without offence, significantly more powerful. This time we are battling the US studios in their assault on our industry as part of the Australia/US Free Trade Agreement.

But also, because these principles go to the heart of what I have been asked to talk about this morning – what are the elements/ingredients for a healthy and expanding industry?

So let's start with those principles.

Government support for Australia's audiovisual industries is for social and cultural reasons. Government regulations and funding help deliver Australian stories and faces on Australian screens. Australian films and television programs are extremely popular with local audiences, and these programs project our unique cultural identity to the world.

As you know, like New Zealand, Australia is a small industry with a small market. Local producers cannot recover their costs, and must rely on additional export revenues. No Australian feature film or television drama is made without substantial private investment. The balance between government and private finance has evolved over decades of cultural support, and works to overcome the realities of market failure in a small nation.

This highlights the importance of government support, as without it, broadcasters would be more likely to program cheaper US and other overseas programs, than produce more expensive Australian productions.

What have Australian Governments chosen to do over the past 30 plus years? The two key areas of intervention are subsidy and regulation.

Direct subsidies of around $100 million, are delivered through the Australian Film Commission, the Film Finance Corporation Australia, Film Australia, the Australian Children's Television Foundation, and around $20 million through State film agencies. Direct support is also provided for public broadcasters ABC and SBS, training through AFTRS, and funding for the national film and sound archive

Government regulations include Australian content rules for free to air and pay TV, and advertising. These mechanisms foster an environment in which a vibrant local industry can flourish, and in which Australians have access to distinctive local programs.

The AFC is the Australian Government's primary development agency, supporting film, television and interactive media projects and their creators.

An AFC study in 2000 into development practices in Australian and foreign feature films found that inadequate development investment leads to fragmentation of the industry, and a weakening of production companies. An underdeveloped national slate makes production investment even more risky, and leads to compromise in the choice of projects for pre-buy by agents and distributors. A fragmented industry and disrupted development process inhibits the professional development of practitioners, further reinforcing a vicious cycle of deterioration of the industry.

The AFC has revamped its script development programs and set in place strategies for dealing with these findings. There is recognition of the key role of the producer, and the introduction of a General Development Investment fund designed to support producers in maintaining a business and developing a slate. We have also put in place an annual intensive script workshop called SPARK. This year we are holding our first Enterprise Australia workshop to assist with development of business skills for producers.

There is also a need for properly developed talent, and the AFC also recognises and nurtures practitioners' skills through our support for professional development. A short feature development strategy, the 50-minute initiative, was introduced 2 years ago and outstanding results are coming through now. We recently launched the "50 Minutes from Home" film festival, 9 new 50 minuters completed by 9 new directors, to pretty well universal acclaim. A leading critic called them "the freshest films of the year".

The core subsidy of course is production subsidy. This determines fundamentally the nature and size of the industry. There has been an ongoing debate over the years on the delivery of production subsidy – whether it should be direct, or indirect through tax measures. The ideal is certainly a diverse funding base, and the AFC, with the Film Finance Corporation, is currently advocating a broadening of the funding base. There is also a healthy debate in Australia at the moment, led by new FFC CEO Brian Rosen, about how the nature and processes of decision making within the FFC operate. I'm sure Mary Anne Reid will be able to elaborate on that.

But whatever the mode of delivery, actual quantity of subsidy is critical. Both the AFC and FFC are jointly proposing to the Australian Government at the moment a significant increase in the level of funding available for feature film funding. The need for this was underscored by the figures we released just last week.

- Feature film and TV drama production activity dropped in 2002/03 for the first time in 8 years, with total expenditure in Australia falling 23 per cent, to $513 million.
- 26 feature films were made in Australia, compared to 39 in the previous year.
- the value of Australian production decreased overall by 21 per cent.
- Co production activity fell sharply with TV drama co productions spending $12 million in Australia this year, down from $83 million last year.
- Foreign TV drama rose slightly, but spending by foreign features fell from $185 million to $169 million.

We can use these figures to look at two key policy issues affecting the health and welfare of the industry.

First, is the balance right between local and foreign production. There has been a steady increase in foreign production spend over the past 3 years, from $191 million to $225 million. The increase was limited this year, due to a downturn in foreign features and TV drama co productions falling substantially.

The government is considering at the moment whether to extend our foreign production tax rebate to television productions, to address the downturn.

The AFC's advice to government is that there must be a balance between foreign and local production sectors. The fundamental connection between the development of an industry which has the capacity to produce Australian film and television and the potential to grow the level of foreign production is the fact that attracting foreign production requires above all a sophisticated domestic industry: ongoing levels of foreign production can only be sustained where indigenous film industries have reached a high level of sophistication and capability. Any increase in incentives to the foreign production sector must occur in tandem with additional support for the local industry.

The second policy issue to reflect on is, of course, regulation and how this underpins Australia's television production industry. First and foremost, it is significant to note that of the total film and TV production sector activity, only 30 per cent of finance comes from Government. The rest comes from the industry or the private sector. The size, health and welfare of the sector are primarily determined by the nature and extent of regulations, primarily the Australian content quotas and taxation arrangements.

The strength of our regulatory system is that it delivers minimum levels of Australian content to Australian audiences. But it has also, in fact, created a competitive marketplace in at least some respects for that content. Australian drama is popular with audiences, and the networks compete for audiences with their drama. Out of this has arisen Australia's own star system.

However, the marketplace is also highly price competitive, leading to efficient and effective work practices, technical innovation, and production methodology innovation.

And of course, regulation is the bedrock of our industry. It's provides the basic throughput for technicians and creative personnel as well as infrastructure providers.

While culture's contribution to the economy can in part be measured in dollar terms, it is impossible to assess the real value of culture to Australians just using the tools of economics. Benefits to society fall broadly under tangible benefits and 'intangible' benefits – those benefits that economic theory acknowledges but cannot measure.

The nature of the cultural sector as a public good, one that is subject to market failure, and the difficulties related to measuring the intangible benefits of culture, make it complex to measure the impact of changes to the regulatory structure, such as through the inclusion of the cultural sector within the Australia US free trade agreement.

A study commissioned by the AFC and conducted by Allens Consulting has confirmed that the quota is a real influence on what networks choose to broadcast. It can be assumed that inclusion of the US in the broadcasting quota would result in less Australian content being broadcast because,

- foreign content is significantly more profitable; and
- competition between networks will inevitably lead to a substitution of US content for local content

And that (I think) brings us all the way back to the beginning, with a sheathing of swords and the expressions of good will between neighbours. Because it was access to our regulatory system that was obtained by the New Zealand industry a few years ago. We got through that virtually unscathed only to find that now we are confronting a challenge by the US to our capacity to continue to develop this regulatory system. And if last time we were being troubled by a minnow which got in under our defences ultimately to little or no effect, this time round we are facing a very determined predator which we have no doubt has the potential to wreak significant change, and potential damage, on our industry and culture, as we go forwards into an uncertain future.

And we are not talking here about our existing regulatory system, our existing drama quotas for our traditional free-to-air commercial broadcasters. We are quite confident this is not what the US is after. Their trade strategy has become more sophisticated than that. They have, somewhat begrudgingly, adopted the basics of the rhetoric around notions of cultural diversity. And they use that to offer an acceptance of “standstill” in regard to existing regulatory arrangements.

To an extent in Europe and certainly in Australia, even our small interventions in subscription television could be accepted. It’s the future which the US is focussing on. The future when all our media delivery platforms will be digital, multi-channel, largely interactive and with significant on-demand point-to-point capacity. A future when it will be possible to program our cinemas out of control rooms in LA.

In the current trade negotiations the position the US studios are arguing to our Government is that the whole area of new media, new digital and interactive services, is part of an unknown future. They argue that it’s impossible to regulate what hasn’t been invented, and that new areas of media and entertainment delivery and consumption should remain greenfields territory, unhindered by any potential government regulation.

It’s a spurious argument, it’s a dishonest argument, it’s a self-interested argument, and of course it flies in the face of what’s happening elsewhere in the world. Let’s have a look at just what the US studios do think about the future of these new media and new delivery services.

According to Jack Valenti, President and Commander in Chief of the Motion Picture Association of America, *"The Internet, without doubt, is the greatest delivery system yet known to this planet."*

and

"[The Internet] has the potential to reshape how we communicate, how we buy and how to enlarge the dispatch of knowledge on a scale never before exhibited. The movie industry is eager to use the Internet to deploy our movies, thousands of titles of every genre, to homes in this country and around the world."

However, this is also the delivery system on which Mr Valenti has asked the Australian Government to forego the right to regulate. In urging our Government to resist these demands from the US studios, the AFC has advised government that it has recently investigated a range of new services for audiovisual content delivery that may operate in Australia within a decade, looking at international practice in fostering local material on these new services. We examined 18 new forms of content delivery, including broadband websites, free to air and subscription digital TV, interactive TV, and personal video recorders.

Out of the 18 new content delivery technologies, only 3 are currently unregulated in Australia or any country outside Australia to either support local content, or have yet to be examined as to regulatory options for this purpose. Other significant findings:

- seven of the new content technologies are regulated in at least one other country outside Australia, and another is expected to have the same regulations imposed when the technology is introduced;

- seven are being examined by regulatory authorities in Europe, North America and Asia;
- two are currently regulated in Australia due to ease of transferring existing regulations to digital realm.

And so, in conclusion, let me respond directly to the question before this panel – what are the elements or ingredients for a health and expanding industry? They are, of course, many, varied and inter-related.

But there is one element, one ingredient, I believe to be fundamental. And it is national sovereignty in the area of local content regulation.

Over the next ten, twenty possibly thirty years, interactive media is where we are going to see the growth in markets, the growth in consumption of entertainment and information.

If Australia's local production industries are to remain relevant, and retain the capacity to speak to local audiences, if Australian Governments are going to continue to be able to deliver against their cultural objectives, then we must retain the ability to intervene by way of subsidy and regulation.

As the history of the development of Australia's film and television production sector is the history of regulation, so, equally, will

Australia’s future participation in emerging new media services depend on its regulatory ability in the future.