



May 2003

Cultural Policy & Audiovisual Trade AFC Industry Briefings

Background

Negotiations over bilateral and multilateral trade agreements have the potential to affect how Australia develops and implements its cultural policies. This is because an unconditional commitment to free trade can restrict the ability of countries like Australia to retain, adapt or introduce new measures designed to support and foster our cultural industries.

Australia is currently a participant in **World Trade Organisation (WTO)** negotiations on trade in services and is in discussion with the United States about a **Free Trade Agreement (FTA)**. In both these negotiations the audiovisual sector and Australian cultural policy are controversial issues.

The publicly stated objective of the government is to preserve Australia's freedom to act in regard to cultural policy. In WTO negotiations, Australia has so far refrained from making any offers of market access on audiovisual or cultural services and has excluded measures related to content from its offers on computer and related services.

The government's intention for the Australia-US FTA involves ensuring that Australia's cultural and social policies are taken into account, along with the need for appropriate regulation and support measures to achieve these objectives. The Minister for Trade, the Hon Mark Vaile MP, has reiterated the government's commitment to preserving its ability to regulate in relation to social and cultural objectives, while negotiating the FTA.

Government Cultural Policy

Government support for Australia's audiovisual industries, through regulation and funding, helps deliver cultural policy outcomes that are supported by the community. These policies recognise that Australian stories, faces and voices deserve to be represented in Australia's electronic media, and that Australian films and television programs are popular with local audiences. Furthermore, our films and programs project our unique cultural identity to the world and foster cultural exchange.

The Commonwealth has established a number of regulatory, budget and tax measures designed to support the Australian audiovisual industry. The main features of these measures are:

- direct subsidy for production and development through the Australian Film Commission, Film Finance Corporation Australia, Film Australia Limited, Australian Children's Television Foundation and the Australian Film, Television and Radio School;
- regulation of Australian content through the standards imposed on commercial television by the Australian Broadcasting Authority and the drama expenditure requirement for subscription television;
- indirect support through taxation concessions for investment in Australian feature films, television mini-series and documentaries under Division 10B and 10BA of the Income Tax Assessment Act;
- the Taxation Amendment (Film Incentives) Act 2002, which provides incentives for higher-budget productions to be made in Australia.

Other crucial measures include migration regulation governing temporary entry of foreign actors, crew and performers, international co-production treaties, rules governing foreign ownership of media and funding of the national broadcasters—ABC and SBS.

Australia's federal and state regulatory measures are designed to deliver on the government's cultural policy objectives in the film and television industries, and are transparent, modest, targeted and do not exclude foreign material. Foreign share of domestic box office exceeds 90 per cent, while in television approximately 70 per cent of the commercial network expenditure on drama goes to foreign programs.

The Australian audiovisual sector is generally open to foreign investment, ownership and trade in audiovisual services, particularly from the US. The minimal Australian barriers that do exist are well-targeted and serve clearly stated cultural objectives.

Key Concerns in Multilateral and Bilateral Trade Negotiations

It has been proposed by some trade negotiators that measures such as Australian content rules for commercial and pay television, direct government investment in production and tax concessions for production inhibit free trade and should be reduced or eliminated. However, these are the mechanisms that foster an environment in which a vibrant local industry can flourish, ensuring that Australians have access to distinctive local film and television programs.

As a general position, Australia should refrain from making trade-liberalising commitments on culture in the context of the WTO negotiations and, with the US negotiations, ensure that there is an exemption that covers cultural industries.

Australia should also ensure it does not accept the status quo, if it means maintaining current measures but not allowing for further support or assistance in the future. Australian content regulation should be vigorously defended along with direct production investment by government, as the cornerstones of cultural policy for the audiovisual industries.

Explicit Acknowledgement of the Special Status of Culture

Australia should support the explicit acknowledgement of the special status of culture in the text of the **General Agreement on Trade in Services (GATS)** administered by the WTO. This can be done without compromising the national interests of Australia in other trade sectors through:

- an exemption for all measures supporting cultural objectives from Australia's commitments under GATS; or
- a general enabling clause or annex to deal with the complex nature of cultural goods and services.

Technological Neutrality

The US is increasingly viewing trade in terms of the digital economy. In relation to audiovisual services there should be a commitment to 'technological neutrality' in all free trade agreements, meaning that the mode of delivering a service does not alter its fundamental nature. For instance, books, videos, DVDs, music and films are currently traded via e-commerce with few, if any, barriers. These goods and services do not lose their cultural characteristics by being traded in the digital domain. Australia should continue to clearly distinguish between 'carriage' and 'content' in areas such as telecommunications and e-commerce. We should reject new definitions that blur this distinction or that artificially separate online audiovisual services. Australia must retain its freedom to act in relation to cultural content carried by new technologies.

Key 2003 Trade Meetings

Australia-US FTA (Hawaii)

19 May

21 July

October (date & location TBA)

WTO/GATS (Geneva)

12-23 May

1-11 July

13-24 October

1-12 December

AFC Trade Bulletin

The AFC will soon commence a fortnightly electronic newsletter on trade negotiations, to provide up-to-date information on audiovisual trade news for the industry. To subscribe to the AFC Trade Bulletin, please visit www.afc.gov.au.

More Information

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