Australian Government

Attorney-General's Department

Ministry for the Arts

Enhancements from the 2010 Review of the Australian Independent Screen Production Sector Post-Implementation Review

Attorney-General's Department, 2015

EXECUTIVE SUMMARY

This Post-Implementation Review (PIR) reports on the impact of enhancements to Government support for the screen industry that were announced in the 2011-12 Budget as part of the then Government's response to the findings of the *2010 Review of the Australian Screen Production Sector* (the 2010 Screen Review).

The 2010 Screen Review affirmed that effective support for the Australian screen production sector was key to the sector's viability. It also affirmed that the film tax offsets, administered through the Australian Screen Production Incentive (ASPI), were a successful and effective incentive. However, the Review also identified that the sector was facing growing challenges working and competing in the international marketplace. The challenges being faced included changes to securing financing following the global financial crisis, the impact of the appreciation of the Australian dollar on the cost of production in Australia and the competitiveness of the incentives offered in Australia compared to incentives in other jurisdictions.

The purpose of the 2011-12 Budget measure was to increase the sustainability of the Australian screen industry by building on the success of the ASPI through enhancements to the program and correct anomalies and unintended consequences that arose in its delivery. Broadly the key elements of the Budget measure comprised:

- excluding GST as qualifying expenditure in order to be consistent with other Australian Government refundable tax offsets programs;
- providing support to a wider range of productions to increase the film tax offsets' effectiveness as production incentives;
- aligning the scope of qualifying Australian production expenditure prescribed in the legislation with standard industry practices;
- improving mechanisms for supporting documentary productions; and
- funding for a comprehensive screen industry survey to be undertaken by the Australian Bureau of Statistics.

This PIR is required as a Regulation Impact Statement was not developed at the time of the Government's decision to enhance support to the screen industry. It focusses on the enhancements to the ASPI and the provision of direct funding to low budget documentaries. It does not focus on the screen industry survey as that does not have a regulatory impact.

The PIR outlines the reasons for the Government's decision to enhance the support provided to the screen industry, establishes the policy objective and analyses the consequences of those changes, including the impacts on stakeholders and whether the enhancements met their objective. The PIR concludes that the enhancements have been effective in achieving the objectives of increasing the film tax offsets' effectiveness and improving mechanisms for supporting documentary productions. In addition, the enhancements have created efficiencies for applicants by removing anomalous rules and inefficiencies in the application process, notably through the alignment of qualifying Australian production expenditure with standard industry practice.

As part of its responsibility in managing the ongoing effectiveness of the ASPI and other Government support for the screen industry, the Ministry for the Arts, in the Attorney-General's Department will continue to monitor the effectiveness and competitiveness of Australia's mechanisms for supporting the screen industry.

Introduction

This Post-Implementation Review (PIR) reports on the enhancements to Government support for the screen industry that were announced in 2011-12 Budget as part of the Government's response to the findings of the *2010 Review of the Australian Independent Screen Production Sector* (the 2010 Screen Review). The 2010 Screen Review affirmed that the film tax offsets, administered through the Australian Screen Production Incentive (ASPI), were a successful and effective incentive in supporting the Australian screen production sector. However, it identified opportunities to refine the manner in which support was provided through the ASPI to support a wider range of productions and to remove unintended consequences in terms of administrative complexity of applying for the offsets.

This PIR identifies the policy problems that were intended to be addressed through the enhancements to Government support for the screen industry and links those amendments to the broader strategic objectives for the provision of government support to screen production activity in Australia. As part of the analysis of the policy problem it identifies other options proposed to address the problems identified. It then analyses the impact of the action taken, which involved amendment to the ASPI, which is the cornerstone of Government support for the screen industry providing tax offsets for eligible productions, and the introduction of a measure to enable Screen Australia to provide direct funding to low budget documentaries.

This PIR has been prepared by the Ministry for the Arts, in the Attorney-General's Department, in consultation with Screen Australia.

The ASPI was introduced in the 2007-08 Budget. It was designed to support the industry in meeting the challenges of a changing global environment. The ASPI represented a fundamental shift in the way that support was provided to screen productions in Australia, with support moving from the provision of direct benefits to private investors to placing the producer at the centre of the rebate scheme. The Minister for the Arts has policy responsibility for the ASPI and the legislative provisions are set out in Division 376 of the *Income Tax Assessment Act 1997*. The ASPI provides support through three streams: the Producer Offset, the Location Offset and the Post, Digital and Visual Effects Offset (PDV Offset). Screen Australia administers the Producer Offset while the Ministry for the Arts administers the Location Offset and the PDV Offset.

The primary motivation for the enhancements to the ASPI announced in the 2011-12 Budget was the change in treatment of GST in order to be consistent with other Australian Government refundable tax offsets programs. This was achieved by excluding GST as qualifying Australian production expenditure, meaning that producers could no longer claim GST amounts on the expenditure they claimed for an offset. This measure provided the majority of the offsetting savings required for the enhancement package of measures.

There were three major elements to the package of enhancements announced in the 2011-12 Budget. They included

- lowering relevant thresholds and increasing the offset rates;
- permitting additional screen production costs to be claimed but excluding GST; and
- providing greater flexibility for provision of support to documentary productions.

The objective of the enhancements was to increase the sustainability of the Australian screen industry, with the aim of:

- increasing the film tax offsets' effectiveness as production incentives by providing support to a wider range of productions;
- aligning the scope of qualifying Australian production expenditure prescribed in the legislation with standard industry practices; and
- improving mechanisms for supporting documentary productions.

The package of enhancements was designed to address many of the key findings from the 2010 Screen Review in a way that was cost effective given the context of the constrained fiscal environment. Overall, the amendments were not expected to have any major regulatory impacts or to significantly affect compliance costs as they involved amending the legislation to enhance and improve existing provisions. The objectives of the amendments to the ASPI were consistent with the broader objectives that underpin the provision of support to the Australian screen production sector, the objectives of which are to ensure the creation of a diverse range of quality Australian film and television productions which appeal to audiences, promote the development of a sustainable independent production sector, and develop and reflect a sense of Australian identity, character and cultural diversity. The amendments also aligned with the objectives of supporting international production activity in Australia, given international production activity in Australia is important to the viability of the domestic production sector.

Methodology

The analysis in this PIR is based on consultation with stakeholders and internal evaluation of the impact of the amendments by the Ministry for the Arts and Screen Australia. Stakeholders consulted included applicants, screen producers and screen production consultants.

Scope

This PIR focuses on the amendments to the ASPI and the introduction of a measure to enable Screen Australia to provide direct funding to low budget documentaries. It does not address the impact of the provision of funding to Screen Australia for the reinstatement of the Australian Bureau of Statistics screen survey as that does not have a regulatory impact.

This is not a review of the ASPI program in its entirety, nor does it review other elements of Government support to the screen industry. References to those matters in this PIR are provided purely for context.

Data reported in this review is for the period 2011-12 to 2013-14.

Policy objectives of supporting screen production

The Australian Government supports the production of Australian screen content because it is considered culturally beneficial to the nation. A viable domestic screen production sector is essential if audiences are to have access to quality Australian content. Given the small size of the Australian market for screen content, and the sheer quantities of screen content production in larger English-language markets such as the United States, United Kingdom and Canada, Australia would not produce the quantity, quality and variety of Australian content required to achieve cultural benefits without significant funding incentives and regulation by government. Support for the production of

Australian screen content ensures the creation of a diverse range of quality Australian film and television productions which appeal to audiences, promoting the development of a sustainable independent production sector, and developing and reflecting a sense of Australian identity, character and cultural diversity.

The Australian Government also supports international production activity in Australia as that is important to the viability of the domestic film and television industry. It provides employment opportunities for local cast, crew and film production service providers, skills transfer and development opportunities from working on productions with larger budgets, and provides an incentive for service suppliers to invest in filmmaking infrastructure and equipment that benefit the whole industry.

SUMMARY OF THE ASPI

The ASPI is the Government's primary mechanism for supporting the Australian screen industry. It is designed to support and strengthen the Australian screen production sector by providing concessional tax treatment for Australian expenditure through the provision of tax offsets for qualifying screen productions. The relevant legislative provisions are contained in Division 376 of the *Income Tax Assessment Act 1997*. Under the ASPI, companies may be eligible for one of three refundable tax offsets in relation to qualifying Australian production expenditure incurred in making films (the definition of which includes projects produced for platforms other than traditional cinema release).

The three streams to the offsets are the:

- Producer Offset, to encourage the production of Australian film and television projects;
- Location Offset, to support the production of large-budget film and television projects shot in Australia; and
- PDV Offset, to support work on post, digital and visual effects production (PDV) in Australia, regardless of where a project is shot.

The Producer Offset is administered by Screen Australia, while the Location Offset and PDV Offset are administered by the Ministry for the Arts.

The offsets are underpinned by a number of policy objectives aimed at supporting and strengthening the screen production sector. The Explanatory Memorandum of the Tax Laws Amendment (2007 Measures No. 5) Bill 2007 outlined the objectives of the Producer Offset as being:

- to encourage greater private sector investment in the industry and improve the market responsiveness of the industry; and
- [to] provide a real opportunity for producers to retain substantial equity in their productions and build stable and sustainable production companies, and aims to increase private investor interest in the industry.

The Explanatory Memorandum also stated the objectives of the Location and PDV Offsets were:

- to encourage large-scale film productions to locate in Australia, and is aimed at providing greater economic, employment and skill development opportunities; and
- to attract post-production, digital and visual effects production to Australia as part of large budget productions, no matter where the film is shot.

These objectives can be summarised as:

- encouraging Australian stories;
- assisting production companies to become more focussed on market and audience needs;
- increasing the sustainability of production companies; and
- ensuring Australia remains competitive for larger-budget overseas productions and in the post, digital and visual effects sector.

For each of the offsets, the qualifying Australian production expenditure amount that is calculated for a film is multiplied by the applicable offset rate to determine the size of the refundable tax offset to which the film is entitled.

Accessing the film tax offsets under the ASPI is optional. It is a matter for screen producers to determine whether they will apply for one of the film tax offsets, giving consideration to the financial benefit that they may receive as a consequence of the time they may need to invest in making an application.

Problem identification

In March 2010, the 2010 Screen Review was announced by the then Minister for Environment Protection, Heritage and the Arts, the Hon. Peter Garrett AM MP; fulfilling an election commitment made in the 2007 policy paper New Directions for the Arts. The purpose of the 2010 Screen Review was to examine the viability of the screen sector and assess the extent to which the Government's support measures, in particular the film tax offsets available through the ASPI, assisted the sector and supported the sustainability of the Australian screen industry and the creation of quality Australian film and television productions that contribute to the development of a sense of Australian identity, character and cultural diversity. This was the first review of the ASPI since it was introduced.

The 2010 Screen Review acknowledged that the Australian screen sector increasingly works within global markets, creating content and undertaking production and post-production services based on Australia's established reputation for technical and creative skills and efficient delivery. The findings of the 2010 Screen Review affirmed that effective support for the Australian screen production sector was key to the sector's viability and that the film tax offsets, provided through the ASPI, were a successful production incentive, having a positive effect on the sector's viability and sustainability.

GST Treatment

Through the Review process, it was identified that the ability of applicants to include GST as eligible expenditure when calculating a production's qualifying Australian production expenditure was anomalous to the treatment of GST under other Australian Government tax offsets. As the ASPI is established in legislation, there were no non-regulatory options available to address the anomaly in the treatment of GST. Not taking action would have maintained the inconsistency in the treatment of GST. The only option available to align the treatment of GST under the offsets with the treatment of GST under other Australian Government tax offsets was to amend the legislation to specifically exclude that cost from being eligible to be claimed as qualifying Australian production expenditure.

Producer Offset

The 2010 Review found that the early signs showed that the Producer Offset was encouraging domestic feature film production and diversity of production, which was reflected by the increase of large-budget Australian productions backed by international finance. It also found that the Producer Offset was resulting in increased interest in Australia as a co-production partner. In relation to television production, it found that production levels had remained stable overtime, noting that those levels are linked to content quota requirements under the Australian Content Standards.

The 2010 Screen Review found that stakeholders were very supportive of the Producer Offset and were strongly in favour of its continuation. However, it identified a number of potential amendments to the scheme to refine the manner in which support was provided through the ASPI to remove unintended consequences in terms of the financial and administrative cost of accessing the offsets, and to more efficiently and effectively deliver support to the Australian screen production sector.

An area identified for amendment was to more closely align the scope of the legislative definition of qualifying Australian production expenditure with legitimate screen production expenditure. Such a change would reduce the administrative burden for applicants while retaining the principle that qualifying Australian production expenditure must be directly associated with the cost of screen production.

The 2010 Screen Review reported that industry expressed concern about some aspects of the Producer Offset, including the administrative burden of applying for the Offset, especially for low budget documentary productions. Documentary productions are a vital component of the Australian screen industry, contributing to national understanding, education and social values. However, the 2010 Screen Review identified that some documentary producers were not benefiting from the Producer Offset to the same degree as film and television producers as they experienced a greater degree of administrative burden in applying for the Producer Offset. In many cases, the administrative cost of applying almost outweighed the benefit received, particularly for productions that had low budgets. A common practice that producers use to finance their productions is to cash-flow the offset by securing financing against the future offset. This means that they are paying financing costs on the cash-flowed loan until they are certified for the offset after the completion of production and are able to receive the offset through the taxation system. The low budget documentary sector also reported that they experienced difficulties in cash-flowing the offset with lending institutions and when they were successful in securing financing against the offset the costs were prohibitive; which diminished the value of the benefit that they received through the offset.

An option to address this issue included increasing the threshold of the Producer Offset for documentary (single episode or series) to $500,000 and supporting documentaries with budgets between $250,000 and $500,000 through the provision of direct grants through Screen Australia. This would mean that low budget documentary producers would not need to cash-flow the expected offset and the provision of support through a grant would mean that the producer could still retain equity in their production. It would further benefit producers as they would be able to access the grant funding at an earlier stage of production, rather than through the Producer Offset process, where they are not able to lodge an application until after production is completed and they have finished incurring costs.

Alternatively, the rebate rate for documentaries could be increased, with the sector seeking an increase to at least 30 per cent. An increase to the Producer Offset rate for documentaries would result in a higher proportion of the Producer Offset payment being returned to documentary producers as it would rebalance financing and administrative costs reducing their impact as a proportion of production costs.

Feedback through the consultation phase of the 2010 Review suggested that an unintended consequence of the threshold set for feature and single-episode drama is that some production companies had artificially and unnecessarily increased the budgets for their projects to meet the threshold levels to qualify for the offset. Stakeholders also suggested that the $1 million threshold for feature films precluded culturally significant films with budgets lower that $1 million and emerging producers as they tend to work on lower budget projects. A majority of stakeholders suggested that the threshold should be reduced to $500,000 to address these issues. Reducing the threshold of both feature films and single-episode programs to $500,000 could provide an opportunity for lower budget filmmakers to access different distribution and revenue streams, such as online distribution or digital downloads.

The 2010 Review identified that the 65-episode cap for series accessing the Producer Offset was inequitable across the different television genres given the variable episode and series lengths and had resulted in some series not continuing beyond the 65th episode. There was significant feedback from the sector on the inequity of the episode cap for short form programs and in particular children's television. The standard format for children's television commercial networks is a series of 26 by half-hour episodes. This format is also the most marketable length overseas. So, while 65 commercial hours of a standard one-hour television adult drama may qualify for the Producer Offset, if a producer is making a standard format children's series, only 32 and a half hours of content may qualify (65 x 30 minute episodes). An option to address the inequity is to amend the measure of the cap to the amount of hours produced rather that the number of episodes.

Location Offset and PDV Offset

The findings of the 2010 Review also pointed to the difficulties faced in attracting international productions to Australia as decisions to undertake productions in Australia were closely linked to currency exchange rates and competition from production incentives in other countries. At the time of the 2010 Review, the rebate rate for the Location Offset and the PDV Offset, which provided support to international screen production activity in Australia, was 15 per cent. The policy objectives of the Location Offset and the PDV Offset were to provide greater economic, employment and skills development opportunities in the Australian production sector. The rebate rate of 15 per cent was supported by industry when the offsets were introduced. However, it was identified that Australia's competitiveness as a production destination had decreased since that time for a number of reasons including that a number of other jurisdictions, including Canada and New Zealand, had introduced incentives for screen production, as well as the increased value of the Australian dollar, which had increased the cost of production. The 2010 Review identified that the overall cost of production was a key factor for studios when they are considering where to locate a production and that production costs are influenced by the value of incentives available in various locations and current and likely fluctuations in exchange rates.

Options to address this issue included raising the rate of the Location Offset and the PDV Offset to 30 per cent, or alternatively, 'pegging' the rebate to the value of the Australian dollar when it rose above US$0.70, up to a maximum rebate of 30 per cent. An increase in the value of the offsets, to either a fixed rate of 30 per cent or through the adoption of a pegged rate, would increase the international competitiveness of the offsets against the incentives available in other jurisdictions. Increasing the rebate to 30 per cent would be a static increase and would apply no matter what the value of the dollar was at any given time. It would double the cost to Government for all eligible production activity. Being tied to the exchange rate, a pegged rebate would retain the value of the incentive at its optimal level because as the value of the Australian dollar increased against the US dollar the rebate amount would vary proportionally. However, it would add complexity to the administration of the scheme and could result in applicants modifying the date of commencement for productions in order to maximise the rate of the rebate. As the rebate rates are specified in the legislation, possible non-legislative solutions to this issue were to not vary the rebate rate and to see whether the Australian dollar may decrease in value over time, or to provide assistance through the provision of direct funding.

Policy objectives

Submissions received in response to the report of the 2010 Screen Review informed the development of the package of enhancements announced in the 2011-12 Budget. Screen Australia, the Australian Taxation Office, the Department of the Treasury, the Department of Finance and Deregulation and industry stakeholders, including peak bodies such as Ausfilm and Screen Producers Australia, were consulted on the development of the package of enhancements.

The 2010 Screen Review highlighted opportunities to improve the effectiveness and efficiency of the tax offsets in some areas and to address the anomaly in the treatment of GST which enabled applicants to include GST in their calculation of eligible expenditure. In response to the findings of the 2010 Screen Review, in the 2011-12 Budget the Government announced a package of measures, costing $56 million over four years, to reform and strengthen support to the Australian screen production industry. The package of measures included:

- enhancements to the ASPI, worth $43 million over four years;
- increased appropriation to Screen Australia to deliver direct funding to low budget one-off documentaries, worth $11 million over four years; and
- a new screen industry survey by the Australian Bureau of Statistics, worth $2 million over four years.

The measure also included changes to the treatment of GST under the offsets in order for it to be consistent with other Australian Government tax offset programs. This was achieved by excluding GST as qualifying expenditure, meaning that producers could no longer claim GST amounts on the expenditure they claimed for an offset. Excluding GST from the calculation of eligible expenditure provided the majority of the offsetting savings required for the enhancement package of measures.

The measures were designed to support the screen industry at a time when it was striving to meet the challenges of a changing global environment. Those challenges included changes to arrangements for securing financing following the global financial crisis, the impact of the appreciation of the Australian dollar on the cost of undertaking production in Australia and the competitiveness of incentives offered in Australia compared to those offered in other jurisdictions.

The primary driver behind the introduction of the reforms was to increase the sustainability of the Australian screen industry. Many of the changes to the ASPI, particularly the changes to the Producer Offset, had been identified by members of the screen industry and the administrator of the Producer Offset, Screen Australia, as part of the 2010 Screen Review, with the intention of reducing the administrative impact on applicants and improving operational efficiency. Specifically, the objectives of enhancing the film tax offsets were to:

- increase the film tax offsets' effectiveness as production incentives by providing support to a wider range of productions;
- align the scope of qualifying Australian production expenditure prescribed in the legislation with standard industry practices; and
- improving mechanisms for supporting documentary productions.

The selected policy options

There were three major elements to the package of amendments. They included:

- lowering relevant thresholds and increasing the offset rates;
- permitting additional screen production costs to be claimed but excluding GST; and
- providing greater flexibility for provision of support to documentary productions.

The first major element included lowering the eligibility threshold for the Producer Offset for feature films and single episode drama (eg telemovies and Video on Demand movies) from $1 million to $500,000 to assist the next generation of producers to create new innovative and entrepreneurial projects. It also saw the removal of the $800,000 per hour threshold for single episode programs, other than documentaries, that apply for the Producer Offset. The treatment of series was also amended to allow 65 commercial hours of a television series to be eligible for the Producer Offset, rather than
65 episodes, so as not to disadvantage short-form programs. It also saw the PDV Offset increase from 15 per cent to 30 per cent of qualifying Australian PDV expenditure to improve the competitiveness of Australian PDV service providers in the international marketplace and contribute to the creation of new jobs and retaining highly skilled workers in Australia. The Location Offset rate was also increased to 16.5 per cent, which counterbalanced the removal of the ability to claim GST as part of the qualifying Australian production expenditure.

The second major element was the expansion of eligible expenses so a greater number of film production expenses could be claimed as qualifying Australian production expenditure under the Producer Offset, Location Offset and PDV Offset. This expansion would benefit Australian producers across all three offsets as a result of allowable production expenses being expanded to include relevant insurances, legal, auditing and company fees. Eligible expenses were further expanded for the Producer Offset to include some limited costs associated with distribution, fees incurred in obtaining independent opinion on a film's qualifying Australian production expenditure, expenditure on offsetting carbon emissions and certain marketing costs. Expanding the list of expenses that could be claimed as qualifying Australian production expenditure aligned the scope of qualifying Australian production expenditure prescribed in the legislation with standard industry practices for screen production expenditure.

The third major element was the introduction of greater flexibility for the provision of support to documentary productions. Under the Producer Offset, a minimum expenditure threshold of $500,000 was introduced for documentaries. Additional funding was provided to Screen Australia to provide direct funding to low budget documentaries that did not meet the new threshold. The direct funding program was called the Producer Equity Program. It was introduced to reduce the administrative burden and costs to producers of low budget documentaries who would previously have had to seek assistance through the Producer Offset. For documentaries eligible for the Producer Offset, the 20 per cent 'above the line' cap on qualifying expenditure was removed. That cap restricted the proportion of the expenditure that could be claimed on documentaries, where a relatively higher proportion of the budget is spent 'above the line' on producer, writer and director fees. Eligible formats for the Producer Offset were also expanded to include short-form animated films, which broadened the eligibility to include short-form animated documentaries.

These measures were given legislative effect through the *Tax Laws Amendment (2011 Measures No. 7) Act 2011*, which received the Royal Assent on 29 November 2011. Further details on the legislative changes are provided at Appendix A.

Impact analysis

The response to the changes has been positive. The benefits of the enhancements have been most obvious in the lowering of eligibility thresholds, increase to the rate of the PDV Offset and the changed arrangements for low budget documentaries.

Benefits

Impact of lowering threshold and increasing the offset rate

PDV Offset

The increase in the level of the tax offset for the PDV Offset, from 15 per cent to 30 per cent, has been welcomed by the sector and has contributed to increased interest in the PDV Offset and increased PDV activity in Australia. It has contributed to the achievement of the policy objective, which was to increase the Offset's effectiveness as a production incentive by supporting a wider range of production activity and supporting international production activity in Australia. Increasing the competitiveness of Australia as a location for PDV activity is important to the viability of the domestic film and television industry by providing employment opportunities, skills transfer and development opportunities, and an incentive for service suppliers to invest in filmmaking infrastructure and equipment that benefit the whole industry.

Stakeholders have advised that Australia was uncompetitive as a location for PDV activity when the rate of the PDV Offset was 15 per cent. If the rate had remained unchanged it is unlikely that international productions would have selected Australian PDV houses to undertake production activity when it would be possible for them to approach providers in other jurisdictions that had more competitive incentives and where the currency was not as strong as the Australian dollar. Competition to secure fee-for-service contracts for the delivery of parcels of PDV work for large budget international productions is very strong and the nature of digital production means that the workforce is highly mobile as the work is not tied to a location; it can be relocated to lower cost jurisdictions.

Applicants to the PDV Offset and other stakeholders have advised that the higher offset is more attractive to producers and investors. It has improved the competitiveness of Australia as a location for PDV work for international productions as the level of offset assists in counterbalancing the impact of the high value of the Australian dollar and the relatively high cost of the Australian workforce, and is competitive with offsets available in other jurisdictions. The increase in the rate of the PDV Offset has contributed to Australian PDV houses being more competitive in securing fee-for-service contracts for the delivery of parcels of PDV work, securing contracts to undertake post-production of feature films and to undertake fully animated productions.

Applicants are eligible for the higher level of offset if the production activity commenced on or after 1 July 2011. As productions cannot apply for the PDV Offset until after they have ceased incurring qualifying Australian production expenditure, the first application eligible for the higher level of offset was received late in the 2011-12 financial year. At the increased PDV Offset rate of 30 per cent, 23 applications have been certified for the PDV Offset between 2011-12 and 2013-14, with 17 of the 23 certified in 2013-14. That compares to 4 productions being certified between 2008-09 and 2010-11 for similar activity when the PDV Offset was at 15 per cent.

While the increase in PDV activity in Australia correlates to the increase of the PDV Offset rate, it is not the only factor that has contributed to increased interest in the PDV Offset. The other contributing factor is that in the 2010-11 Budget the qualifying expenditure threshold for the PDV Offset was lowered from $5 million to $500,000. This has had a positive impact on the number of applications for the PDV Offset as applicants are now eligible for the PDV Offset under a significantly lower expenditure threshold. Of the 23 certificates issued at the 30 per cent offset rate, 17 are made eligible as a result of the 2010-11 Budget measure.

The combination of the reduction in the expenditure threshold and the increase in the rate of the PDV Offset has led to an increase in the number of productions accessing the PDV Offset, including applications related to fee-for-service for parcels of visual effects work from American studios. It has also resulted in increased interest in Australia as a location for animated productions, resulting in new activity in Australia on animated television and film productions.

Location Offset

The increase in the level of offset available under the Location Offset, from 15 per cent to 16.5 per cent, was introduced to counterbalance the exclusion of GST from the calculation of a company's total production expenditure and qualifying Australian production expenditure. However, it has not contributed to increased interest in the Location Offset as a mechanism of support for large budget international productions undertaking principal photography in Australia.

Stakeholders, including industry organisations, studios and screen producers, have continued to advocate that an increase in the Location Offset from 16.5 per cent to 30 per cent is necessary to counterbalance the impact of the high value of the Australian dollar and the level of incentives available in competitor jurisdictions, including the United States, Canada, the United Kingdom and New Zealand.

Since 2010, all the large budget international film productions that have filmed in Australia have received incentive payments from the Australian Government in addition to being able to access the Location Offset at a rate of 16.5 per cent. The significant interest that has been shown in the $20 million Location Incentive is evidence that Australia is competitive as a location for large budget international productions if the incentives are comparable to those offered in other jurisdictions. The Location Incentive provided additional support to large budget international productions that undertake principal photography in Australia. The Location Incentive was announced in the 2013-14 Budget, with funds allocated to the 2014-15 financial year.

Producer Offset

The reduction in various thresholds and amendments to the eligibility criteria have resulted in a wider range of productions qualifying for support under the Producer Offset. The reduction in the minimum qualifying Australian production expenditure threshold for feature film and single episode drama programs, from $1 million to $500,000, has broadened the scope of productions that are eligible for support.

As a result of the threshold changes, low budget feature films are eligible to apply for the Producer Offset. Since the changes came into effect, 17 provisional certificates and six final certificates have been issued for feature films that previously would not have been eligible for the Producer Offset.

Provisional Certificates

Prior to the commencement of production, a producer may apply for provisional certification in order to obtain an assessment of a production’s eligibility for the Producer Offset. Provisional certification also exists under the PDV Offset and the Location Offset, however the uptake of this is modest unlike the Producer Offset with nearly 100 per cent of productions applying for a provisional. It is not uncommon for productions that receive provisional certification to not proceed into production. A key reason that a provisionally certified production may not proceed is because the producer has not been able to secure financing, including being able to cash-flow the Producer Offset. If producers cannot cash-flow the Producer Offset they will need to secure financing from other sources, which can be more difficult and more expensive, thereby diminishing the benefit of the Producer Offset to the producer. Another reason that a production may not proceed is because the producer may not be able to secure distribution and licencing agreements, which means that they would not be able to recoup their investment in the production. Even when a production proceeds, it can be a number of years before a production applies for final certification due to the length of production and also because the time that may be required to obtain financing and secure distribution and licencing agreements may delay the commencement of production.

Table 1: Certificates issued for feature films with a qualifying Australian production expenditure threshold of $500,000 to $999,999

Financial Year	Number of provisional certificates issued	Number of final certificates issued
2011-12	6	0
2012-13	4	1
2013-14	7	5

As a result of the threshold changes, single episode programs, other than documentaries, with a qualifying Australian production expenditure of between $500,000 and $999,999 are eligible to apply for the Producer Offset. Since the changes came into effect, three provisional certificates and two final certificates have been issued for single episode programs, other than documentaries, that previously would not have been eligible for the Producer Offset.

Table 2: Certificates issued for single episode programs, other than documentaries, with a qualifying Australian production expenditure threshold of $500,000 to $999,999

Financial Year	Number of provisional certificates issued	Number of final certificates issued
2011-12	1	0
2012-13	1	0
2013-14	1	2

Access to the Producer Offset for lower cost productions has contributed to increased diversity in the range of film and television productions available to Australian audiences and has contributed to the development of a sustainable independent production sector by providing producers with access to equity in their productions as a result of becoming eligible for the Producer Offset. It is unlikely that the feature film and single episode productions, other than documentaries, referred to in Table 1 and Table 2 above, would have been made if the producers had not been able to access the Producer Offset as it would have been very difficult for them to secure sufficient private and foreign investment to meet the full cost of production. It would also have been difficult for them to secure distribution and licencing agreements.

The removal of the $800,000 per hour threshold for single episode programs, other than documentaries, has broadened the scope of productions that are eligible for support under the Producer Offset. However, since the amendments came into effect no provisional or final certificates have been issued for single episode programs, other than documentaries, with a per hour qualifying Australian production expenditure of less than $800,000, that are already not reported in tables 1 and 2 above (as the overall qualifying Australian production expenditure is less than $1 million).

The amendments also increased the effectiveness of the Producer Offset as a production incentive by allowing a company to be entitled to the Producer Offset for a series or season of a series which must be at least two episodes and no more than 65 commercial hours of content. Once the 65 hour cap has been reached, the series will no longer qualify for the Producer Offset. Prior to the amendments, support was capped at 65 episodes, regardless of episode length. The rationale for the 65 episode cap was to encourage new productions and provide producers with sufficient time to allow productions to become commercially viable and for them to secure alternative sources of support prior to removing access to the Producer Offset. The 65 episode limit was based on the standard iteration of a season being 13 episodes long, which would allow five series before the production would be ineligible to receive the offset.

The introduction of the concept of the commercial hour recognised that programs are made of varying episode and series lengths and may be transmitted in different ways. Reports from stakeholders have indicated that the 65 commercial hour cap is seen as a fairer approach to the previous 65 episode cap as episodes vary in length and some genres, such as children's drama (particularly animation), are likely to be televised in shorter episodes than other genres, such as adult drama. Since the changes came into effect, productions which are eligible under the new 65 commercial hour rule, but which would have either been ineligible under the 65 episode rule or would have received a smaller offset as only expenditure up to episode 65 would have been eligible as qualifying Australian production expenditure, have been issued four provisional certificates and three final certificate.

Amending the cap on access to the Producer Offset to ensure equitable access to support for productions by establishing a 65 commercial hour cap rather than a 65 episode cap, contributes to the achievement of the objectives of the Producer Offset as it broadens the support available to a diverse range of quality Australian productions that contribute to the development of a sense of Australian identity, character and cultural diversity. Amending the cap from 65 episodes to 65 commercial hours has meant that more episodes of shorter format productions will be eligible for the Producer Offset. Consequently, producers will be able to make productions in episode lengths that best suit the market and audience, without that decision adversely impacting their access to the Producer Offset.

Table 3: Certificates issued under the 65 commercial hour rule to productions that would have been ineligible or would have received a smaller offset under the previous 65 episode rule

Financial Year	Number of provisional certificates issued	Number of final certificates issued
2011-12	0	1
2012-13	3	1
2013-14	1	1

Permitting additional screen production costs to be claimed

The amendments to the expenditure provisions have been broadly praised by stakeholders as more efficient and appropriate than the previous categories of expenditure that could be claimed as it aligned the legislative definition of qualifying Australian production expenditure with standard industry practice for screen production expenditure.

The expansion of screen production costs that could be claimed as qualifying Australian production expenditure under the Producer, Location and PDV Offsets has benefited Australian producers in all screen formats as it aligned the scope of qualifying Australian production expenditure prescribed in the legislation with standard industry practices. The amendments were offset by the savings identified through the exclusion of GST as qualifying Australian production expenditure.

The purpose of these amendments was to reduce the administrative burden on applicants by addressing anomalies in the legislation which excluded certain screen production expenditure from being eligible expenditure for the purpose of calculating qualifying Australian production expenditure. The amendments to the legislation in 2011-12 were the first amendments that were made to eligible expenditure since the offsets were introduced and provided an opportunity to refine the scope of eligible expenditure to improve the way that it aligned with industry practice.

As a result of those enhancements, production expenses that can be claimed across all three offsets were expanded to include certain financing expenditure, including insurance related to making the film, fees for audit services and legal services provided in Australia to the company in relation to raising and servicing the financing of the film, and fees for incorporation and liquidation of the company that makes or is responsible for making the film. Stakeholders have advised that they welcome the amendments as they provided clarification on the eligibility of certain screen production expenditure and they enable applicants to claim a broader range of screen production related expenditure that they incur as part of the production process.

Eligible expenses were further expanded for the Producer Offset to include some costs associated with distribution, fees incurred in obtaining independent opinion on a film's qualifying Australian production expenditure, expenditure on offsetting carbon emissions and certain publicity and promotional costs. Stakeholders have advised that they welcome the amendment to enable certain publicity and promotional costs that are incurred after the film's completion, but prior to the end of the income year in which production is completed, to be eligible as a significant portion of that work is undertaken after the completion of the film. Previously, publicity and promotion expenditure was excluded from production expenditure on a film, other than expenditure on Australian copyrighted material incurred before completion of the film.

The processes for calculating costs incurred in a foreign currency were also amended for Producer Offset productions that had qualifying Australian production expenditure of less than $15 million. The change was to enable applicants to use the actual exchange rates at the time when the expenditure was incurred on the film when converting the cost to Australian dollars. Prior to the amendment the exchange rate used to determine expenditure incurred in a foreign currency was the average rate of exchange for the period during which qualifying Australian production expenditure was incurred. As the exchange rate could fluctuate significantly over that period of time this created financial uncertainty throughout the production. This amendment reduced the administrative complexity for applicants in the calculation of costs incurred in a foreign currency and provided certainty on the costs that the applicant would be able to claim when they submitted an application for the Producer Offset. The removal of uncertainty over the treatment of foreign currency conversion for productions with expenditure of less than $15 million has been welcomed. Further, applicants have reported that for projects incurring expenditure in foreign currency (particularly those using multiple currencies) the measure substantially reduces administrative burden.

The changes to the rules governing qualifying expenditure streamlined the application process for the Producer Offset and have increased the effectiveness of the offsets and created efficiencies for applicants by enabling them to claim a broader range of expenditure that is directly related to screen production.

Providing greater flexibility in the provision of support to documentaries

The package of enhancements provides greater flexibility in the provision of support to documentaries, particularly low budget documentaries. This includes the introduction of a minimum expenditure threshold of $500,000 for documentaries (while retaining the $250,000 per hour expenditure threshold) accessing the Producer Offset and additional funding to Screen Australia for the provision of direct funding to low budget documentaries that did not meet the new $500,000 threshold. The direct funding is provided through the Producer Equity Program which provides a direct payment of funds to producers of eligible low budget Australian documentaries, equal to 20 per cent of the approved budget. The creation of a direct funding program for low budget documentaries was introduced to reduce the administrative burden and costs to producers of low budget documentaries who would previously have sought assistance through the Producer Offset.

Producers of low budget documentaries are often small businesses with limited resources. The reforms were introduced to ease the administrative burden those entities experienced in accessing the Producer Offset. A key administrative burden was that applications can only be made for the Producer Offset after a production had ceased incurring qualifying Australian production expenditure. As part of that process, applicants were required to provide general ledgers of their expenditure and independently audited financial statements. As support could not be accessed until after the costs had been incurred, producers frequently had to borrow funds in the short-term to meet production costs and then repay those funds after the production had received certification under the Producer Offset and lodged the relevant tax return to access the offset. This created an additional administrative burden on low budget documentary producers.

The Producer Equity Program was introduced to provide a more accessible and efficient mechanism for supporting low budget documentaries. In the 2011-12 Budget, Screen Australia received an increased appropriation of $11 million over four years to deliver that support. Under the program the payment is cash flowed through the production, which reduces financing costs for producers as they can have access to the funds upfront or during production, rather than having to wait until completion and then apply for the Producer Offset and claim the offset through the taxation system. For projects with Screen Australia documentary production funding (grant or equity investment), the Producer Equity payment can be incorporated into the agreed drawdown schedule. For productions without Screen Australia funding, 50 per cent of funding is paid following approval of the application and 50 per cent is paid on completion of the production.

Documentary producers have advised Screen Australia that the new Producer Equity Program is considered to be a more efficient, effective and appropriate system of delivery of Government support to low budget documentaries than the Producer Offset. Applying for the Producer Equity Program is optional and it is a matter for documentary producers to determine whether they will apply for support under the program, giving consideration to the financial benefit that they may receive as a consequence of the time they may need to invest in making an application.

Applications for the Producer Equity Program can be submitted at any time and, if eligible, direct funding is provided to the applicant by Screen Australia. This is different to the Producer Offset where applications can only be submitted once the production has ceased incurring qualifying Australian production expenditure and then the offset is claimed through the taxation system when the applicant has submitted the relevant tax return. For projects where other Screen Australia investment is being sought (grant or equity investment), producers can apply for the Producer Equity Program in the context of their funding application. For projects without Screen Australia investment, the project may be in pre-production, production, post-production or completed when an application for the Producer Equity Program is made. However, an application cannot be submitted more than six months after the project is completed. Producers in receipt of the Producer Equity Program are ineligible for the Producer Offset even if the film ultimately meets the eligibility criteria for the Producer Offset.

There has been strong interest in the Producer Equity Program since it was introduced, and the level of funding provided through the program has fluctuated marginally over the past three years. In the first three years of the program $6.89 million of the available $8 million was provided to 112 projects. That represents 86 per cent per cent of the funding provided to Screen Australia over three years for the Producer Equity Program. This consists of $2.73 million provided to 42 projects in 2011-12, $1.87 million provided to 32 projects in 2012-13 and $2.29 million provided to 38 projects in 2013-14. Screen Australia has annually adjusted eligibility criteria in the face of an anticipated over-subscription of available funds.

The Producer Equity Program nominally replaces the Producer Offset for low budget documentaries. The Producer Offset is an uncapped fund meaning, theoretically, there is no limit to how many productions the Producer Offset Program can support. However, unlike the Producer Offset the funding provided to Screen Australia for the Producer Equity Program is limited and therefore finite. Further, because the program is an administered one, Screen Australia designs and continually refines program guidelines to refine the program's design and ensure that its aims – including its financial aims – are best met.

In the first year Screen Australia was appropriated $2 million and the uptake exceeded this amount by approximately $0.7 million. Screen Australia re-allocated resources to cover the shortfall from other funding programs. The Producer Equity Program's guidelines were then amended in the second year to provide the means for the agency to stay within the funding allocation, resulting in a slight underspend in 2012-13.

In 2013-14, the guidelines were further amended resulting in the level of expenditure moving closer to the actual funding allocation. It is expected that there will be an increase in both expenditure and the number of programs supported in 2014-15.

One associated risk for industry that has arisen during implementation of the Producer Equity Program is the potential for a small number of documentary programs being ineligible for both the Producer Equity Program (as the budgeted expenditure exceeds $500,000) and the Producer Offset (as the qualifying Australian production expenditure is less than $500,000). Screen Australia is monitoring this issue and considers the risk is being reduced by applicants revising budgets in order to ensure the project qualifies for one of the two programs.

For documentaries eligible for the Producer Offset, the 20 per cent cap on 'above the line' costs - which captures costs relating to development and remuneration for the principal director, the producers and producers' unit and principal cast - being claimed as qualifying Australian production expenditure was removed.

The removal of the 20 per cent 'above the line' cap for documentaries accessing the Producer Offset has been praised as having a beneficial impact for documentaries which, as a genre, have a higher proportion of expenditure in 'above the line' costs than other genres. Prior to the amendments 'above the line' expenditure that was greater than 20 per cent of the film's total film expenditure was not considered to be qualifying Australian production expenditure. The removal of the 20 per cent cap means that a company that makes a documentary can now claim 'above the line' costs as qualifying Australian production expenditure, without limit. Screen Australia has advised that stakeholders consider this to be a welcome amendment. It has reduced administrative costs and led to budgeting better reflecting commercial realities, in addition to providing additional offset benefit to applicants.

The eligible formats for the Producer Offset were also expanded as a result of the term 'short-form animated drama' being replaced with 'short-form animated film'. The amendment was beneficial to documentary producers as it meant that short-form animated documentaries could qualify for the Producer Offset, in addition to short-form animated dramas. This addressed an anomaly which previously excluded such productions from being eligible to access the Producer Offset. Since the amendment came into effect, no provisional or final certificates have been issued for short-form animated documentaries. Animated documentaries are very rare in Screen Australia's experience and there is a low chance of any such projects being certified in the future. However, the removal of the anomaly is reported as being supported by industry.

Unintended consequences

An unintended consequence of the increase to the level of offset for the PDV Offset is that animated productions for children's television that may previously have claimed the Producer Offset, which provides a 20 per cent offset, are choosing to apply for the PDV Offset as it provides a 30 per cent offset. Prior to 1 July 2011, no animated productions for children's television had applied for the PDV Offset.

Screen Australia has advised that since the change to the level of the PDV Offset there have been no final Producer Offset applications received for animated productions for children's television to which the increased PDV Offset could apply. Such projects still often seek provisional certificates for the Producer Offset primarily because, if they are seeking Screen Australia or state film agency support, they need to demonstrate that they are Australian productions. That is done through the productions applying for assessment under the significant Australian content test, which is part of the assessment process for the Producer Offset. In making that assessment, Screen Australia must have regard to the following:

- the subject matter;
- the place where the film or program was made;
- the nationalities and places of residence of the people who took part in making it;
- the details of production expenditure incurred; and
- any other matters that Screen Australia considers to be relevant.

However, the productions are expected to seek final certification through the PDV Offset as the rebate rate is 30 per cent compared to 20 per cent for the Producer Offset.

The changes to the eligibility requirements for the PDV Offset have resulted in increased interest in Australia as a location for animation production activity. This is seen in the increase in the number of applications received from productions wishing to obtain provisional certification under the PDV Offset. Stakeholders have advised that the increase in the rate of the PDV Offset to 30 per cent has increased the competitiveness of Australia as a location for animation activity and has translated to increased international interest in animated production activity occurring in Australia. Information provided by applicants seeking provisional certification under the PDV Offset indicates that it is likely that a number of the productions that had applied for the PDV Offset would not have been eligible for the Producer Offset as they would not have qualified as Australian productions under the significant Australian content test. Key reasons that the productions may not have qualified for the Producer Offset are because the subject matter would not be considered Australian or because the key creative talent on the project, such as the executive producer, producer, director, and headline cast, were not Australian. On the basis of information provided by applicants, it is likely that at approximately six of the animated children's productions that have applied for provisional certification for the PDV Offset since the rate increased to 30 per cent would not have been eligible for the Producer Offset as they would not have met the significant Australian content test.

Other factors that have contributed to an increase in those productions applying for the PDV Offset is the reduction in the threshold for qualifying Australian production expenditure from $5 million to

$500,000, which was announced in the 2010-11 Budget, as well as an increased awareness of the existence of the PDV Offset.

The Ministry for the Arts has absorbed the cost associated with the receipt of these applications. Since the changes came into effect, 17 provisional certificates and 4 final certificates have been issued for animated productions for children's television.

COSTS

Regulatory Burden Estimate Table

Average Annual Compliance Costs (from Business as usual)

Costs	Business – screen sector	Community Organisations	Individuals	Total Cost
Total by Sector	-$190,020.99	N/A	N/A	-$190,020.99

The enhancements to support for the screen sector announced in the 2011-12 Budget included:

- lowering relevant thresholds and increasing the offset rates;
- permitting additional screen production costs to be claimed, but excluding GST; and
- providing greater flexibility for provision of support to documentary productions.

The reforms addressed many of the key findings from the 2010 Screen Review which affirmed that effective support for the Australian screen production sector was key to the sector's viability and that the film tax offsets, provided through the ASPI, were a successful production incentive, having a positive effect on the sector's viability and sustainability. There was extensive consultation with the screen sector during the 2010 Screen Review and during consideration of the findings that were identified.

The enhancements to support for the screen production sector resulted in a modest regulatory saving of $190,020.99.

Lowering relevant threshold and increasing the offset rate

PDV Offset and Location Offset

A burden arose as a consequence of productions that were able to secure PDV work as a result of the rate of the PDV Offset being increased to 30 per cent, which made Australia more competitive as a production location. As has been noted previously, while the increase in the rate of the PDV Offset is correlated to the increase in PDV activity in Australia, it is not the only factor that has contributed to increased interest in the PDV Offset. The other contributing factor was the decision in the 2010-11 Budget to reduce the qualifying Australian production expenditure threshold from $5 million to $500,000, which has significantly broadened the number of productions that are able to meet the expenditure threshold for the PDV Offset.

Given the impact of the reduction in the expenditure threshold on the scope of productions eligible to apply for the PDV Offset, the regulatory burden costings have been calculated to reflect new applications that have occurred as a result of the enhancements announced in the 2011-12 Budget only. That is, it is limited to those applications that have an expenditure threshold of more than $5 million as applications with a lower expenditure threshold would reflect the earlier enhancement in 2010-11. In addition, applications for Australian children's animated television series which may have been eligible for the Producer Offset that have applied to the PDV Offset as an unintended consequence of the increase in the offset rate also have not been captured. These applications would most likely have applied to the Producer Offset, if not to the PDV Offset, and incur a similar regulatory burden, as such it has been deemed that the regulatory burden would be cost neutral to the applicants.

The regulatory cost of the enhancements to the PDV Offset that were announced in the 2011-12 Budget has been attributed to five applications for final certification for the PDV Offset that have qualifying Australian production expenditure of more than $5 million and are not an Australian children's animated television series that may have otherwise applied for the Producer Offset.

There were no impacts reported on the enhancement of the Location Offset rate from 15 per cent to 16.5 per cent.

Producer Offset

A burden arose as a consequence of the enhancements that lowered the relevant eligibility thresholds for the Producer Offset as that resulted in applications being received for provisional and final certification for productions that would not have previously been eligible as they would not have met the expenditure threshold. The regulatory cost of the enhancements to the Producer Offset that were announced in the 2011-12 Budget has been attributed to:

- 17 provisional certificates and 6 final certificates issued for feature films with qualifying Australian production expenditure threshold between $500,000 and $999,999 (Table 1 refers);
- 3 provisional certificates and 2 final certificates issued for single episode programs, other than documentaries, with a qualifying Australian production expenditure threshold between $500,000 and $999,999 (Table 2 refers); and
- 4 provisional and 3 final certificates issued under the 65 commercial hour rule to productions that would have been ineligible or would have received a smaller offset under the previous 65 episode rule (Table 3 refers).

Costing Methodology

The average annual compliance cost to businesses in the screen sector as a result of the increase in the number of productions eligible to apply for provisional and final certifications for the Producer Offset and the PDV Offset has been calculated at $91,106.40. That cost includes the cost of businesses applying to Screen Australia for the Producer Offset and to the Ministry for the Arts for the PDV Offset. This cost has been calculated based on an average time of eight hours for completion of an application for provisional certification and 10 days (75 hours) for completion of an application for final certification.

Permitting additional screen production costs to be claimed, but excluding GST

The amendments that were made to the ASPI to permit additional costs to be claimed, and to exclude GST costs, resulted in a reduced regulatory burden to applicants. Permitting additional screen production costs to be claimed by applicants as qualifying Australian production expenditure delivered a benefit to producers as it aligned the scope of qualifying Australian production expenditure with standard industry practices. The amendments to expenditure rules have been broadly praised as more efficient and appropriate than the previous categories of expenditure that could be claimed due to the alignment of the legislative definition of qualifying Australian production expenditure with standard industry practice. The package of enhancements to permit additional screen production costs to be claimed mitigated the risk that productions would be worse off as a result of the exclusion of GST amounts as qualifying expenditure by expanding the range of production costs that can be claimed as qualifying Australian production expenditure and by decreasing compliance and administrative costs to applicants. It is noted that the exclusion of GST as qualifying expenditure brought the treatment of GST under the film tax offsets into line with the treatment of GST under other Australian Government refundable tax offset programs.

Applicants have reported to Screen Australia that the measures have lessened the regulatory burden associated with applying for a final certificate to the Producer Offset by approximately one day.

Costing methodology

The average annual compliance cost to businesses in the screen sector as a result of the amendments to permit additional costs to be claimed, and to exclude GST costs, for the Producer Offset the PDV Offset and the Location Offset has been calculated as a saving of $73,140.38. This cost has been calculated from the number of businesses applying for a final certificate to Screen Australia for the Producer Offset and to the Ministry for the Arts for the PDV Offset and Location Offset in one year and the reduced amount of time it takes to complete a final certificate. Due to the fluctuating level of final certificates sought in any given year (and in particular a spike in applications for the Producer Offset in 2011-12) the number of final certificates is based on 2013-14 data.

Providing greater flexibility for provision of support to documentary productions

The Producer Equity Program, which was established to provide support to low budget documentaries, has provided a more accessible and efficient mechanism for supporting low budget documentaries as the payment is cash-flowed through the production. That reduces the financing costs for producers as they can access the funds up front or during production, rather than having to wait until completion and then apply for the Producer Offset and obtain the tax offset once the relevant tax return is lodged. No regulatory cost has been calculated for applicants that are now eligible for the Producer Equity Program as they would previously have applied for the Producer Offset, in fact, it is estimated that there is a substantial negative cost.

Screen Australia estimates that the Producer Equity Program application form (which effectively replaces the provisional certification for Producer Offset) would take four hours to prepare and complete. Unlike the Producer Offset, there is no 'final' application for the Producer Equity Program, instead applicants must simply lodge a very small number of documents and copies of the finished film; a process which should take no more than three hours.

Feedback from stakeholders has indicated that the removal of the 20 per cent 'above the line' cap for documentaries accessing the Producer Offset has reduced the administrative costs and led to budgeting better reflecting commercial realities. It is estimated that this enhancement would reduce the amount of time an applicant would spend on applying for a provisional or final certificate by 5 per cent.

There were no impacts reported on broadening the scope of eligibility for the Producer Offset to include short-form animated documentaries.

Costing methodology
The average annual compliance cost to businesses in the screen sector as a result of amendments to provide greater flexibility for provision of support to documentary productions has been calculated as a saving of $207,987.01. This cost has been calculated from the average number of businesses applying through the Producer Equity Program over a three year period and the reduced regulatory costs that have been achieved through these businesses not seeking a final or provisional certificate for the Producer Offset; and the reduced time a business takes to complete a final or provisional certificate (based on 2013-14 data) due to removing the 20 per cent ‘above the line’ cap.

CONCLUSION

The three major elements to the package of enhancements to support the screen industry that were announced in the 2011-12 Budget included lowering relevant thresholds and increasing the offset rates; permitting additional screen production costs to be claimed but excluding GST costs; and providing greater flexibility for the provision of support to documentary productions. Many of the changes were identified by members of the screen industry and Screen Australia as part of the 2010 Screen Review, with the intention of reducing the administrative impact on applicants and improving efficiencies. As such, the enhancements have demonstrated a modest reduced regulatory impact on screen businesses.

The enhancements have met the objectives of increasing the film tax offsets’ effectiveness as production incentives by providing support to a wider range of productions, aligning the scope of qualifying Australian production expenditure with standard industry practice and improving mechanisms for supporting documentary productions. In addition, the enhancements have created efficiencies for applicants by removing anomalous rules and inefficiencies in the application process, notably through the alignment of qualifying Australian production expenditure with standard industry practice. The enhancements have benefited Australian producers, Australians working in the screen industry and related vendors, and have been received favourably by the sector.

While the enhancements have achieved their objectives, one unintended consequence has been that animated productions for children’s television that may previously have applied for the Producer Offset now applying for the PDV Offset as it provides a higher level of offset.

Also, while the enhancements have increased the effectiveness of mechanisms for supporting screen production, and have created efficiencies for applicants, stakeholders continue to call for the Location Offset to be increased to 30 per cent to increase the competitiveness of Australia as a location for large budget international productions. The sector contends that the Location Offset, at the current rate of 16.5 per cent, is not sufficient to counteract the strong Australian dollar and the incentives offered by other countries. While the increase in the PDV Offset to 30 per cent, from 15 per cent, has increased the international competitiveness of Australian PDV suppliers, the increase in the Location Offset to 16.5 per cent, from 15 per cent, has not contributed to increased interest in productions undertaking principal photography in Australia.

APPENDIX A

Enhancements to the ASPI

The enhancements to the film tax offsets that formed the initial response to the 2010 Screen Review were given effect through legislative amendments to the *Income Tax Assessment Act 1997*. The amendments were contained in the *Tax Laws Amendment (2010 Measures No. 7) Act 2011*, the exposure draft of which was released for public consultation by the Department of the Treasury. The *Tax Laws Amendment (2010 Measures No. 7) Act 2011* received the Royal Assent on 29 November 2011.

The package of enhancements was designed to address many of the key findings from the 2010 Screen Review in a way that was cost effective given the context of the constrained fiscal environment. Overall, the amendments were not expected to have any major regulatory impacts or to affect compliance costs as they involved amending the legislation to enhance and improve existing provisions. Broadly the amendments included:

- lowering relevant thresholds and increasing the offset rates;
- permitting additional screen production costs to be claimed as qualifying Australian production expenditure but excluding GST; and
- providing greater flexibility for provision of support to documentary productions.

The key elements comprised:

- increasing the rate of the PDV Offset from 15 to 30 per cent of qualifying Australian production expenditure;
- increasing the rate of the Location Offset from 15 to 16.5 per cent of qualifying Australian production expenditure;
- lowering the threshold for qualifying expenditure for feature films and single-episode (non-documentary) programs from $1 million to $500,000 for the Producer Offset to encourage more innovative and entrepreneurial productions;
- changing arrangements for documentaries under the Producer Offset by:
    - introducing an overall expenditure threshold of $500,000 and providing direct Screen Australia funding to low budget documentaries that do not meet the new threshold, through a new Producer Equity Program;
    - removing the 20 per cent 'above the line' cap on qualifying expenditure (this cap restricted the proportion of the expenditure that could be claimed on documentaries, where a relatively higher proportion of the budget is spent 'above the line' on producer, writer and director fees); and
    - broadening the scope of eligibility for the Producer Offset to include short-form animated documentaries (not just short-form animated drama productions).

- allowing 65 commercial hours of a television series to be eligible for the Producer Offset, rather than 65 episodes, so as not to disadvantage short-form programs;
- simplifying foreign currency exchange rules for the Producer Offset for projects with qualifying expenditure under $15 million to make it easier to calculate actual expenditure and reduce the administrative burden on applicants;
- making more film production costs claimable as qualifying expenditure under all of the offsets, including any of the following: company set-up and liquidation costs; and auditing, legal and insurance fee;
- making more film production costs claimable under the Producer Offset, including any of the following: additional marketing and distribution costs; and expenditure on offsetting carbon emissions produced during the making of the film;
- excluding GST input credits as qualifying expenditure under all of the offsets.

A comparison of all the legislative changes that were implemented to give effect to the enhancements is set out below.

Current provisions	Previous provisions
A company is eligible for the producer offset for feature film and single episode programs, other than documentaries, if it incurs at least $500,000 qualifying Australian production expenditure on that production. The 'per hour' threshold for single episode programs, other than documentaries, no longer applies.	A company was eligible for the producer offset for feature film and single episode programs, other than documentaries, if it incurs at least $1 million of qualifying Australian production expenditure on that production. There was a 'per hour' threshold of $800,000 for single episode programs other than documentaries.
A company eligible for the producer offset for a documentary must meet minimum expenditure thresholds of $500,000 and $250,000 per hour.	There was no minimum expenditure threshold for documentaries other than the per hour threshold requirement of $250,000.
Documentaries which do not meet the $500,000 threshold will be eligible to receive support through Screen Australia's Producer Equity Program. Productions receiving such support for a film are ineligible for the producer offset for that film.	No equivalent.
Certain financing expenditure counts as qualifying Australian production expenditure of a company on a film, including any of the following: • insurance related to making the film; • fees for audit services and legal services provided in Australia to the company in relation to raising and servicing the financing of the film; and/or	Financing expenditure did not count as production expenditure on a film.

Current provisions	Previous provisions
• fees for incorporation and liquidation of the company that makes or is responsible for making the film.	
For the producer offset only: • fees in obtaining an independent opinion of a film's qualifying Australian production expenditure; and/or • expenditure on offsetting carbon emissions.	No equivalent.
A company is entitled to the producer offset for a series or season of a series which must be at least two episodes and no more than 65 commercial hours of content.	A company was only entitled to the producer offset for a series or season of a series which was at least two episodes and no more than 65 episodes.
For calculating the amount of the producer offset, films with qualifying Australian production expenditure of less than $15 million are to use actual exchange rates at the time when expenditure in a foreign currency is incurred on the film.	For calculating the amount of the offset, the exchange rate used was the average rate of exchange for the period during which qualifying Australian production expenditure is incurred.
For documentaries, under the producer offset, the 20 per cent cap will be removed.	There was a 20 per cent cap which limited the amount that could be claimed as qualifying Australian production expenditure on development expenditure and/or remuneration provided to the principal director, producers and principal cast associated with the film.
For the purposes of the producer offset, any of the following expenditure incurred in distributing the film by a company will also be qualifying Australian production expenditure: • acquiring Australian classification certificates; • sound mix mastering licenses; • re-versioning the film in Australia; • freight services provided by a company in Australia for delivery of contracted deliverables in relation to the film; and/or • storing the film in a film vault in Australia.	Distribution expenses were excluded from production expenditure on a film.
For the purposes of the producer offset, marketing costs on publicist services provided in Australia, promotional stills, trailers and press kits (with Australian-held copyright) that is incurred after the	Publicity and promotion expenditure were excluded from production expenditure on a film, other than expenditure on Australian copyrighted material incurred before completion of the film.

Current provisions	Previous provisions
film's completion but prior to the end of the income year in which production is complete will be allowed.	
Short-form animated films are eligible for the producer offset.	Short-form animated dramas were eligible for the producer offset.
GST is now excluded in determining an amount of expenditure for the purposes of these offsets.	GST was not excluded in determining an amount of expenditure for the purpose of the offsets.
The amount of the location offset is 16.5 per cent of the company's qualifying Australian production expenditure.	The amount of the location offset was 15 per cent of the company's qualifying Australian production expenditure.
The amount of the post, digital and visual effects offset is 30 per cent of the company's qualifying Australian production expenditure.	The amount of the post, digital and visual effects offset was 15 per cent of the company's qualifying Australian production expenditure.