

Submission to the Australian Government – Treasury

The Definition of Documentary for the purposes of qualifying for the Australian Producer Offset

Response to the proposed legislative amendments 2012

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Introduction.

I have been involved in the creation and production of documentary for most of my career spanning a period of thirty years. I have been Head of Features for ABC television and General Manager of Television and New Media for a public company prior to establishing my own company, Intomedia. So, I have invested a good deal of my working life in documentary. I say this to provide a background for my comments.

The proposed amendments to the legislation raise a number of issues that have not been canvassed in the paper.

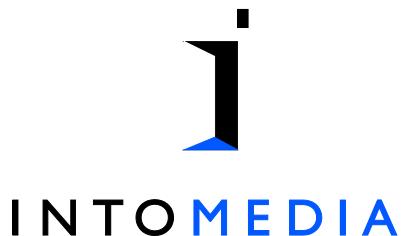
One is the definition of “actuality”. It must be defined otherwise it could be suggested that the term applies to any factual content whether interpreted or simply observed.

It is difficult to suggest that some observational productions should not be termed “documentary”. Under the proposed definitions, RPA would not be defined as documentary since it is not the creative treatment of “actuality” but rather the observational recording of factual content. The term “creative” implies interpretative treatment rather than simple observation.

However, if observational production is not to be deemed “documentary”, it will eliminate valuable productions from the offset. Many natural history programmes are observational as we watch wild creature in their natural habitats. No-one would argue that Life on Earth is not documentary and yet it is essentially observational. Thus interpretation is important.

The draft legislation offers the following. It,

- defines documentary as a creative treatment of actuality other than an infotainment program, lifestyle program or magazine program; and



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- requires that Screen Australia, the body administering the Producer Offset, consider the extent and purpose of any contrived situation featured in the film, the extent to which the film explores an idea or theme and the extent to which the film has an over-arching narrative structure, when determining whether the film is considered to be a documentary.

This definition and the second part invites a subjective assessment by members of Screen Australia rather than providing a clear objective definition. Allowing subjective assessment to form the basis of tax concessions is not a valid basis for the administration of the Act. Rather I suggest that a clear and objective definition should be provided that is not open to the personal and subjective views of administrators.

Taking the first clause....it is fundamental to the administration of a fair and reasonable administration of the legislation that the terms are defined. What is “actuality”, “infotainment”, “Lifestyle” and “magazine”. Without definitions, they become subjective terms. Is a programme with several stories linked by a common theme a documentary or a magazine programme? In some cases it is more valid to suggest such a programme is a documentary rather than the simple act of observation of some factual content.

Is an information programme that is entertaining to be defined as “infotainment”? Surely all productions should be entertaining in some form since the purpose of production is to inform, educate and entertain – to use the ABC guideline.

Is a programme that deals with how a person lives a particular lifestyle, to be excluded from the definition because it is about lifestyle. Clearly this is not the intent of the legislation. However, without sound definition, it remains open to interpretation and, therefore, creates uncertainty. Inviting Screen Australia to explore matters of degree, as in “extent to which a film explores an idea” opens the question to personal interpretation and, thus, challenge.

I suggest that structure can be an important framework that helps define documentary.

Thus

Documentary is defined as the creative treatment of factual content that has a clear narrative structure offering a beginning, middle and end, either in a single episode or over a series of programmes within an overall structure designed to tell a story over a defined number of episodes.

Documentary does not have to be “serious” or “important” but it does have to tell a story.



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One area of debate untouched in this discussion is that of dramatised documentary. There is increasing use of completely scripted drama to explore , particularly, historical stories. Recent production in Australia include Rogue Nation and Australia On Trial.

Under the definition proposed, it would appear that scripted drama would not be regarded as documentary. This is an area that needs clarification and definition.

Would Sylvania Waters be classified as documentary? It was the observation of a family in their daily lives. But the editing was creative interpretation as all editing must be. Once content is edited, creative and editorial decision interpose.

Therefore, I suggest that the definition is too vague and does little to create certainty in the production community, the investors and the market in general.