

To:

General Manager

Small Business Tax Division

The Treasury

Langton Crescent

PARKES ACT 2600

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31.1.13

Re: My response to draft legislation

Applying the definitions and directions set out in the Australian Communications and Media Authority *Documentary Guidelines: Interpretation of 'documentary' for the Australian Content Standard*, the draft legislation:

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

COMMENT:

My background is as a documentary director, producer and university academic.

I would like to make a submission in response to the draft legislation and explanatory material for inserting a definition of 'documentary' into the tax law, for purposes of the film tax offsets. In particular I would like to ensure that the definition of 'documentary' is kept broad enough to incorporate a range of production and post-production design, performance, animation, hybrid structures and dramatic reconstruction to be included within a documentary, so long as the documentary work is based on a real person, social or historical subject.

My doctoral degree (DCA) at UTS explored the role of design and performance in the hybrid documentary. In my exegesis I examined the history of the creative documentary, dating back to early examples of documentary from *Nanook of the North (1922)*, *Man with a Movie*

Camera (1929), *Night Mail* (1936) and *À propos de Nice* (1930), which incorporate a range of directed performance, studio reconstruction, stylized montage editing and design within the documentary. Recent award-winning examples of documentary which incorporate design and performance include Errol Morris' *Tabloid* (2011). My two most recent documentaries *Maverick Mother* (2007) and *Jabe Babe – A Heightened Life* (2005) commissioned for SBS television, both won major awards including IF and Atom awards for Best Australian Documentary, AFI Award for Best Documentary Directing. They are hybrid documentaries in that they interweave observational footage with studio based dramatisations performed by the film subject and employed actors.

There is a risk that 'documentary' could be too-narrowly defined as simply observational filming. In reality many complex, multilayered documentaries are carefully researched, visualised and scripted.

Certainly, Essential Media & Entertainment's action to distort non-fiction parameters in order to gain offset returns for programs promoting cleaning products has shocked many of us in the documentary community, but the government must be reminded that it is Screen Australia itself who cashflowed this business through its Enterprise scheme. There is a danger that promotions, product placement and lightweight pseudo-science and reality game formats imported from overseas will dominate on the ABC, SBS and Foxtel, posing as 'factual' television or documentary unless the government tightens the offset parameters and encourages Screen Australia to again support the smaller independent producers (condescendingly referred to as cottage industry producers). It is the work of these independent directors which dominates the documentary awards and festival each year, yet they are literally being starved out by lack of commissions by the broadcasters thereby excluding them from eligibility to access Screen Australia funding and the tax offset. Many of Australia's top documentary directors are now unable to get any of their films financed, as both the ABC and SBS 'dumb down' their programming in the race for ratings.

There is also a danger that fiction films 'based on true stories' can pose as documentary and use up limited government production budgets, such as Essential Media's fiction film *The Last Confession of Alexander Pearce* (2009) which this company nominated in the IF Documentary awards and financed through government/ABC documentary funds when it was clearly a fiction film. This questionable behaviour is not well received by other producers in the film industry.

It is essential that definitions of 'documentary' acknowledge the wide range of legitimate directorial approaches found in documentary filmmaking.

I would like to refer to Bill Nichols' definition of documentary modes in his book 'Introduction to Documentary' (2001)

He suggests that documentary modes may include:

- Poetic documentary
- Expository documentary
- Observational documentary
- Participatory documentary
- Reflexive documentary
- Performative documentary

To these I would add

- Hybrid documentary
- Interactive or web based documentary
- Locative media or augmented reality documentary
- Essay film (which may be about an historical, social, cultural, political or religious subject with or without a central human subject.)
- Autobiographical documentary
- Creative documentary

Documentary theorist Michael Renov in *Theorizing Documentary* (1993, p. 21) reminds us that the four fundamental tendencies of the documentary are

1. to record, reveal or preserve
2. to persuade or promote
3. to analyze or interrogate
4. to express

Directors may use a range of directorial approaches in order to fulfill these varied aims. Some may use 'overarching narrative structures', but these are not essential, for example in an essay film, experimental or creative documentary. There may be 'contrivance' or directed sequences in a documentary which legitimately serve as a counterpoint or complement to observational or interview material.

I request that Screen Australia, and the government, in defining its tax legislation with relation to the offset, acknowledge the range of practice in the art of documentary filmmaking, based on Grierson's original definition of the 'creative treatment of reality'.

Dr Janet Merewether BIO

Dr Janet Merewether is a Sydney-based filmmaker, digital media artist and academic. She founded Go Girl Productions in 1995 and Screen Culture Pty Limited in 2007 for the production of creative documentaries and screen based art projects. She has taught drama, documentary and design at Macquarie University, the AFTRS, UTS and UWS. Her award winning short films and videos, including '*Cheap Blonde*', '*Contemporary Case Studies*', '*Short Before the Movie*', '*Palermo-history*' '*Standing Still*' and '*Knit-Face*' have screened in numerous festivals internationally, including the New York Film Festival, Tampere Film Festival, EMAF, Impakt, VideoBrasil and New Directors/New Films at MoMA New York.

In 2005 Janet completed the 52 minute documentary '*Jabe Babe - A Heightened Life*' for SBS Television in Australia, which she wrote, directed and co-produced. This innovative documentary received an AFI Award for Best Directing in a Documentary and was winner of the 2005 'IF' Inside Film Award for Best Australian Documentary, as well as receiving the Merit Award at the TIDF Taiwan International Documentary Festival in 2006. *Jabe Babe* toured in Taiwan, Canada and Brazil as part of the Input Public Television festival and was selected for the Sheffield Documentary Festival.

In 2007 she completed the 52 minute documentary '*Maverick Mother*', which received the Audience Award and Jury Special Mention at the TIDF Taiwan International Documentary Festival 2008 as well as being awarded Best Australian Documentary (General and Human Story categories) in the 2008 ATOM (Australian Teachers of Media) Awards. '*Maverick Mother*' screened at numerous festivals including the WFFIS Women's Film Festival in Seoul, 2009.

Retrospectives of Janet Merewether's films have been screened at the Arsenal Cinema (Freunde der Deutschen Kinemathek) Berlin, 2002, the Boston Cinematheque, 2001, and the Women Make Waves Festival Taipei, 2003. Her work is held in collections including the Netherlands Media Art Institute Montevideo Amsterdam, and the European Media Art Festival Experimentalfilm Workshop, and is featured on the Australian Screen online website.

Janet Merewether was awarded a Doctor of Creative Arts degree at the University of Technology Sydney in 2008 on the subject of innovative performance and design in the hybrid documentary. Her undergraduate degrees were from SCA (USyd) and the AFTRS.

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