

22 December 2003

SPADA Submission

“Broadcasting in New Zealand – a 2003 Stock-take”

1. Introduction

- 1.1 This submission is presented on behalf of **The Screen Production and Development Association of New Zealand – SPADA**.
- 1.2 SPADA’s principle concern in this Stock-take Review is to ensure that **New Zealand screen audiences have access to increasingly sophisticated and diverse local content**, reflecting New Zealand’s diverse cultures, creative communities and society, principally to ourselves and secondarily to the world.
- 1.3 In this brief paper we have confined ourselves to addressing aspects of the **broadcast television screen industry** in New Zealand, while conscious that wider issues of **convergence, satellite and digital distribution** are rapidly changing traditional demarcations.
- 1.4 Within this context, the **key points** which SPADA submits for consideration to encourage the development of **local content on New Zealand screens** are summarised below. Each section is subsequently treated in more detail.

2. Overall SPADA Policy

SPADA considers that to satisfy the widest possible variety of **audiences**, New Zealand public broadcasting policy should encourage a wide range of cultural and other programmes through means of **multiple pathways** to meet the diverse needs of our audiences.

In summary, to best meet audience needs the **policy objectives** should:

- A **Ensure New Zealand content is displayed via the widest possible variety of distribution outlets;**
- B **Ensure the development and sustainability of the widest possible variety of creative Screen Producers;**
- C **Ensure access to the widest possible variety of Funders and investors.**

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| <ul style="list-style-type: none">▪ To deliver programming to a wide variety of Audience
^▪ NZ Programming needs a variety of Distribution methods
^▪ From a variety of Screen Producers
^▪ With access to a variety of Funders |
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3. Encouraging Local Content across all Distribution Outlets

As audience fragmentation continues, public policy should encourage **all screen distribution outlets to be involved** in the local content business.

SPADA's over-riding focus is to ensure that any changes following this Stock-take **enhance the potential to satisfy the needs of a variety of New Zealand audiences**, for high quality local content through a variety of production and distribution opportunities.

SPADA believes that all **New Zealand audiences should have access to the widest possible range of New Zealand production**, whatever the distribution mechanism - broadcast or narrowcast.

We note the markedly increased profile now gained by the **New Zealand music** industry initiatives across all New Zealand radio stations.

We also note the continuing work of NZ's major free-to-air broadcasters represented on the **Television Local Content Group**, reflecting NZ on Air research which continues to show how much New Zealanders value locally-made programmes.

This research shows that New Zealand programmes feature strongly on the list of **most watched programmes** every week, and focus groups confirm they're not just watched – they are also enjoyed.

Nearly 80% of those surveyed by NZ on Air this year consider there should be a **set amount of local content on free-to-air TV**.

Indications are that in 2004, New Zealanders can look forward to a total of nearly **six and a half thousand hours of New Zealand programming distributed across four channels** on their screens – TV One, TV2, TV3 and C4.

Other free to air broadcasters also have the potential to contribute to this outcome of increased local content - notably **Prime TV, the Maori Television Service and various Regional TV stations**. **Prime TV** is now entering this arena by beginning to commission local content and becoming eligible for access to public funding and the obligations that go with that. Regional television stations have not received funding support for local programmes. The Maori Television Service has yet to broadcast but we anticipate that it will make a significant contribution to local content once on air. We recommend that both Prime and MTS should shortly be represented on the Local Content Group.

New Zealand public broadcasting policy should also devise an appropriate mechanism to **engage Sky TV and any future satellite and digital distribution services** with the TV Local Content Group as the audience reach of these media will continue to grow exponentially. More than 40% of New Zealand households now subscribe to **Sky TV** and it is one of the fastest growing pay television services in the world. In the United

States this month (December 2003) total audiences for Cable Television finally **exceeded** the total audiences for all free-to-air broadcasters. [Note – Sky Television in NZ in the last few months launched the additional UKTV and History channels, with the Disney channel and an Arts channel poised for release within the next quarter.]

4. The Audience Benefit of Strengthening the Independent Production Sector

The **audience benefit of a strong independent screen production sector** is cited in the UK **Pact** (the UK body representing the interests of independent feature film, television, animation and interactive production companies) submissions on the formation of the regulator, Ofcom:

“Independents matter because British TV audiences receive a richer and more diverse range of programmes. This is due to the real competition that exists in the sector and also the competition between independents and in-house production. Independents exist purely on the strength of their ideas....This has the effect of raising the game for in house producers as well. **The real winners in this are the audiences who enjoy some of the best television in the world.**”

In New Zealand, screen producers’ pathways to broadcast television distribution are relatively narrow.

In most cases they amount to a choice between the **relevant commissioning executives at TVNZ or TV3**, sometimes in consultation with their counterparts at NZ on Air, Te Mangai Paho or the NZ Film Commission. [Most TVNZ local production is funded by the company without recourse to NZ on Air].

SPADA is concerned that any reduction in the number of pathways will have the effect of **reducing creative access to the audience** by placing further hurdles and narrower controls on the challenging and often difficult pathway to production.

For example, the film “**Once Were Warriors**” struggled to find national broadcaster support at the funding stage – TVNZ rejected the proposal on multiple occasions and TV3 finally took up the option. **Without that alternative access the film may never** have been produced.

The series “**Mataku**” was declined by TVNZ but subsequently supported by TV3, going to air as a thirteen part series. As a result of its success with audiences on TV3, TVNZ has now decided to commission another series for its audience.

In order to protect, encourage and project the cultural integrity of New Zealand within the global digital world, the screen production industry requires a **diversity of programme makers and film makers** to make a wide range of cultural programmes.

Audience appreciation, stimulation and satisfaction factors need to be taken into account to a greater degree than have been recognised by the excessively ratings driven commercial approach of the past decade. New Zealand broadcasters would be well advised to look into newer audience satisfaction measures that do not rely on bald numbers viewing.

SPADA considers that all the international evidence available indicates the most dynamic and creative screen production occurs when there is a **strong independent production sector – separate from broadcasters** and not vertically integrated within their corporate structure.

UK Comparison

In the UK, despite the tradition of “public service” obligations on both non-commercial and commercial broadcasters, it took the establishment of Channel 4 in 1982 to free **British independent producers** to become dynamic, innovative and entrepreneurial creative leaders of the British screen production industry.

The UK trade body which represents independent feature film, television, animation and interactive production companies is Pact. With more than 1,000 members, it is the largest representative group of screen-based content producers in the UK. (By comparison, SPADA in New Zealand has more than 370 members).

Pact emphasizes that in 20 years the independent screen production sector has:

- **Created employment** in the UK
- Contributed to **UK exports**
- Contributed to the development of a **skilled, trained work force**
- Provided **price and creative competition** across the industry, contributing to efficiency in production and to better quality programmes. Channels like BBC1 and ITV1 now carry higher proportions of UK-produced programmes and are less reliant on imported programmes – especially in peak time.
- Produced a **range and diversity of programming**, working across all genres including news, current affairs, entertainment, drama and sport.
- Produced some of the **most critically acclaimed, popular and challenging** programmes on UK Television.

“Since the advent of independent production, the dominance of US programming in peak viewing time (Dukes of Hazard, Miami Vice) has disappeared – **UK viewers want to watch UK-produced TV at peak time.**”

5. Contestable Access to Public Funding

It is evident both within this country and internationally, that organizations with a highly dominant market position and **high degree of centralization** don't create the conditions for the best opportunities to exploit creative potential.

SPADA considers the principle of **contestability for public funding** of NZ screen productions has proved to be one of the notable successes of the NZ 1989 Broadcasting Act, both in principle and in practice.

In a mixed economy with no tradition of a non-commercial screen delivery mechanism, SPADA considers the contestable principle has proven a significant improvement in ensuring the delivery of a **variety of NZ programming to a variety of NZ audiences at accessible times**.

The extension to **all screen distributors** of the principles of **universal local content “windows”** and **universal contestable access to public funding** of those local audience opportunities is one of the **few sustainable public broadcasting policies New Zealand can adopt** within the context of both developing technologies and world trade policies.

TVNZ Charter Funding

SPADA considers that **direct funding of TVNZ Charter obligations** has led to lack of clarity over where this direct funding is going and what its outcomes are.

SPADA considers **public funding of TVNZ Charter-related obligations** should be subject to **more robust transparency and public accountability** and that any further Charter related funding be allocated through current independent, transparent mechanisms, such as New Zealand on Air.

SPADA further considers that public production funding issued under the mandate of **Te Mangai Paho** should follow **similar public notification and accountability procedures** to those adopted by NZ on Air.

6. What Future for Independent Screen Producers?

Broadcaster triggering of access to public funding currently puts them in the position of essentially being able to **dictate the terms of trade** to local producers.

There are numerous examples of this – the independent production sector's experience with the **TVNZ New Business Development division in 2003** is simply the most recent and most visible. We understand that this is now under review and SPADA is available

to provide advice on commercial issues and the best way forward for international sales of New Zealand programmes.

Most independent NZ producers have limited assets and capital, thus relying on a **continuing stream of production commissions** to sustain their cash-flow businesses.

The ability of larger producers to **negotiate production fees, license fees, residual rights and distribution options** is only a matter of degree. Most smaller producers are not in a position to negotiate adequate production margins (most are below 10%).

SPADA considers the future of Screen Production in NZ is fundamentally dependent on an increased recognition by funders and broadcasters of the acceptance that ownership of intellectual property rights and **equity rest with the producer** and shouldn't be given up as part of payment for the licence fee to broadcast or as an inherent part of contracting for the development of a programme. These rights need to be retained and exploited in order for New Zealand businesses to survive and grow and audiences to see a wide variety of good local content, especially as production expands over a wide range of distribution media - broadcasters, narrowcasters, digital (including film) and the internet.

Producers are currently left with **few intellectual property rights as an asset** to distribute into additional local or international markets, to attract investment and grow their business.

The **exclusive license to screen productions further restricts** other local distribution options. Current commissioning practice encourages a situation where **publicly funded local production is licensed exclusively to one broadcaster** for a limited number of plays over a number of years – typically three plays in five years, sometimes multiple plays in perpetuity. This local content is therefore locked up for five years by one broadcaster.

Broadcasters **seldom maximise cumulative local audience opportunities** by screening these publicly funded programmes more than once in widely accessible “windows” during the license period.

SPADA considers **this model cannot best meet local audience needs in the multiple choice digital distribution era** that is rapidly developing around us. A new model of licensing needs to be encouraged to ensure that programming is better investment for local audience needs. For example, if a programme is not going to be repeated after twelve months there could be options for other outlets to have access to screen the material.

The production industry needs to be able to better exploit the value in each programme made so that both local and international audiences have more chance of seeing New Zealand content.

In the digital age the “**share of intellectual property**” retained and exploited by the producer will become a **key indicator** of the extent to which the production sector is truly competitive and audiences get the best possible outcomes.

Innovation Fund and New Screen Producers

SPADA is keen to encourage opportunities for **new and emerging young screen producers**. The recent focus on reality and magazine-style series, has created limited opportunity for exposure of a wider variety of genres including more developed and longer-form local programmes.

New Zealand television is relatively unique in the English speaking world in that we normally screen all our productions – **very few production initiatives are “written off”**. There is some transparency strength in this approach, but it can also mitigate against **experimentation and variety** – emphasizing the “safe” options.

We look forward to the outcome of **recent initiatives** like the proposed “Blue Ribbon” Documentary series, Comedy, Arts and Children’s programme initiatives.

However, we are **concerned by indications that none of the initial documentary proposals have been approved for funding**. We believe this situation reflects a continuing confusion between broadcasters, producers and funders about their mutual requirements.

The Charter provides opportunities to create programmes with a higher commercial risk from newer and younger screen producers, programmes that were previously viewed as too risky to get access to the prime time schedule. New media, digital cinema and the internet also provide opportunities in a lower risk environment for new work. If these emerging programme makers can find financial support for their ideas they will become the mainstream producers of future local content.

The limited support available for producers to **invest in research and development** of new ideas remains a significant weakness in the New Zealand production landscape. Continuing dialogue is essential to ensure that the **creative energy producers expend** on these initiatives is not wasted. Screen producers need to be able to develop ideas without compromising the ownership of them. This applies to government agency funding as well as broadcaster contracting. SPADA is keen to work with New Zealand Trade and Enterprise on ideas for how FORST may be of assistance with R&D funding of new media initiatives in the screen sector based on this principle of retention of intellectual property rights.

SPADA thanks the Minister of Broadcasting and Ministry of Culture and Heritage for the opportunity to present this paper.

Signature

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