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Tax change benefits copyright owners

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2.5 million paid to copyright owners

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Government promises fair use review

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Feature: Wild footage can reap rewards

With a recent programme returning 46% of gross revenues from stock footage sales, Bettina Dalton from Absolutely Wild Visuals (AWV) knows the value of on-licensing production images and film. She talks to Off the Air about her company and how filmmakers can make the most of these rights.

Dalton's company, AWW, was spawned from the production company, Wild Visuals, which she co-owns with Gary Steer.

Both Steer and Dalton produced hundreds of internationally broadcast wildlife programs, accumulating a 300-hour collection of high quality natural history film footage.

"This material was meticulously logged with reversioning and stock footage sales in mind," she said. "And as requests to license the footage increased a separate company (Absolutely Wild Visuals) AWW was established to deal with the research and the continued logging and licensing."

AWV now not only licenses the Wild Visuals collection but also represents other international collections, including footage from many independent filmmakers.

The main words of advice that Dalton has for anyone involved in the film industry are simple. "Consider stock footage when negotiating. They are rights worth fighting for."

Even if your film doesn't have immediately obvious stock footage value, Dalton says it is worth ascertaining whether any elements do have potential.

"And if they do, consider shooting these parts on Super 16mm or higher, with stock footage value in mind."

AWV works with filmmakers to help them get the most out of their footage. Dalton always advises companies to log their rushes in as much detail as possible if they believe there is potential for on-licensing footage.

"It may seem tedious but it is of enormous value down the track," Dalton said. The kind of information that she suggests recording include the location where the footage was shot, the date, a description of the shot, whether there are any restrictions on future use, TC in and out points and most importantly, keywords to help clients search.



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"You should try to imagine all the possible end uses of the shot and not only describe the subject but use emotive terms that may make the footage search more intuitive – words such as cute, funny or loving might assist a researcher working on a Kleenex tissue commercial, for example," she said..

And with new potentials for usage always opening up, it is worth thinking laterally. "Our existing clients range from documentary makers, broadcasters, corporate producers and advertising agencies," Dalton said. "We see our future clients as including the educational sector and international producers searching for content to service emerging delivery systems such as mobile phones."

AWV doesn't only work with the producers of the footage it sells, it also works closely with clients who are purchasing this footage.

"We will collaborate from the conceptual stage of a project," Dalton said, "helping clients to predict their needs before they go into production. This allows us to seek out material that we may not already have in the library or suggest substitute material. Where footage is unavailable and we feel it will be frequently requested material, we offer a 'shoot to order' service, using our own specialist cinematographers and wildlife experts."

For Dalton and her company, the biggest challenge is keeping up with the changing formats and technology.

"We strive to future proof our systems (and our materials) to avoid them becoming outdated because of shooting format," she said.

At the same time, technological advancements have also been enormously beneficial to the company .



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Tax change benefits copyright owners

Legislation to ensure that copyright collecting societies are not taxed on income they collect and hold for rightsholders pending distribution has been passed by both Houses of Parliament.

The Bill, which follows lobbying by Screenrights and Copyright Agency Limited, means that filmmakers will not be at risk of having their Screenrights royalties taxed twice. Under current law, collecting societies that hold copyright income in trust, pending identification of the copyright owner, are subject to tax at the top marginal rate if they do not distribute this income within two months after the end of the financial year.

Screenrights Chief Executive Simon Lake welcomed the passing of the Bill to amend this law.

“We would like to thank the government for negotiating the passage of this legislation,” Lake said. “In particular we would like to acknowledge the hard work of Senator Helen Coonan who was Minister for Revenue and Assistant Treasurer at the time changes to the tax legislation were originally mooted in 2002 and who has continued to have an active role in ensuring the amendments were passed.”

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Djonov told Screenrights he will use his payment to buy props and equipment so that he can continue making his short animations.

Like most makers of short films, Djonov doesn't get paid for his labour. Any money he receives is spent on his films. He works part time as video preservation officer at the National Archives, and his recent Screenrights cheque, which was part of the \$2.5 million distributed to copyright owners over January and February, will help him make the next film in his ongoing animation series.

Sue Taylor from Taylor Media said *The Shark Net* payment was a "wonderful surprise".

"It was also very pleasing to see that Australian teachers have copied our program and clearly value it as a teaching resource."

Payments made in the first two months of this year mean that Screenrights has now paid out about 60% of 2004 royalties for Australian educational copying.

While the distribution team will continue to distribute the remaining 40% of these royalties, it will also focus on getting the last of 1999 Australian and New Zealand royalties out the door.

Under its Articles of Association, Screenrights has six years to pay out royalties collected in each distribution year. Once that period expires, any undistributed money is rolled over into the next distribution pool.

With approximately 5.8% of Australian 1999 royalties and just over 12% of New Zealand 1999 royalties left to distribute by June 30, Screenrights is asking all members who believe they may have a claim to email memberservices@screen.org

"Our record in ensuring that we distribute nearly all royalties to copyright owners by the expiry date is a strong one," Screenrights Member Services Executive Cameron Patience said. "We work with our members to make sure any paperwork is completed in time so that we can make the payments owing."

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Animators – promote your content now

Enhancetv, Screenrights free online resource centre for educators, is preparing an upcoming feature on animation and is calling for content contributors.

The site now has over 3000 subscribers working in education, and is regularly accessed by teachers and lecturers looking for new ways of teaching with broadcast material.

Regularly changing features give filmmakers the opportunity to access this important market for free, encouraging use of their work in schools, TAFEs and universities across the country.

Enhancetv features editor Megan Wood is currently developing an animation feature and is looking for content from producers, directors, writers and other creators specialising in this area. For more information email megan@enhancetv.com.au

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Copyright for Australian film directors

The right of directors to share in the copyright of their films in Australia has been recognised for the first time in legislation introduced into Parliament.

In a press release issued by the Government, Attorney-General Philip Ruddock said the Copyright Amendment (Film Directors Rights) Bill 2005 will give directors a right to share in royalties when their films are retransmitted by pay-TV channels.

The Government made amendments to the Copyright Act in 2000 requiring pay-TV broadcasters to pay royalties to copyright owners for retransmitting free to air broadcasts of their films and other copyright materials. Screenrights has been appointed by the Government to administer these provisions and currently has an application before the Copyright Tribunal to determine the amount of royalties payable.

The Bill gives directors a share of this payment.

“These rights for directors will only apply to films made after the legislation is passed and will not affect film producers' existing revenue streams,” the Attorney-General said.

For further information about the Bill go to www.law.gov.au/ag

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Government promises fair use review

A review into whether Australia needs broad based fair use exceptions to allow for various free uses of copyright material, is being conducted by the Government.

In his opening address to the Australian Centre for Intellectual Property and Agriculture Conference, the Attorney-General, Philip Ruddock MP, announced the review, stating that the Government expected to release a discussion paper in April.

Speaking at the conference, Ruddock referred to developments in digital technology as "exacerbating the tension between copyright owners, technology companies and consumers."

The Attorney-General stated that he was aware certain user groups believed an open-ended exception to copyright similar to the fair use provisions in the United States would have advantages. He also stated that, at the same time, the Government "understands that the 'fair use' proposal is of concern to copyright owners."

"Their main concern being that the uncertainty of 'fair use' could encourage infringement and undermine their rights," he said.

Following the release of the discussion paper, the Government will call for public submissions on the issue.

Screenrights intends to make such a submission and will continue to keep its members informed as to developments that impact on their rights.