



AUSTRALIAN CHILDREN'S  
TELEVISION FOUNDATION

**SUBMISSION TO THE  
NSW OFFICE OF THE  
CHILDREN'S GUARDIAN**

**IN RESPONSE TO THE PROPOSED  
CHILDREN AND YOUNG PERSONS (CARE AND PROTECTION –  
CHILD EMPLOYMENT) REGULATION 2004**

**The ACTF**

The ACTF is a national, non-profit organisation funded by the Federal Government and the governments of every State and Territory in Australia. Its New South Wales' funding is administered by the New South Wales Film and Television Office and the Department of Education and Training. The ACTF's principal functions (as detailed in its Constitution) are as follows:

- to encourage the development, production and dissemination of television programs, films and other audiovisual media for children;
- to provide an authoritative source of information on all aspects of television, film and other audiovisual media relevant to children; and
- to undertake, initiate and encourage research and stimulate interest in, promote and improve the quality and suitability of children's television, film and other audiovisual media.

The ACTF has limited its comments on the new *Children and Young Persons (Care and Protection – Child Employment) Regulation 2004* (the "**Regulation**") to those provisions that specifically relate to children's employment in the film and television industry.

**Proposed amendment to hours of work**

One of the key changes proposed in the new Regulation is that the maximum hours children can work be amended by reducing the present age brackets from five to four, and removing the maximum daily "performing" times.

The reasons given in the *Regulatory Impact Statement* (RIS) for the proposed changes are that:

- the prescribed maximum performance hours set out in the current Regulation are a barrier to cost-effective production scheduling of New South Wales children's television drama;
- film and television producers consider Victoria a more attractive children's drama production environment due to less stringent regulatory controls over hours of work; and

- there is a lack of information suggesting evidence of any greater harm being caused to children in Victoria.

The ACTF supports relaxing the prescribed maximum work hours for children in New South Wales to bring regulation closer to that in other states. As a national body, the ACTF seeks to produce in all States and Territories of Australia. Relaxing regulation in New South Wales would make that goal easier in the State as series would be more cost-effective to produce.

Children's producers are willing to work in States other than their own. Southern Star (NSW) shot *Pigs Breakfast* in Victoria and *Foreign Exchange* in Western Australia. Jonathan Shiff Productions (VIC) shot *Cybergirl* and *Ocean Girl* in Queensland. Burberry Productions (VIC) also shot *Sleepover Club* in that State. The ACTF (VIC) and Enjoy Entertainment (NSW) will be co-producing a new series, *Mortified*, in 2005 which will also be filmed in Queensland.

New South Wales relatively prohibitive maximum performing times have been a contributing factor to that State not benefiting from these "footloose" productions. Indeed, in the case of *Pig's Breakfast* and *Foreign Exchange*, the producer has actually left New South Wales for another State.

However, the changes proposed in the new Regulation will make little difference from the current system of prescribed "performing" hours. The table below summarises the proposed new hours of work in the Regulation:

Age	Working hours	Total work days in 7	Maximum employment per day
Under 3 yrs	6am – 6pm	1	4 hours
3 yrs to under 8 yrs	6am – 11pm	4	6 hours
8 yrs to 15 yrs	6am – 11pm	5	8 hours

A maximum "employment" time is still prescribed, and employment is defined in the Regulation as including "the whole of the time (including any rest breaks or other breaks in work and any travelling time)" while the child is on the set. Setting a maximum employment time, and including these breaks within that time, means that there is a *de facto* maximum performance time prescribed under the Regulation.

For example, consider a 12 year old performer in a children's television series. The amount of time that the performer could actually spend performing would be calculated under the proposed new Regulation as follows:

	Duration	Maximum time available for performing
Maximum employment time		8 hours
LESS make up and wardrobe time	30 mins <sup>^</sup>	7 hr 30 mins
LESS breaks (incl. lunch)	2 hr 10 mins <sup>^^</sup>	5 hr 20 mins
LESS tutoring time	1 hr 30 mins <sup>^^^</sup>	3 hr 50 mins

<sup>^</sup> Best average estimate of time taken for child cast member

- ^^ In accordance with clause 4(3) of the Regulation which requires a 10 min break every hour and a 1 hour rest break every four hours.
- ^^^ Best average estimate. Discussions with the OCG have suggested that producers are not always required by the Department of Education and Training to provide the 20 hours of tutoring per week discussed at page 45 of the RIS.

Further performance time would be lost if the cast member's travel time to and from work is more than 45 minutes in duration each way. Under the Regulation, time above 45 minutes is included in the available performing time.

Under the current Regulation, the child actor would be limited to 4 hours actual performing time. Under the proposed new Regulation, the child actor would still be limited to less than 4 hours actual performing time.

The actual hours which the child actor can be spent performing in the production remain severely limited.

Accordingly, the situation would still be markedly different from that of the current Victorian model, which allows 8 hours of performing time, excluding make up time, travel time, breaks and tutoring.

The proposed new Regulation will not make the employment of children in film and television more attractive in comparison with Victoria. Contrary to the prediction at page 60 of the RIS, New South Wales will not attract a greater share of children's drama production as a result of the proposed Regulation.

### **Alternative proposal**

The ACTF has had the opportunity of reviewing a draft submission to the RIS by the Screen Producers Association of Australia (SPAA). SPAA, on the advice of its NSW-based members, has proposed that the existing regulation be amended to:

- increase the limit on travel time from 45 minutes to 1 hour, after which travel time would be included in the employment time; and
- exclude breaks from the maximum employment time.

If these changes were adopted, it would go much closer to meeting the stated goal of the proposed amendments: making the children's film and television environment more competitive with Victoria.

### **Further information**

Please contact Tim Phillips on (03) 9419 8800.

**ACTF**  
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