

**SUBMISSION BY**  
**MEDIA, ENTERTAINMENT & ARTS ALLIANCE**  
**TO**  
**DEPARTMENT OF FOREIGN AFFAIRS AND TRADE**  
**REGARDING**  
**JAPAN AUSTRALIA FREE TRADE AGREEMENT**

**JANUARY 2007**



**The Media, Entertainment & Arts Alliance**

The Media, Entertainment & Arts Alliance (Alliance) is the industrial and professional organisation representing the people who work in Australia's media and entertainment industries. Its membership includes journalists, artists, photographers, performers, symphony orchestra musicians and film, television and performing arts technicians.

## Executive Summary

The Media Entertainment and Arts Alliance welcomes the opportunity to make comment in relation to the *Joint Study for Enhancing Economic Relations between Japan and Australia, including the Feasibility or Pros and Cons of a Free Trade Agreement* released in December 2006 (2006 Joint Study) and the subsequent decision by Prime Minister John Howard and Japanese Prime Minister Shinzo Abe on 12 December 2006 that negotiations for a free trade agreement between Australia and Japan would commence in early 2007.

The Alliance has a long-standing interest in trade agreements in respect of the manner in which they might affect Australia's cultural industries. The Alliance has made submission to the Department of Foreign Affairs and Trade (DFAT) regarding a number of proposed and negotiated free trade agreements including the Singapore-Australia Free Trade Agreement (SAFTA), the Australia-United States Free Trade Agreement (AUSFTA), and the proposed agreements with the Cooperation Council for the Arab States of the Gulf (GCC), Malaysia and China, as well as the General Agreement on Trade in Services (GATS).

The Alliance wishes to reiterate its view that Australia's interests are best pursued in the multilateral arena in the negotiations for the GATS rather than bilaterally or plurilaterally.

That being said, the Alliance favours positive listing agreements, such as the Thailand-Australia Free Trade Agreement (TAFTA) in which no commitments in respect of cultural industries were made, rather than negative listing agreements such as the SAFTA and the AUSFTA.

In the event that Australia does determine that a negative listing agreement with Japan is appropriate, then the comprehensive cultural reservations in the SAFTA serve as a workable precedent for a free trade agreement with Japan. The Alliance is opposed to the concessions made in the AUSFTA and would oppose the inclusion of similar concessions in an agreement with Japan.

The Alliance is aware that reference was made to Australia's cultural industries in the *Joint study into the costs and benefits of trade and investment liberalisation between Australia and Japan* which was released on 20 April 2005 (2005 Joint Study). The 2005 Joint Study was undertaken under the Australia-Japan Trade and Economic Framework, signed in July 2003 by Prime Minister Howard and his Japanese counterpart Mr Koizumi.

The 2005 Joint Study identified those service activities where Australia has not made commitments in the GATS or has listed limitations to its GATS market access and national treatment obligations and states as follows:

"Australia reserves the right to adopt or maintain any measure with respect to the creative arts, cultural heritage and other cultural industries, including broadcasting, film and other audiovisual services, entertainment services and libraries, archives, museums and other cultural services (*Broadcasting Services Act 1992, Radiocommunications Act 1992*). Specific measures currently in place include local content quotas for television, subsidies and favourable tax treatment for Australian films, and film co-production arrangements with selected countries. Australia has made no specific commitments, and has MFN exemptions, for audiovisual services in GATS."<sup>1</sup>

It also noted that "Australia reserves the right to adopt or maintain any measure with respect to the supply of a service by the presence of natural persons, or other movement of natural persons, including immigration, entry or temporary stay."<sup>2</sup>

This reflects Australia's long-standing position in respect of the manner in which Australia's cultural industries are considered in the context of trade agreements. The Alliance supports this position being reflected in any free trade agreement with Japan and, as noted above, in the event the agreement is a

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<sup>1</sup> *Australia-Japan Trade and Economic Framework*, page 67, available online at [www.dfat.gov.au](http://www.dfat.gov.au).

<sup>2</sup> *Ibid*, page 63.

negative listing agreement, the reservations in respect of broadcasting and cultural industries in the SAFTA should be mirrored.

The Alliance is therefore concerned that no mention of Australia's cultural industries has been made in the 2006 Joint Study.

As DFAT is aware from numerous submissions made by the Alliance in recent years of the nature of the cultural industries in Australia and the mechanisms of support in place provided at federal, state and local government levels, this submission does not detail the mechanisms by which the Australian government at federal state and local level supports the Australian industries.

Rather this submission is intended to provide DFAT with some background on the industries in Japan.

Finally, consistent with long standing policy in respect of trade agreements and Australia's cultural industries – including its audiovisual and broadcasting industries – the Alliance is also of the view that Australia should become a party to the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions.

## The Japanese Film and Television Industry

Given the size of its population – 127.7 million compared with Australia’s 20.7 million – the industry in Japan is substantially different from Australia’s. It is the second largest audiovisual market in the world behind only the United States and a major manufacturer and exporter of audiovisual hardware.

Whereas the Australian cinema market is extremely open, the Japanese market is less so, a matter underscored by the fact that Australia is part of the English language market and in Japan all foreign releases are axiomatically in a foreign language. Nonetheless, the Japanese cinema market is more open to overseas productions than any other sector of its audiovisual market.

As the Japan External Trade Organisation puts it, “[t]he three major producers – Shochiku, Toei and Toho – have an overwhelming share of the market because they control everything, from upstream to downstream, by combining production, distribution and exhibition.”<sup>3</sup> This form of vertical integration is the same model that underpins the Hollywood studio model and the global dominance of American film and television output.

In 2006, a total of 36 Australian films (including nine documentaries) captured 4.6% of total Australian box office, the best result since 2001 (see Appendix A), competing with 372 foreign, predominantly English language, films.

On the other hand, in 2005, the latest year for which figures are available, 356 Japanese feature films were in release, alongside 375 imported films, earning more than ¥800 billion (the highest since 2000 when the Motion Picture Producers Association of Japan switched from publishing distribution income to box office revenue) and accounting for approximately 40% of total box office revenues for the year (see Appendix A).<sup>4</sup>

In 2006, the top six grossing Australian films in Australia each secured box office in excess of \$3.1 million with the highest grosser, the recently released *Happy Feet*, taking \$11.1 million (see Appendix B).

In 2005, eight Japanese films each took in excess of ¥2.5 billion, with the top grosser, *Howl’s Moving Castle*, taking ¥19.6 billion (see Appendix C).

Not surprisingly, American films lead the list of imported films in Japan, with 153 titles in 2005, accounting for 40.8% of all imported films – down from 159 titles in 2001. Conversely, there were 61 South Korean titles, representing 16.3% of all imported films – up from 20 titles in 2001 (see Appendix D). France remains the third most popular source for imported films, however, like the United States, imports are dropping, down from 30 in 2001 to 23 in 2005. Falls in imports from other territories have been sharper, notably imports from Hong Kong fell from 24 to twelve, and from the United Kingdom from 24 to eleven over the same period. A list of Australian feature film titles distributed in Japan for the years 2000 – 2004 can be found at Appendix E.

In short the film industry in Japan is now booming.

During the 1960s, Japan had 7,457 cinema screens. The introduction of television resulted in cinemas closing across the country. Fewer screens also led to a vicious cycle “in which inconvenience and crowding drove even more customers away from movies. By 1993, only 20% (1,734) of screens remained.”<sup>5</sup>

However, new cinemas were built and, by 2004, there were 2,825 screens across the country. The increase in cinema complexes has resulted in high attendances and strong box office.

Japan is well-known for its animation programs – programs like *Pokemon*, *Ghost in the Shell: Standalone Complex* and *Yu-Gi-Oh* are well known to Australian audiences. According to the Japan

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<sup>3</sup> JETRO *Japan Economic Report*, Japan External Trade Organisation, October-November 2006, available online at <http://www.jetro.go.jp/en/market/trend/industrial/pdf/jer0610-2e.pdf>

<sup>4</sup> Ibid.

<sup>5</sup> Ibid.

External Trade Organisation, “[a]nimated films form the core of Japanese movies shown overseas”<sup>6</sup> and animated television programs are estimated to account for approximately half of all Japanese exported programs.

Also contributing to the booming cinema industry is a burgeoning Hollywood interest in remaking Japanese horror films and the opportunities for film content reuse provided by broadband and DVD.

Television broadcasting is only lightly regulated by comparison with broadcasting in some other countries, including Australia. Local stations must broadcast at least ten percent self-produced programming. Ten percent of all programming screened by commercial channels must be education programs and a further 20 percent must be dedicated to cultural programs. Advertising is restricted to ten minutes in any hour with a maximum daily average of eight minutes per hour.

Nonetheless, approximately 95 percent of all programming on terrestrial television is Japanese.

Interestingly, whereas in 2005 Australians watched an average of three hours and seven minutes television a day, in line with the average world-wide, the Japanese watch five hours and one minute, even more than the Americans who averaged four hours and 28 minutes a day<sup>7</sup>.

As is the case with the United States, the television industry in Japan is self-sufficient, with exports representing profit rather than being required to cash-flow production as is the case with Australian television drama. Exports dramatically outstrip imports – some estimates calculate that exports exceed imports by 1,300 percent.

Also, as is the case with the United States, regulation does not drive the delivery of local content. The extremely high levels of local content are the result of being able to deliver what the audiences want to see and make a profit. This is true of many television markets world wide where high levels of local content are driven by consumer preference. The Paris based research organisation Mediametrie found that the genre the world’s audiences like best is also the most expensive to produce, namely drama, of which 70 percent is typically local content.

For countries like Australia and Canada, local drama content must be mandated given the access broadcasters in these countries have to low cost English language drama programs from the United States and the United Kingdom.

As Sandra Levy so succinctly said in her Philip Parsons Memorial Speech last November, “One thing we know is that no one else in the world needs Australian stories like we do. And if we don’t make them, no one else will.”

For that reason, government has supported the audiovisual industry in this country for decades, by way of direct and indirect subsidy, local content quotas and allowing artists and technicians from overseas to work in Australia only where a benefit to Australia can be demonstrated.

To ensure that governments now and in the future are able to continue to do so in any manner they may deem appropriate in response to any changes that may occur in the future or in response to the introduction of new delivery platforms, it is essential that Australia’s cultural industries are quarantined in this and any other free trade agreement.

A snapshot of the media in Japan can be found at Appendix F and a short overview of the film and television industry in Japan during the twentieth century can be found at Appendix G.

### **The Performing Arts**

Australian audiences have had access to a wide range of performing arts from Japan. During 2006, several Japanese companies performed at the Melbourne International Arts Festival and other festivals throughout the year, including the Japanese Awesome Festival. Theatre companies that toured

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<sup>6</sup> *JETRO Japan Economic Report*, Japan External Trade Organisation, October-November 2006, available online at <http://www.jetro.go.jp/en/market/trend/industrial/pdf/jer0610-2e.pdf>

<sup>7</sup> *Eurodata*, Mediametrie, May 2005.

Australia during the year included the Kazenoko Theatre Company, the Noh Performance Group, the Piccolo Theatre Company and the theatre puppetry production *Lullie The Iceberg* amongst others. A number of Japanese dance productions were also seen in Australia, including *Underneath* and the *Faster Cooler Pleasure Show* and there have been dance exchanges between the two countries with Australian and Japanese dancers and choreographers working collaboratively. Variety productions that combined dance and singing like *Shinjuku Ryozanpaku* were also seen by Australian audiences along with a number of Japanese DJs who performed in clubs and a number of contemporary singers and musicians who performed across the country.

## **Proposed Film Co-production Agreement and Bilateral Film Co-operation Agreement between Australia and Japan.**

In 2004, DFAT asked the Australian Film Commission (AFC) to obtain responses from film and television industry organisations in respect of a proposed Bilateral Film Co-operation Agreement between Australia and Japan.

The Japanese Government was not proposing an official film co-production treaty with Australia but, rather, wished to explore increasing co-operation between the Australian and Japanese film industries and DFAT therefore wished to establish whether industry bodies were interested in “pursuing the promotion of Australian film and production services facilities in Japan”.

In the early 1990s, Australia pursued an aggressive strategy to secure a number of film co-production agreements under Australia’s International Co-production Program. A number did not eventuate including those with the Ukraine, Russia and Japan.

The agreements with the Ukraine and Russia did not proceed as the industries in those countries were not sufficiently comparable with the industry in Australia in respect of employment conditions and benefits such as access to subsidy that might accrue from the granting of national treatment.

Negotiations with Japan were discontinued in 1994 as Japan would not agree to give eligible co-productions access to the direct investment available to its national films. Reciprocity of benefits and national treatment are considered by the Australian Government to be essential preconditions to entering into Co-production Treaties or Memoranda of Understanding (MoUs). Interestingly, Japan’s negotiating stance with Australia reflected the position they adopted in their MoU with Canada which requires Canada to afford national treatment to Japanese-Canadian co-productions but the obligation does not extend to Japan affording Japanese-Canadian co-productions national treatment.

The Alliance considered there was little to be gained by entering into a Co-operation Agreement other than a level of bureaucracy unnecessary to achieve the stated goals.

In the early 1990s the Marketing Branch of the AFC made concerted inroads into the Japanese market to promote Australian films to distributors and investors. Delegations of Japanese broadcasters, investors, distributors and filmmakers were hosted to Australia and the AFC mounted Australian film programs in Japan.

As a result some Australian films, for instance, Pauline Chan’s *Traps*, attracted Japanese investment and presales. Although Japan has not displayed much interest in investing in Australian productions, it is not unknown – the feature film *Newcastle* now in preproduction being a current case in point and the extremely low budget feature *Academy* produced in 2005 being another.

The Alliance believes that whether it is through the AFC, DFAT, Austrade, AusFILM (whose role it is to promote the Australian film industry internationally and attract production and postproduction to Australia from overseas) or through the individual or collaborative efforts of the state funding organisations working with DFAT, the mechanisms currently exist through which the Australian industry can be promoted in Japan.

The Alliance is confident that if the Japanese Government wishes to promote the Japanese industry in Australia, such promotion could be undertaken in the absence of a Co-operation Agreement.

As far as the Alliance is aware, the proposed Co-operation Agreement, like the proposed Film Co-production Treaty before it, has not come to fruition.

Similarly, the Alliance can see no benefit to Australia’s cultural industries in making any concessions in the context of a free trade agreement. Further, Japan’s intransigence during the negotiations for the proposed Film Co-production Treaty does not offer much hope that reciprocity of benefits might be achieved.

## **GATS and the Doha Round**

The Alliance understands that in 2006 a collective plurilateral request has been made to a number of World Trade Organisation (WTO) members, including Australia, by Hong Kong, China, Japan, Mexico, Singapore, the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu and the United States. The request has not been made to least developed countries who are WTO members.

The request seeks considerable liberalisation of the audiovisual sector. The text of the request is attached at Attachment H.

The Alliance understands that the position of the Australian Government remains unchanged since the time of the Menzies Government in respect of making no GATS offers and acceding to no GATS requests in respect of the audiovisual sector nor in respect of Australia's cultural industries more broadly.

While the Alliance understands that the Government is not proposing to accede to this GATS request, the Alliance is concerned that Japan may seek the same outcome in a bilateral free trade agreement.

As stated earlier, the Alliance is of the view that such concessions should not be made and the concessions made in the AUSFTA should not be replicated in any other free trade agreement including the agreement now being negotiated with Japan.

On 20 October 2005, the 154 countries represented at the UNESCO General Conference meeting in Paris voted on Convention on the Protection and Promotion of the Diversity of Cultural Expressions. 148 countries voted in favour, two against – the United States and Israel – and Australia was one of four countries to abstain along with Nicaragua, Liberia and Honduras.

Twenty countries have now ratified the Convention and the Alliance considers it is time that Australia did so as well.



ATTACHMENT A

Japanese Film Industry Statistics Years 1955 – 1999

Year	Number of Movie Screens	Number of Films Released			Number of Admissions	Box Office Gross Receipts	Average Admission Fee (without Tax)	Share	
		Japanese Films	Imported Films	Total				Japanese Films	Imported Films
					in thousands	in millions of Yen	Yen	%	%
1955	5,184	423	193	616	868,912	54,657	63	65.8	34.2
1956	6,123	514	177	691	993,875	61,899	62	67.5	32.5
1957	6,865	443	194	637	1,098,882	68,153	62	69.1	30.9
1958	7,067	504	169	673	1,127,452	72,346	64	76.1	23.9
1959	7,400	493	210	703	1,088,111	71,141	65	77.3	22.7
1960	7,457	547	216	763	1,014,364	72,798	72	78.3	21.7
1961	7,231	535	229	764	863,430	73,003	85	77.2	22.8
1962	6,742	375	228	603	662,279	75,983	115	73.1	26.9
1963	5,696	357	267	624	511,121	77,734	152	68.8	31.2
1964	4,927	344	259	603	431,454	76,937	178	66.3	33.7
1965	4,649	487	264	751	372,676	75,506	203	66.7	33.3
1966	4,296	442	250	692	345,811	75,750	219	63.2	36.8
1967	4,119	410	239	649	335,067	78,943	236	61.3	38.7
1968	3,814	494	249	743	313,398	82,026	262	64.4	35.6
1969	3,602	494	253	747	283,980	83,805	295	64.1	35.9
1970	3,246	423	236	659	254,799	82,488	324	59.4	40.6
1971	2,974	421	243	664	216,754	79,280	366	51.3	48.7
1972	2,673	400	283	683	187,391	76,971	411	51.8	48.2
1973	2,530	405	252	657	185,324	92,682	500	56.0	44.0
1974	2,468	344	241	585	185,738	117,107	631	51.3	48.7
1975	2,443	333	225	558	174,020	130,750	751	44.4	55.6
1976	2,453	356	245	601	171,020	145,709	852	48.5	51.5
1977	2,420	337	221	558	165,172	152,373	923	50.8	49.2
1978	2,392	326	179	505	166,042	160,509	967	48.6	51.4
1979	2,374	331	196	527	165,088	158,177	958	53.5	46.5
1980	2,364	320	209	529	164,422	165,918	1,009	55.0	45.0
1981	2,298	332	223	555	149,450	163,259	1,093	54.5	45.5
1982	2,267	322	198	520	155,280	169,522	1,092	51.1	48.9
1983	2,239	317	181	498	170,430	186,300	1,093	52.6	47.4
1984	2,191	333	232	565	150,527	172,202	1,144	48.6	51.4
1985	2,137	319	264	583	155,130	173,438	1,118	50.9	49.1
1986	2,109	311	289	600	160,758	179,428	1,116	49.8	50.2
1987	2,053	286	351	637	143,935	161,155	1,120	48.1	51.9
1988	2,005	265	485	750	144,825	161,921	1,118	49.6	50.4
1989	1,912	255	522	777	143,573	166,681	1,161	46.6	53.4
1990	1,836	239	465	704	146,000	171,910	1,177	41.4	58.6
1991	1,804	230	467	697	138,330	163,378	1,181	41.9	58.1
1992	1,744	240	377	617	125,600	152,000	1,210	45.1	54.9
1993	1,734	238	352	590	130,720	163,700	1,252	35.8	64.2

1994	1,758	251	302	553	122,990	153,590	1,249	40.1	59.9
1995	1,776	289	321	610	127,040	157,865	1,243	37.0	63.0
1996	1,828	278	320	598	119,575	148,870	1,245	36.3	63.7
1997	1,884	278	333	611	140,719	177,197	1,259	41.5	58.5
1998	1,993	249	306	555	153,102	193,499	1,264	30.2	69.8
1999	2,221	270	298	568	144,762	182,835	1,263	31.9	68.1

### Years 2000 – 2005

Year	Total Number of Movie Screens (Number of Movie Screens for Cinema Complex)	Number of Films Released			Number of Admissions in thousands	Average Admission Fee (without Tax) Yen	Box Office Gross Receipts			Share	
		Japanese Films	Imported Films	Total			Japanese Films in millions of Yen	Imported Films in millions of Yen	Total in millions of Yen	Japanese Films %	Imported Films %
2000	2,524(1,123)	282	362	644	135,390	1,262	54,334	116,528	170,862	31.8	68.2
2001	2,585(1,259)	281	349	630	163,280	1,226	78,144	122,010	200,154	39.0	61.0
2002	2,635(1,396)	293	347	640	160,767	1,224	53,294	143,486	196,780	27.1	72.9
2003	2,681(1,533)	287	335	622	162,347	1,252	67,125	136,134	203,259	33.0	67.0
2004	2,825(1,766)	310	339	649	170,092	1,240	79,054	131,860	210,914	37.5	62.5
2005	2,926(1,954)	356	375	731	160,453	1,235	81,780	116,380	198,160	41.3	58.7

Source: Motion Picture Producers Association of Japan, Inc. available online at <http://www.eiren.org/>

## APPENDIX B

### Australian films' share of the box office 1997-2006

Year	Total box office in Australia (\$m)	Australian films' box office gross (\$m)	Australian films' box office share (%)
1997	583.9	28.4	4.9
1998	629.3	25.6	4.0
1999	704.1	21.1	3.0
2000	689.5	54.2	7.9
2001	812.4	63.4	7.8
2002	844.8	41.8	4.9
2003	865.8	30.3	3.5
2004	907.2	11.9	1.3
2005	817.5	23.1	2.8
2006	866.6	40.0	4.6

Source: *Australian films at the local box office in 2006*, Australian Film Commission, 12 January 2007, available online at [http://www.afc.gov.au/newsandevents/mediarelease/2007/release\\_519.aspx](http://www.afc.gov.au/newsandevents/mediarelease/2007/release_519.aspx)

### The top six Australian films in 2006 in terms of Australian box office gross

	Film	Release Date	Distributor	Box Office
1	Happy Feet	26 December	Roadshow	\$11.1m
2	Kenny	17 August	Madman	\$7.6m
3	Jindabyne	20 July	Roadshow	\$5.3m
4	Ten Canoes	29 June	Palace	\$3.3m
5	Kokoda	20 April	Palace	\$3.1m
6	Boytown	19 October	Roadshow	\$3.1m

Source: *Australian films at the local box office in 2006*, Australian Film Commission, 12 January 2007, available online at [http://www.afc.gov.au/newsandevents/mediarelease/2007/release\\_519.aspx](http://www.afc.gov.au/newsandevents/mediarelease/2007/release_519.aspx)

## APPENDIX C

### Top Box Office Revenues – Japan – 2005

Rank	Title	Release	Origin	Box office (¥ bil)	Distributor
1	Howl's Moving Castle	Nov. '04	Japanese	19.6	Toho
2	Harry Potter and the Goblet of Fire	November	Imported	11.5	WB
3	Sith	July	Imported	9.17	FOX
4	War of the Worlds	June	Imported	6	UIP
5	Charlie and the Chocolate Factory	September	Imported	5.35	WB
6	The Incredibles	Dec. '04	Imported	5.26	BV
7	Pocket Monsters Mew and the Wave Guiding Hero: Lucario	July	Japanese	4.3	Toho
8	Negotiator: Mashita Masayoshi	May	Japanese	4.2	Toho
8	The Phantom of the Opera	January	Imported	4.2	Gaga Usen
10	The Terminal	Dec. '04	Imported	4.15	UIP
11	Nana	September	Japanese	4.03	Toho
12	The Suspect: Muroi Shinji	August	Japanese	3.83	Toho
13	Train Man	June	Japanese	3.7	Toho
14	Ocean's Twelve	January	Imported	3.6	WB
15	Always - Sunset on Third Street	November	Japanese	3.23	Toho
16	A Moment to Remember	October	Imported	3	Gaga Usen
17	April Snow	September	Imported	2.75	UIP
18	Constantine	April	Imported	2.72	WB
19	Year One in the North	January	Japanese	2.7	Toei
20	Shall We Dance?	April	Imported	2.5	Gaga Usen

Note: SPE = Sony Pictures Entertainment, BV = Buena Vista Home Entertainment, FOX = 20th Century Fox, UIP = United International Pictures, WB = Warner Brothers Entertainment, HE = Nippon Herald  
Source: Motion Picture Producers Association of Japan (<http://www.eiren.org/toukei>)

Cited in *JETRO Japan Economic Report*, Japan External Trade Organisation, October-November 2006, available online at <http://www.jetro.go.jp/en/market/trend/industrial/pdf/jer0610-2e.pdf>

### Japanese Films that earned at least ¥1 billion at the box office in 2005

Rank	Title	Release	Genre	Box office (¥ bil)	Distributor
1	Howl's Moving Castle	Nov. '04	Anime	19.6	Toho
2	Pocket Monsters Mew and the Wave Guiding Hero: Lucario	July	Anime	4.3	Toho
3	Negotiator: Mashita Masayoshi	May	Suspense drama	4.2	Toho
4	NANA	September	Youth drama	4.0	Toho
5	The Suspect	August	Suspense drama	3.8	Toho
6	Train Man	June	Love drama	3.7	Toho
7	Always - Sunset on Third Street	November	Comedy drama	3.2	Toho
8	Year One in the North	January	Drama	2.7	Toei
9	Lorelei	March	Action drama	2.4	Toho
10	Shining Boy and Little Randy	July	Family drama	2.3	Toho
11	Detective Conan: Strategy above the Depths	April	Anime	2.2	Toho
12	Aegis	July	Suspense drama	2.1	Shochiku & Kadokawa Herald Pictures
13	The Great Yokai War	August	Adventure	2.0	Shochiku
14	Samurai Commando Mission 1549	June	Science fiction	1.7	Toho
15	Tokyo Tower	January	Romantic drama	1.6	Toho
16	Shinobi	September	Action	1.4	Shochiku
17	The Samurai I Loved	October	Period drama	1.4	Toho
18	Crayon Shin-chan: Buri Buri 3 Minutes Ch	April	Anime	1.3	Toho
19	Spring Snow	October	Romantic drama	1.3	Toho
20	Godzilla Final Wars	Dec. '04	Science fiction	1.3	Toho

Source: Motion Picture Producers Association of Japan (<http://www.eiren.org/toukei>)

Cited in *JETRO Japan Economic Report*, Japan External Trade Organisation, October-November 2006, available online at <http://www.jetro.go.jp/en/market/trend/industrial/pdf/jer0610-2e.pdf>

## APPENDIX D

### Foreign film titles in release in Japan – 2001-2005

	2005	Share	2004	Share	2003	Share	2002	Share	2001	Share
U.S.A.	153	40.8	152	44.8	152	45.4	159	45.8	159	45.6
South Korea	61	16.3	29	8.6	14	4.2	10	2.9	20	5.7
France	23	6.1	24	7.1	36	10.7	33	9.5	30	8.6
Hong Kong SAR	12	3.2	10	2.9	7	2.1	14	4.0	24	6.9
United Kingdom	11	2.9	10	2.9	19	5.7	9	2.6	24	6.9
Germany	6	1.6	7	2.1	6	1.8	7	2.0	5	1.4
China	5	1.3	7	2.1	7	2.1	8	2.3	3	0.9
Canada	4	1.1	1	0.3	5	1.5	4	1.2	1	0.3
Spain	3	0.8	3	0.9	5	1.5	6	1.7	5	1.4
Others	97	25.9	96	28.3	84	25.1	97	28.0	78	22.3
Total	375	100.0	339	100.0	335	100.0	347	100.0	349	100.0

Source: Foreign Film Importer-Distributors Association of Japan

Cited in *JETRO Japan Economic Report*, Japan External Trade Organisation, October-November 2006, available online at <http://www.jetro.go.jp/en/market/trend/industrial/pdf/jer0610-2e.pdf>

## **APPENDIX E**

### **Australian Films Released in Japan 2000 – 2004**

2000

The Boys  
Cut  
Head On  
Heaven's Burning

2001

Bootmen  
Crocodile Dundee in Los Angeles (Australia/United States)  
Innocence  
The Monkey's Mask  
Moulin Rouge  
Siam Sunset

2002

Charlotte Gray (Australia-United Kingdom Co-production)  
The Dish  
Till Human Voices Wake Us

2003

Rabbit-Proof Fence  
The Hard Word

2004

Undead

Source: Compiled from information available in *Get The Picture*, Australian Film Commission, available online at [www.afc.gov.au/gtp](http://www.afc.gov.au/gtp)

## APPENDIX F

### A snapshot of the media in Japan

“Japan’s broadcasting scene is advanced and vibrant, with established public and commercial outlets competing for audiences.

“There are five national terrestrial TV companies, including the public broadcaster NHK which also runs national radio networks. Most of NHK’s funding comes from the licence fees paid by viewers.

“Japanese broadcasting is diversifying rapidly. Many millions of viewers now watch satellite and cable pay-TV services, including those provided by NHK.

“The country has spearheaded the development of high-definition TV (HDTV), and an NHK channel is dedicated to such transmissions. Digital terrestrial TV broadcasting is being rolled out.

“News, drama, variety shows and sport – especially baseball – all garner large audiences. Imported TV programmes are not staple fare on Japan’s main TV networks, but Western influences are often apparent in home-made programmes.

“Japan was years ahead of the US and Europe in pioneering reality TV, in which ordinary people are placed in extraordinary situations.

“Newspaper readership is very high, with some 80% of Japanese reading a paper every day. National dailies sell in their millions, boosted by the publication of afternoon and evening editions. However, circulation and advertising revenue are declining amid competition from the internet and other media.

#### “The press

- Asahi Shimbun – daily, English-language pages
- Yomiuri Shimbun – daily, English-language pages
- Mainichi Daily News – English-language pages
- Sankei Shimbun – daily
- Nikkei Net – English-language pages
- The Japan Times – English-language

#### “Television

- NHK – public, operates the General TV, Educational TV channels. NHK also runs satellite channels BS-1 and BS-2 and high-definition TV (HDTV) network Digital Hi-Vision. NHK World is the organisation’s TV service for Japanese nationals living overseas.
- TV Asahi – national commercial network
- Fuji TV – national commercial network
- Nippon TV (NTV) – national commercial network
- Tokyo Broadcasting System (TBS) – national commercial network

#### “Radio

- NHK – public, operates news/speech-based Radio 1, cultural/educational network Radio 2, classical music-based network FM Radio, external service Radio Japan
- Inter FM – Tokyo commercial music station
- J-Wave – Tokyo commercial music station
- Tokyo FM – Tokyo-based commercial network
- TBS Radio – network operated by Tokyo Broadcasting System

#### “News agency

- Kyodo – English-language pages”

Source: *Japan – Country Profile*, BBC, last updated 3 January 2007, available online at [www.bbc.co.uk](http://www.bbc.co.uk)

## APPENDIX G

### Film and television in Japan during the twentieth century<sup>8</sup>

Although the first home-grown movies appeared before the end of the nineteenth century, it was not until after World War I that films other than adaptations of stage plays and kabuki were produced. Censorship was imposed by the government throughout the 1930s and World War II, although censorship guidelines were more often observed in the breach. During the US occupation films produced before 1945 were banned and the US clamped down on sword wielding *jidai-geki* (period) films. However, after control of the film industry was handed to the independent Motion Picture Code Committee in 1949, the genre re-emerged.

By 1953, the industry was dominated by six large companies and had entered its so-called Golden Age. The best works of Akira Kurosawa, Yasujiro Ozu and Kenji Mizoguchi from this period remain among the greatest ever made.

The first colour feature film appeared in 1951 and the Toho company's *Godzilla* first appeared on screen in 1954, starting a flood of monster movies that has continued ever since, the most recent *Godzilla* having been filmed partly in Australia.

By the end of the 1950s, there were around 7,500 cinemas across the country.

By 1969, television sets were in just about every home, theatre attendance slumped and cinemas starting closing across the country.

By the eighties, feature film production was down and output by the then four major companies had declined to an output of approximately 200 films annually relying on conservative popular genres – comedies, romances and detective thrillers. Pornographic films grew to the point where they accounted for half of all films being produced.

Nonetheless, the industry began to enjoy something of a revival during that decade, although many of the most famous films of the time were at least partly financed with foreign investment. Among the most successful were Itami Juzo's comedies, *Tampopo* (1985) and *Marusa No Onna* (1988); Oshima's *Merry Christmas, Mr. Lawrence* (1983) and Kurosawa's *Kagemusha* (1980) and *Ran* (1985).

Art house films flourished – both local and international. Foreign films, European and American, enjoyed success in urban cinemas.

During the economic bubble years of the 1980s, Japanese investors turned to financing Hollywood movies and Sony bought Columbia Pictures in 1989.

The late eighties also saw a breakthrough for animated movies. Otomo Katsuhiro's *Akira* (1988) achieved international success. Miyazaki Hayao's works like *Mononoke Hime* (1997) rivalled those of the Disney studios both artistically and at the box office. With *Sen to Chihiro no Kamikakushi* in 2002, he won an Oscar, a ground-breaking achievement for anime. Anime, long popular on television, had its roots in the hugely popular *manga* action comics.

Television had attained virtually 100 percent penetration by 1990, and only one percent of households were without a colour television set. Programming comprised about 50 percent entertainment and nearly 25 percent cultural shows, the remainder being news reports and educational programs. There were two main broadcasting systems: the public NHK and five private networks. The public broadcaster was subsidised by mandatory subscription fees. Leading newspapers were among the financial supporters of the major commercial channels. International programs were transmitted by

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<sup>8</sup> Sources: *Japan Zone*, see online at [www.japan-zone.com](http://www.japan-zone.com), *A Country Study: Japan*, United States Federal Research Division, Library of Congress, Call Number DS806 .J223, 1992 see online at <http://lcweb2.loc.gov/frd/cs/jptoc.html>



satellite after the government, in 1979, set up the Communications and Broadcasting Satellite Organization. Japan's first operational broadcast satellite was launched in 1984. As advertising moved from the print media to television, the coffers of the major commercial television stations grew, with revenue far surpassing that of NHK.

Samurai and *yakuza* (Japanese underworld) themes in the 1980s were almost solely the province of television, as were those of family life, ubiquitous in daytime soap operas.

Criticism continued concerning the vulgarity of some commercial programs – high levels of violence, a perceived lack of moral values in children's programming – but they continued unabated. Japan was an early pioneer of reality television programs. Content regulation mandating quotas for educational and cultural programs, compliance with which was a condition precedent to retaining television and radio licences bore fruit and these programs have grown steadily in response to good ratings. Like Australia, broadcasting in Japan is a mixed ecology of government regulation and self-regulation.

## ATTACHMENT H

### Plurilateral Request for Audiovisual Services

#### **1. Background and objective**

Further to paragraphs 25 through 27 of the Hong Kong Ministerial Declaration, and in accordance with paragraphs 7 and 11(b) of Annex C of the Hong Kong Ministerial Declaration, the Permanent Mission of the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu is pleased to present the delegation of [...] with the collective request in Audiovisual Services on behalf of the following interested Members: Hong Kong, China, Japan, Mexico, Singapore, the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu, and the United States. There is no collective request to LDCs.

This request identifies specific objectives for Audiovisual Services liberalization, while recognizing the flexibilities provided for individual developing country Members in accordance with Article XIX:2 of the GATS. The aforementioned interested Members are also deemed to be recipients of this request.

In accordance with paragraph 7 of Annex C of the Hong Kong Ministerial Declaration, this collective request is intended to complement, and not supersede, the bilateral request/offer negotiations and the specificity of bilateral requests.

The Permanent Mission of the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu has the further pleasure to invite [...] to participate in a plurilateral discussion of this request, which will be organized in Geneva during the Services cluster taking place from 27 March to 7 April, 2006.

Please note that 27 other Members have received collective requests in Audiovisual Services from the aforementioned group of interested Members, and have also been invited to this plurilateral meeting.

The aforementioned interested Members reserve the right to modify the content of this request in the future. The list of interested Members is also subject to change.

Any comments regarding this request, including written questions of a technical nature in advance of the plurilateral meeting, may be addressed to: Mrs. Jen-Ni Yang, Counsellor, the Permanent Mission of the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu.

#### **2. Plurilateral Request**

Audiovisual services, like all services under the GATS, are an integral part of the services negotiations. In accordance with the Guidelines and Procedures for the Negotiations on Trade in Services of 29 March 2001 (S/L/93), there shall be no *a priori* exclusion of any service sector or mode of supply.

Opening the audiovisual services market benefits the domestic industry by introducing new technologies, skills and business methods which in turn lead to the development of a multitude of new services, encourage investment in digital networks, and foster local creativity and innovation. A growing number of countries have come to recognize that opening the audiovisual sector to foreign participation has broad, positive spill-over effects for the local economy, including for such sectors as tourism, education and local manufacturing.

In order to achieve progressively higher levels of liberalization of trade in Audiovisual Services, Members should ensure that their new and improved commitments adhere to the following objectives:

(a) Sector coverage

Undertake commitments in the following sub-sectors:

- Promotion or Advertising Services (CPC 96111)
- Motion Picture\* Production Services (part of CPC 96112)
- Videotape<sup>†</sup> Production Services (part of CPC 96112)
- Motion Picture\* Distribution<sup>§</sup> Services (part of CPC 96113)
- Videotape<sup>†</sup> Distribution<sup>§</sup> Services (part of CPC 96113)
- Other Services in Connection with Motion Picture\* and Videotape<sup>†</sup> Production and Distribution<sup>§</sup> (CPC 96114)
  - Motion Picture\* Projection Services (CPC 9612)
  - Sound Recording Services

(b) Level of commitment

- Commitments on Modes 1 and 2 that reflect the level of *de facto* openness
- Commitments on Mode 3 without the following, to the greatest extent possible:
  - Content quotas
  - Foreign equity restrictions

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\* For purposes of clarity, this class includes, but is not limited to, celluloid film, videotape, optical disc and any digital format for primarily theatrical use.

<sup>†</sup> For purposes of clarity, this class includes, but is not limited to, videotape, optical disc and any digital format for primarily non-theatrical use.

<sup>§</sup> For greater clarity, distribution services in this context may include the licensing of motion pictures or video tapes to other service providers for exhibition, broadcasting, or other transmission, rental, sale or other use.

- Restrictions on the number of suppliers and other quantitative limitations
- Nationality or residency requirements
- Economic needs tests (ENTs)
- Restrictions on the type of legal entity
- Discriminatory tax treatment
- Discriminatory licensing requirements
- Discriminatory local production, employment, and sponsorship requirements

(c) MFN exemptions

- Reduce the scope and number of MFN exemptions in the above sub-sectors
- Clarify remaining MFN exemptions in terms of scope of application duration

(d) Flexibilities

Certain flexibilities (e.g., subsidies, co-production agreements, phase-outs...etc.) be discussed in the plurilateral negotiations.

Source: European Services Forum, see online at  
<http://www.esf.be/pdfs/Collective%20Requests/Audio%20Visual%20Services%20C%20R.pdf>