

## AUSTRALIAN SCREEN INDUSTRY GUILDS AND ASSOCIATIONS RESPONSE TO THE MEDIA REFORM GREEN PAPER 2021



The Australian screen industry guilds and associations believe that regulation is urgently needed to ensure that Australians continue to see Australian stories on their screens.

The ability and opportunity to tell Australian stories, from our own perspective and in our own voice was the result of a nationally significant public campaign: the *TV: Make It Australian* campaign in the 1960s and 1970s when Australian shows represented just 1% of content shown on television. The broadcast quota rules were introduced to remedy a ‘market failure’: viewing audience and the market for Australian content is small, making Australian content comparatively expensive to produce and access compared to the cost of acquiring international content in English. The government stepped in to ensure quality local content could be made and Australians were finally given the ability and opportunity to tell Australian stories. These stories have since helped to bring tourism to our country, enhanced our reputation overseas, and allowed us to define our identity on an international scale. Time and time again, the Australian public has shown that it is keen to see local content and support for the local content quotas is well documented.<sup>1</sup> Our local screen production industry contributed over \$3 billion in value to the economy and over 25,000 full-time jobs in 2015.<sup>2</sup> This industry brings together thousands of workers and businesses, whose crafts and skillsets run the gamut of creative endeavours, technical mastery and logistical problem-solving.

However, the quota system has not kept pace with new modes of delivery and accessibility and is in urgent need of reform. In particular, it did not anticipate the rise of streaming-video-on-demand (SVOD) platforms such as Stan, Netflix, Amazon Prime and Disney+, or advertising-video-on-demand (AVOD) platforms such as YouTube, Google and Facebook. These companies are immensely profitable and yet have no obligation to contribute to the local market they operate in. For years, the industry has been united in calling on the government to act to ensure that SVODs and AVODs give back to Australian audiences and the local screen sector.

We want to see a robust and sustainable Australian screen industry and we want to see high-quality, commercially viable and internationally competitive Australian content on our screens. We therefore support the following reforms:

1. An investment obligation on SVOD and AVOD platforms of 20%. Eligible service providers must be required to reinvest **20%** of their Australian-sourced revenue<sup>3</sup> into commissioning new Australian content. Acquisitions should not be eligible for meeting any regulatory obligation.
2. Service providers should be subject to this obligation provided that they have at least **500,000 subscribers or registered users** and **AU\$50 million per annum** in Australian revenue. The investment obligation should apply to all types of SVOD, AVOD and broadcaster video-on-demand (BVOD) services with no exemption for services owned by a corporate structure that also owns a broadcasting licence.
3. Eligible service providers must comply with genre sub-quotas for drama, children’s television and documentary and these quotas must come with promotion and discoverability requirements.
4. Eligible service providers should be required to spend 80% of their expenditure obligation on the local independent sector.
5. An increase in the direct funding of the public broadcasters who have been left with the sole responsibility of programming vulnerable genres such as children’s television for local audiences.
6. Regulation of the streaming platforms to be implemented by **1 January 2022** to reignite a contracted local production sector and cushion the blow from the loss of \$100 million in Australian content per annum.

#### **Australian content reinvestment obligation of 20%**

It’s essential that Australians continue to have access to new, diverse programming to choose from, available on the platforms we use. Streaming platforms have benefited enormously from the COVID-19 pandemic and

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<sup>1</sup> See Screen Australia, ‘Currency Report’ (2016) and Screen Australia, ‘Convergence Review’ (2011).

<sup>2</sup> Screen Australia, Currency Report (2016), 5.

<sup>3</sup> Based on the Australian SVOD market figures published by PwC. See PwC, ‘[Australian Entertainment & Media Outlook 2020-2024](#)’ report, 32-3 (2020).

enjoyed significant increases in their subscriptions while Australian broadcasters' revenues and employment levels continued to fall.

We must look to international precedent in SVOD and AVOD regulation. In Canada and France, there has been a strong push for these platforms to invest in the local screen industries of the countries they operate in. The Green Paper's proposed reinvestment obligation of 5% falls far short of these international responses. The partial deregulation of the commercial free-to-air broadcasters in 2020 will result in an estimated annual loss of \$100 million of local content and the proposed 5% quota obligation will barely be enough to compensate for this. Modelling by Screen Producers Australia shows that a 20% rate of obligation would deliver approximately \$366 million in Australian content investment annually, driving an additional 10,000 industry jobs creating over 300 hours of Australian content to streaming audiences each year.

The investment requirement should only be able to be acquitted through **newly commissioned Australian programs**. Expenditure on licensing and acquisitions should not be eligible for meeting the regulatory obligation.

#### **Eligibility requirements**

A service provider should be subject to the above reinvestment obligations if they have at least **500,000 subscribers or registered users** and generate **AU\$50 million per annum** in Australian-sourced revenue. The investment obligation should apply to all types of SVODs, BVODs and AVODs with no exemption for services owned by a corporate structure that also owns a broadcasting licence.

#### **Genre sub-quotas**

In introducing the reinvestment obligations, these eligible service providers should be subject to an additional genre sub-quota, triggered by their engagement with non-Australian content in that genre (including drama, documentary, and children's content). A proportion of the regulatory obligation should also be acquitted through commissioning of First Nations content.

#### **Discoverability requirements**

An expenditure model must also come with transmission and promotion obligations. In the absence of a transmission obligation to deliver and promote the content to Australian audiences, a service could potentially invest in Australian productions that intentionally or inadvertently might not be seen by Australians.

#### **Minimum requirement to engage with the independent sector**

Eligible service providers must be required to work with independent Australian production companies. A minimum requirement of 80% of their expenditure obligation should be spent on the independent sector to avoid a situation where the majority of regulated production is completed in-house. Such a trend would lead to a substantial reduction in commissioning opportunities, which are a necessary part of sustaining a diverse production sector. The presence of multiple participants in the industry establishes a diversity of pathways for creative professionals, which is the means by which a diversity of ideas is delivered into the content ecosystem.

#### **Increase to direct funding of public broadcasters**

The public broadcasters are not subject to local content quotas as the commercial television broadcasters, but their contribution to the local screen industry is essential. We strongly support increased funding to the ABC and SBS to ensure they can continue to commission new Australian scripted drama, children's content and documentary.

Free from commercial considerations, public broadcasters have historically commissioned landmark work that has pushed the envelope in terms of the kinds of stories being told and the diversity of Australians represented

through those stories, often demonstrating the potential audience to its commercial counterparts. This vital role must be continued and supported.

In particular, the ABC has become an essential portal for Australian kids. Following the relaxation of the commercial broadcasters' quotas for children's content, the government sought to compensate Australian audiences for the loss by providing \$20 million in funding to the Australian Children's Television Foundation. Yet there was no announced increase in direct funding to public broadcasters who have been left with the sole responsibility of programming Australian kids' content. If there is to be any return on the government's investment, the public broadcasters must be able to purchase that content and they can only do so if they are funded appropriately.

### **Implementation by 1 January 2022**

The Green Paper currently proposes that the regulation on SVOD and AVOD platforms will not be implemented until July 2022, for the 22-23 financial year. This delay will have an enormous negative impact on production. Nine Network and Network 10 both failed to meet their annual quota of first release Australian drama last year, while the Seven Network failed to produce the minimum amount of children's programs. Network 10 and Seven Network both failed to meet the quota for Australian preschool programs. Due to the pandemic, ACMA accepted the non-compliance by commercial broadcasters.<sup>4</sup> As mentioned earlier in this submission, this relaxation of regulation will result in an annual reduction in local production of approximately \$100 million and the industry is feeling its effects. We cannot wait until July 2022 for regulation. There is likely to be a damaging contraction in the sector before this time with an estimated loss of \$225 million of Australian content from April 2020. The government must act with urgency to compensate for the reduction in local production investment as a result of the relaxation of the quota obligations on the commercial broadcasters.

Signed by:

Association of Drama Agents – NSW  
Australian Casting Guild  
Australian Cinematographers Society  
Australian Directors' Guild  
Australian Drama Agents' Association  
Australian Guild of Screen Composers  
Australian Production Design Guild  
Australian Screen Directors Authorship Collecting Society  
Australian Screen Editors  
Australian Screen Sound Guild

Australian Writers' Guild  
Australian Writers' Guild Authorship Collecting Society  
Media Entertainment and Arts Alliance  
Screen Producers Australia  
Screenworks  
Visual Effects Society  
Women in Film and Television Australia

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<sup>4</sup> Sophie Elsworth, 'TV networks forgiven for content shortfalls', [The Australian](#), 10 May 2021.