



Submission to the Australian Government - Media Reform Green Paper

25 May 2021

Department of Infrastructure, Transport, Regional Development and Communications

Amazon Australia welcomes the opportunity to provide the following comments on the Media Reform Green Paper (the **Green Paper**). This submission should be read in conjunction with Amazon Australia's earlier submission dated 3 July 2020 (the **Screen Content Submission**).

Prime Video

Prime Video is Amazon's subscription streaming service. Prime Video offers thousands of movies and TV shows, including third party licensed content and critically-acclaimed and award-winning Amazon Originals.

In December 2016, Amazon made its Amazon Original series and a small selection of Hollywood films and television content available to customers in over 240 countries and territories (including Australia). Since its launch, Prime Video has added fresh new original programming.

Today, Prime Video is available to customers as a benefit with their Amazon Prime membership, launched in June 2018. Amazon Prime is a subscription membership that provides members with a range of benefits in addition to Prime Video, including free delivery on millions of local and international items, Prime Music, Prime Reading and exclusive early access to select deals. Prime Video has demonstrated a strong commitment to supporting and investing in the creation and distribution of local Australian content.

Investing in Australian content

Since 2019, Prime Video has commissioned 14 Amazon Original series in Australia, investing \$150 million in local productions, which has resulted in more than 2,500 jobs across Australia.

Those series include *The Test: A New Era for Australia's Team*; *Making Their Mark*, a series of 10 stand-up comedy specials by some of Australia's best comedians; *LOL: Last One Laughing AU* with Rebel Wilson; *Back to the Rafters*; *Luxe Listings Sydney*; and *Kick Like Tayla*. In May of this year, Amazon announced 7 new Australian Original productions, *Head Above Water*; *Warriors On The Field*; *Class of '07*; *Deadloch*; *The Moth Effect*; *The Lost Flowers of Alice Hart*; and *Burning*.

Head Above Water is an Amazon Australian Original four-part docuseries that follows elite Australian swimmers Ian Thorpe AM, Bronte Campbell OAM, Kyle Chalmers OAM, as well as former junior champion turned international musician, Cody Simpson, in the lead up to the Olympic Games in July.

Produced by McAvoy Media, Swimming Australia and Amazon Studios, *Head Above Water* will launch on 4 June 2021 on Amazon Prime Video in Australia, the United States, the United Kingdom, Canada, New Zealand and select countries, and will complete its global rollout later in 2021.

Warriors On The Field, an Amazon Australian Original documentary presented by former AFL champion Michael O'Loughlin, will be premiering on Prime Video later in 2021. The documentary explores the deeply personal and poignant stories of three Indigenous AFL players and celebrates Aboriginal Australia and its association with the Australian Football League. Sharing their stories alongside Michael, a Kurna, Ngarrindjeri, Narungga man, is current AFL player Michael 'Sonny' Walters, a Noongar man with the Fremantle Dockers, and up-and-coming North Melbourne star Tarryn Thomas, a Kamillaroi and Lumaranaana man, originally from Sydney.

Class of '07 will commence filming in Australia this December. *Class of '07* is created by award-winning Australian writer and director Kacie Anning and is produced by NBCUniversal International Studios' Matchbox Pictures. When an apocalyptic tidal wave hits during the ten-year reunion of an all-girls high school, a group of women must find a way to survive on the island peak of their high school campus. Like *Lord of the Flies* (in cocktail dresses), the series follows a group of former classmates, now freshly entangled in decade-old drama, as they attempt to survive not just the apocalypse but each other.

Deadloch is a new Amazon Australian Original comedy series written by 'The Kates' (Kate McCartney and Kate McLennan) and produced by Guesswork Television, OK Great Productions and Amazon Studios. 'The Kates' latest creation is a feminist noir comedy set against a bucolic backdrop with a rising body count. Filming of the eight-part series will commence in Tasmania this November.

The Moth Effect is a new satirical, six-part, Amazon Australian Original sketch comedy produced by Bunya Entertainment and Amazon Studios and created by Nick Boshier (Bondi Hipsters) and Jazz Twemlow (Tonightly). *The Moth Effect* will launch one episode per month, premiering on 30 July 2021, on Prime Video in Australia and select countries around the world. It brings together some of Australia and New Zealand's finest talent, including Bryan Brown, Miranda Otto, David Wenham, Ben Lawson, Jonny Brugh, Peter O'Brien, Kate Box, Sam Cotton, Christiaan van Vuuren, Sarah Bishop, Nazeem Hussain, David Woodhead and Zoë Coombs Marr.

The Lost Flowers of Alice Hart is a new Amazon Australian Original series based on the international best-selling book by Australian author Holly Ringland and starring Academy Award nominee and Golden Globe winner Sigourney Weaver. It tells the enchanting and compelling story of a young girl, Alice Hart, whose violent childhood casts a dark shadow over her adult life. It is produced by Australian hit-maker and Emmy Award-winner Bruna Papandrea and adapted for the screen by award-winning Australian writer Sarah Lambert, who serves as the series' showrunner. Award-winning Australian filmmaker Glendyn Ivin is set to direct.

Burning, the first Amazon Australian Original feature-length documentary, is produced by executive producers Cate Blanchett and Eva Orner. The show takes an unflinching look at the deadly Australian bushfires of 2019-2020, known as 'Black Summer'. *Burning* explores what happened as told from the perspective of victims of the fires, activists and scientists. Produced by Propagate Content, Dirty Films and Amazon Studios, *Burning* will launch on Prime Video in 2021.

As well as commissioning original Australian content, Prime Video continues to offer a wide range of Australian films and television shows, not only to Amazon Prime members in Australia, but also to its

more than 200 million Amazon Prime members around the world. In the United States, Prime Video directly licenses the popular Australian TV series *The Kettering Incident* and *Picnic at Hanging Rock*, which have been popular with our American audience. In Australia, local TV hits *Packed to the Rafters* and *Rosehaven* recently launched on Prime Video, and big local films such as *Palm Beach*, *Storm Boy*, *The Dressmaker*, *Danger Close: The Battle of Long Tan*, and *Ride Like a Girl*, have all performed well. We note that the Government's own commissioned analysis in the Green Paper indicates that Prime Video's catalogue contained a substantial number of Australian titles.

Views on the Green Paper

Amazon shares the common objective of promoting and celebrating Australian content among as wide an audience as possible. There are many ways to achieve this goal; for example, investing in local productions, licensing both new and older Australian content, promoting Australian content both in Australia and worldwide, and making Australian content available through a variety of models (subscription, transactional video on demand, ad-supported, etc). But because there is sustained and significant change underway in the sector we believe the best method to achieve this common objective remains unclear. Accordingly, we believe that continued flexibility remains important and prescriptive obligations could have unintended consequences. As such, we reiterate our view that any regulatory interventions at this early stage should be appropriately limited and cautious so as not to impact adversely on Australian consumers or the evolution of diverse business models that are serving their needs.

Prime Video is supportive of the Government's requests for voluntary reporting on local investments by specified SVOD providers and, to this end, provided its first report to the Australian Communications and Media Authority (**ACMA**) in April of this year. It will also provide its second report to ACMA later this year, as requested.

As indicated by Amazon Australia's investment in Australian content in the amount of \$150 million across 14 Amazon Australian Originals series since 2019, Amazon Australia does not believe there is any cogent justification for requiring it to invest a proportion of Prime Video's gross Australian revenue in new Australian content. Ultimately, we do not believe that any market failure can be demonstrated, such that a regulatory response is warranted. Amazon Australia instead urges the Government to continue to collect data and to review the situation over the next several years. If in several years' time there is a problem with the levels of investment, then some action may be necessary. However, at present we do not believe the data shows a lack of investment in Australian content and Australian production capacity by the sector.

The proposed model

The proposed model in the Green Paper includes a number of elements, namely:

- setting an expectation that streaming services invest a percentage of their gross Australian revenue in Australian content, in the form of commissions, co-productions and acquisitions;
- setting an expectation that streaming services make Australian content discoverable to Australian audiences;
- requiring streaming services to report to ACMA each year on performance against those expectations; and

- providing the Minister with the power to implement formal regulatory requirements on a streaming service that has failed to meet expenditure expectations for two consecutive years.

Notwithstanding Amazon Australia's views that a regulatory intervention at this time is unnecessary, for completeness we provide the following comments on the proposed elements of the model set out above.

We note the Green Paper indicates that "gross revenue would be limited to revenue derived from SVODs and AVODs and would exclude business functions unrelated to distribution of programming to Australian audiences." We are supportive of this considered approach to calculating relevant gross revenue. As noted above, Prime Video is available to customers as one of a number of benefits with their broader Amazon Prime membership.

Amazon Australia is supportive of the scope of relevant investments in any model being wide and not limited to specific genres. The Green Paper contemplates commissions, co-productions and acquisitions. We would like it to be clarified that acquisitions will include licensing Australian content both for Australian and overseas markets. We also suggest that regard be had to filming international productions in Australia; procuring Australian pre and post production services; investment in skills and talent development in Australia; and investment in Australian production capacity. All of these activities significantly contribute to a healthy local content production ecosystem that benefits both the sector and in turn Australian consumers.

Further, in determining what content is Australian, we note the proposal in the Green Paper to have regard to the definitions in the *Broadcasting Services Act 1992* and the *Broadcasting Services (Australian Content) Standard 2016* (ACS). We are of the view that the definition of Australian productions should be broad and reflect the diversity of stakeholders involved in today's multinational production model. Prime Video values Australian stories, but also recognises that investments in any production in Australia, at any point in the production cycle, and regardless of the specific content, are also important contributions to strengthen the overall Australian production industry. This in turn will grow the pool of talent, expertise, and capital available to produce more Australian content.

As to the matter of discoverability, it is important that any proposed obligations concerning discoverability be carefully nuanced in a world where selecting a program to watch is no longer a largely passive exercise of choosing between relatively few linear broadcasts. Prime Video empowers customers to personalise their viewing experience and select the content which best meets their needs. As a result, the service is already incentivised to promote and make discoverable Australian content on its service where such content is important to viewers. With Amazon Australia's continued investment in creating, licensing and distributing Australian content, customers are consistently presented with prominent and readily available access to these stories in feature placements across the Prime Video website, as well as external advertising campaigns to raise awareness, such as out of home advertising.

We note that whilst not part of the proposed model, the Green Paper does reference views on the levels of Australian content in catalogues, saying in particular: "*while Australian audiences are increasingly using SVODs to access content, these online services provide relatively modest levels of Australian*

content as a proportion of their overall catalogues.” We disagree that “proportion of catalogue” is a relevant metric given the context of streaming services’ offerings. Prime Video is a global service which presently contains thousands of titles. Were Prime Video required to include a certain percentage of local content, it would likely require Prime Video to reduce the amount of international content on the service to meet that obligation. The breadth and depth of content available sets a different context for examining the availability of Australian content, compared to a context where there is a limited total catalogue either because of a linear delivery model or availability in Australia only. Further, catalogue sizes change each year making meaningful comparisons difficult. Then there is the question of *where* content is available. Streaming services make Australian content available to overseas audiences. In fact in some co-production deals, the local partner is afforded an exclusive window for Australian availability whilst the streaming partner is afforded global rights. These nuances in how the content production industry operates should not disadvantage or undervalue investments made by the streaming sector.

Lastly, with respect to the proposed exemptions, we note that the proposed obligations “*would not apply to an individual SVOD or BVOD owned by the holder of a broadcast licence or a subscription television licence.*” We urge the Government to reconsider this favouring of streaming services owned by television licence holders. The proposal to exempt these services would distort the streaming service sector and create an uneven playing field.

Prime Video welcomes the opportunity to discuss these matters further as the Government progresses its consideration of these important issues.

Sincerely



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Head of Prime Video Australia