

Response to Supporting Australian Stories on Our Screens Options Paper

Submission by **Amanda D. Lotz, Anna Potter, and Kevin Sanson**

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Executive Summary

We agree that policy modernisation is critically needed to support Australian stories on our screens, but argue that the scale of disruption is even greater and more comprehensive than that suggested in the Options Paper.

Of the options offered, we recommend implementing **Model 3, Option A2**. This option is the only one that acknowledges the magnitude of complexity that policymakers face in modernising Australia's regulatory frameworks and funding supports intended to ensure supply of Australian drama, documentary and children's content.

We propose, however, that the suggested model would benefit from a number of amendments.

We make three key recommendations to promote policy that is fit for purpose:

- **Accept there are multiple 'playing fields' so that 'levelling' or making 'neutral' are impossible aims.** Effective policy must instead seek to accommodate the complexity of the ecosystem.
- **Establish a contestable fund for Australian drama, documentary, and children's content** designed in such a way that it will support Australian stories with cultural value and make them available to Australians of all ages.
- **Establish an independent agency to administer the fund solely based on cultural value criteria.** Policy aimed at supporting the national production sector must be disarticulated from policy aimed at delivering cultural value to Australian audiences. A distinct entity that is independent of production sector advocacy is necessary to effectively assess and evaluate exactly what constitutes cultural value and deserves support from a contestable fund.

Approach to regulation: essential components of effective reform

Due to the scale of change in national and global television industries over the last 20 years, existing regulatory frameworks are no longer fit for purpose. These changes include the *introduction of digital technologies* and the *multi-channelling* that heralded the beginning of audience fragmentation, *the launch of VOD and SVOD services* from both national and US-based providers, and the *growing internationalisation* of the screen production and distribution sector. Moreover, in recent decades, *policies designed to ensure cultural value to the Australian people have been subordinated* to direct and indirect funding schemes that have prioritised economic interests in the sector over cultural value aims.

In order to respond to these technological changes and internationalisation of the television business beyond Australia's shores, **modern Australian policy and regulatory frameworks for audio-visual content must:**

- acknowledge the complexity and differences among content services
- advance both accessibility and availability of culturally-significant Australian content, specifically children's, drama, and documentary

- distinguish between the achievement of objectives related to production sector support (economic) and the telling of Australian stories (cultural) in its expression and administration
- require transparency in screen bodies and agencies whose remit includes the achievement of either cultural or economic objectives

1. Sector conscious, not platform neutral

The Options Paper expresses the goal of creating a ‘level playing field’ among ad-supported, linear broadcasters and multinational and national SVODs. Such a goal fails to appreciate the dynamics in the Australian television ecosystem. What we see in our living room obscures how different the situation is behind those screens. ‘Providing video’ does not create a common industry sector.

A level playing field is impossible among ad-supported, linear broadcasters and SVODs because of their *different technological affordances, the fact they compete in different markets, and their use of different technological tools in support of discrepant business models and aims*. Some video services are competing for advertising dollars (e.g. Channels 7, 9 and 10), while others try to earn subscriber payment (e.g. Stan, Netflix, Disney +), and public service broadcasters rely wholly or in part on government funding (e.g. ABC, SBS). For some, video distribution is their core and only business (e.g. Netflix); for many others – particularly among SVODs – offering video is part of a strategy that supports a different, primary revenue stream (e.g. retail/Amazon; hardware/Apple). From a business standpoint, SVODs bear more resemblance to video rental stores than linear, ad-supported channels. SVODs do not compete for advertiser dollars, though they do draw attention out of the market.

Table 1: Different playing fields cannot be made level

	Linear channels	SVODs
Distribution technology	Broadcast	Internet
Temporality	Live schedule	On demand
Revenue/funding	Ads; govt	Subscriber fees
Reach/scale	Nation/region	Multinational
Content aim	Broadly attractive	Specific, exceptional
Content focus	Multifaceted	Scripted series, films, and docs
Success metric	Number of viewers	Number of subscribers

Existing policy was created for an industry with uniform business models. Although Foxtel does not use broadcast distribution technology, it relies enough on advertising to have similar content strategies and key performance metrics as commercial broadcast channels. Different revenue sources lead video services to different metrics of success and different program strategies. As an illustration of these differences, consider that much of the programming SVODs deliver quite successfully – drama (children’s and adult) and documentary – have been regarded as ‘market failure’ forms for Australian commercial broadcasters. The forms are not intrinsically failures. The competitive conditions of *ad-*

supported, linear delivery made these forms market failures. Drama (children's and adult) and documentary are much better suited to services that are subscriber- or government-funded, able to deliver content on demand, and able to resonate among more specific taste clusters with multinational scale.

SVODs complement existing options, and the scale of uptake of SVOD services in Australia indicates they provide a value proposition that Australians rank significantly. Modernised, 21st century policy must deal with the complexity of a multifaced sector. In terms of preserving and ensuring subquota priorities, SVODs reproduce only a fraction of what broadcast television offers – scripted series, film, documentary, and minimal reality –thus do not threaten to *replace* national broadcasters.

Although subscriber- and government-funded services do not compete against commercial broadcasters for advertiser dollars, fragmentation caused by digital multichannels, catch-up services, as well as SVODs have irrevocably changed the Australian video ecosystem. Despite the new complexity of the field, broadcasters remain advertisers' best vehicle for mass advertising. Advertising earnings have diminished as a result of fragmentation, but this is likely a consequence of commercial linear networks' failing viewer proposition. The mass advertising opportunity broadcasting offers makes it different from – thus more resilient to – new advertising mechanisms such as search and social media that have eviscerated print media businesses. In fact, the diminishing supply of mass audience reach, should create increased demand among advertisers for broadcast advertising.

Commercial broadcasters will have to innovate to keep pace with ecosystem change. Rather than require that they use scarce schedule capacity for program forms poorly suited to their distribution technology and revenue model, they can better deliver their obligations to Australians by paying into a contestable fund. Commercial broadcasters continue to rely on public spectrum and protection from new broadcasters, so they too must maintain obligations to Australian culture, although a mechanism more suited to the current ecosystem is warranted. The once-extraordinary margins of commercial broadcasters may have diminished, but they remain strong businesses. Though these businesses have experienced considerable disruption, it is not the role of policymakers to protect businesses (p.5 Options Paper) that fail to adopt their value proposition in response to a changing competitive environment.

2. Contestable fund for Australian stories

Model Three proposes that all commercial content providers operating in Australia either invest a percentage of their Australian revenues in Australian content that must be distributed on their services, or make an equivalent contribution to a new Australian Production Fund (APF). We understand this fund to be a contestable funding scheme comparable to those successful in other countries and funded primarily by commercial providers in the proposed scheme. A properly designed contestable funding scheme in Australia provides a sustainable replacement for existing hours-based content quotas and recognises and accommodates Australia's transforming television industries.

We support the establishment of a contestable Australian Production Fund, but with several caveats:

- the fund only supports children's, drama, and documentary programming
- the fund only supports content that tells identifiably Australian stories with significant cultural value, including age-specific, high-quality, live-action drama for children
- the fund complements and does not replace any local content spending obligations placed on the ABC and SBS for children's television, as proposed in the Options Paper

Contestable funding schemes are considered an effective means of supporting the production of high-quality domestic content with public service values that achieves national cultural objectives in other countries where domestic production funds have been introduced. These schemes support the distribution of public money beyond existing institutions, particularly PSBs (or commercial providers with PSB obligations). Contestable funding rests on the assumption that public service content can be made by both private and public organisations, with more diverse content created by a broader range of providers working competitively outside PSB institutions.¹ Contestable funding schemes are seen as a means of encouraging greater innovation and variety in storytelling, and of ensuring that media content with public service values becomes available on platforms and services that may have a wider reach than PSBs themselves.²

To be clear, existing, effective contestable funding schemes foreground support for content with significant cultural value. Other schemes, like quotas, may increase the quantity of local production in lower budget entertainment formats, but not necessarily more robust production of local drama, documentary, and children's programming that meet public service values and national cultural objectives.³ As we argue in more detail in the next section, simply increasing industrial activity alone will not produce distinctive cultural outputs that resonate with a diverse range of audience needs in era of abundant choice.

Funding schemes for contestable funds supporting content with public service values are resourced in a variety of ways, some from direct taxation (New Zealand) and some by levies on commercial players (France and Canada). In Ireland and Denmark, contestable funds are financed from the licence fee. Not all funds (the National Cinema Centre in France, the Canadian Media Fund) are strictly contestable.⁴ Countries have different reasons for introducing contestable funds (e.g. New Zealand, which has had no public service media since the de-regulation of the sector in the late 1980s, and the UK, where levels of local

¹ Steemers, Jeanette and Feryal Awan. 2016. *Policy Solutions and International Perspectives on the Funding of Public Service Media Content for Children: A Report for Stakeholders*. University of Westminster, London.

² Ofcom 2008 Contestable PSB Funding: Delivering Diversity. Final Report. London: Ofcom.

³ Micova, Sally Broughton. 2013. "Content Quotas: What and Whom Are They Protecting?" In: *Private Television in Western Europe*, edited by Karen Donders, Caroline Pauwels, and Jan Loisen. Palgrave Macmillan, London

⁴ Steemers, Jeanette and Feryal Awan. 2016. *Policy Solutions and International Perspectives on the Funding of Public Service Media Content for Children: A Report for Stakeholders*. University of Westminster, London.

children's television plunged after local content quotas were removed in the 2003 Communications Act).

Finally, any APF must *complement and not replace* the local content spending obligations placed on the ABC and SBS for children's television, as proposed in the Options Paper (p.41). Further, access to funds from APF should not replace current budget commitments to children's and adult drama and documentary. Rather, given the expected loss of these forms from commercial broadcasters, the funding from the APF should augment current PSB commissioning levels. Without specific local regulations or legislative requirements, the ABC's provision of local content for Australian children remains entirely up to the Corporation's Board and senior executives in processes that lack transparency and mechanisms of accountability. It should also be noted that countries that offer contestable funds without accompanying content quotas can struggle to attract broadcaster interest.⁵ Such outcomes would need to be considered in the design of any Australian scheme.

3. An independent agency to support cultural value

Government support for Australian television has increasingly struggled to make meaningful distinctions between cultural concerns and economic imperatives. A number of advocates for more robust policy interventions, like the Make It Australian Campaign, have pursued a similar logic, erroneously conflating the cultural value of local screen content with the economic impact of local production activities. The extent to which content serves the public interests of local audiences has been overlooked in the interest of quantifiable industry sector dynamics – revenue, export value, jobs, and a percentage of programming time. As a result, existing debates have been reductive and confusing, making it largely impossible to adequately assess what purposes local content best serves, for whom, and how.

Effective support for Australian stories must address the cultural value of content as a distinctively meaningful concern separate from the marketplace. Disarticulating cultural value from commercial activities allows for a much more diverse interpretation of public interest that is more attuned to issues of social cohesion and unity, identity and belonging, tradition and heritage, diversity, and creative experimentation.⁶ These activities are not wholly distinct from economic imperatives, as any local production activity generates employment opportunities and potential revenue, but it nevertheless affords the sector a way to imagine local stories for local audiences without the immediate pressures of a rapidly changing marketplace. It also enables the industry to imagine these audiences in a range of configurations that are 'fit for purpose,' recognizing the distinct business models and affordances that differentiate the streaming services, pay-tv operators, commercial broadcasters, and public service media. In short, policy intervention is most effective when it generates opportunities the marketplace cannot provide.

⁵ Steemers, Jeanette and Feryal Awan. 2016. *Policy Solutions and International Perspectives on the Funding of Public Service Media Content for Children: A Report for Stakeholders*. University of Westminster, London.

⁶ O'Connor, Justin. 2016. "After the Creative Industries: Cultural Policy in Crisis." *Law, Social Justice, & Global Development*. 1: 1-18.

Further, an independent agency is necessary to establish, assess, and evaluate exactly what constitutes cultural value and deserves support from a contestable fund in a manner that is transparent to the public and consistent in its application. In the Options Paper, Screen Australia is given oversight of the Australian Production Fund (p. 41). Yet, the scale and complexity of change is simply too much for an existing organization to resolve – *unprecedented challenges demand a dedicated support mechanism unencumbered by legacy practices and competing objectives.* Screen Australia already exerts significant influence over the sector in its administration of critical state subsidies. A new agency effectively removes the double burden on Screen Australia of growing the production industry *and* developing culturally significant programming. Indeed, the Screen Australia Act of 2008 already prioritizes the economic metrics of innovation and commercial sustainability, describing the development of programs of national interest as non-binding and necessary only ‘as far as practical.’ This makes culture a second-order priority, often subsumed to other criteria like the nationalities of cast and crew that may have little bearing on the ‘Australianness’ of the content. A dedicated independent agency is the only way to preserve the distinctively cultural dynamics of Australian storytelling that make it worthy of government support in the first instance.

Modern policy for Australian stories

There can be no doubt that the processes of screen policy reform have been stalled for far too long, to the detriment of Australian audiences, broadcasters, and the domestic production sector. We make this submission as independent scholars, rather than industry stakeholders. To be very clear about the priorities guiding these recommendations, we do not seek to diminish Australian television stories in suggesting the value of contestable fund contributions over local program quotas, but we take this position because our understanding of the broad adjustments to the logics of television production in Australia (and globally) suggest this is the only way to safeguard the telling of Australian stories. The creation of a level playing field among such disparate entities is impossible; but Option Three is the policy response most likely to lead to more equitable and sustainable processes and policies to support the telling of Australian stories on our screens.

Moving from quotas to a contestable fund is the type of modernisation required to bring policies – originally designed for an ecosystem in which broadcasters were protected by provider and content scarcity – into the 21st century. The only way to return to ‘how things were’ is to eliminate the digital multichannels and the control over viewing provided by on-demand access. Not only is this entirely impossible, it would also be a terrible disservice to Australian audiences whose enthusiastic uptake of SVODs suggests a lack of satisfaction with the television on offer prior to their introduction. The past economic conditions derived from scarcity are a historical relic; clearly the policies of those norms cannot be rehabilitated, and require replacement. Modernisation requires a radical rethinking of core principles in the light of current industrial and economic conditions and use of all tools contemporary technology makes available.

In closing, we highlight the tremendous opportunity presented by policy modernisation. Digital distribution enables audio-visual policy to take on new dimensions. It provides regulators with new tools. Contemporary policymakers must take measures that ensure both availability (the creation of Australian content) as well as accessibility (tools that

ensure that content can be accessed). One of the greatest tools of internet distribution is the expanded accessibility it offers by allowing viewers to engage on their own schedules rather than the limited dictates of the broadcast schedule. But access too has costs. The scarcity of broadcasting has made many of the hours of Australian content produced with government funds only limitedly accessible. Contemporary technologies can allow much more value to be derived from those and newer titles that contain millions of dollars of Australian investment. But policymakers must design best practices regarding accessibility in an on-demand era.