

Supporting Australian stories on our screens: Options paper

Victorian Government - Film Victoria submission

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Introduction

The Victorian Government supports Model 3: Significant change which aims to establish platform-neutral, future facing obligations and incentives that take into account individual platform offerings and audience engagement. However, it is essential that the new Australian content investment requirements are coupled with a points or hours based system that provides a safeguard mechanism to ensure Australian production and programming does not diminish. The regulatory reforms must also create a new paradigm to support the ongoing creation and sustainability of Australian children's content.

Since the 1970s government interventions have ensured that uniquely Australian screen stories are made, are easily accessible by all Australians and are supported through the development of a vibrant screen production industry in Australia. The policy objectives of these interventions are more relevant than ever, and the Victorian Government endorses the following broad policy principles outlined in the options paper:

- Australian screen stories are important culturally and economically.
- Our stories should be available on the screens we watch.
- Regulation and incentives should be fit for purpose, effective and efficient.

The Victorian Government also believes the new regulations should:

- Be flexible to capture other media/technology services if required as they grow and evolve.
- As far as possible apply equitably to different market players but recognise this does not necessarily mean imposing identical regulations across all entities due to their unique business models.
- Minimise harm, maximise benefit and grow the overall industry.

The industry has faced significant change since the Australian Content Standards and Australian Screen Production Incentive were introduced and therefore the Victorian Government supports regulatory change to ensure the ongoing creation and production of Australian stories for Australian audiences.

We believe that all platforms that have cultural impact and derive benefit from operating in the Australian market, including through the use of publicly owned spectrum or national broadband and telecommunications networks, should contribute to the creation of new Australian content and support the extension of regulation to online subscription services. The new regulations should help the Australian screen industry grow in step with the global industry and also deliver cultural and economic outcomes.

We acknowledge the challenges faced by the commercial free-to-air (FTA) broadcasters due to industry and market disruption. However, while FTA broadcasters have free and universal reach, dominate audiences by number of viewers and benefit from ongoing regulatory concessions, they should continue to invest in Australian stories. The harmonisation of production incentives and a 'cultural uplift' for production of certain Australian content will assist them to meet these obligations.

This submission is structured in response to the proposed features of Model 3: Significant change.

Australian content investment requirements

The Victorian Government supports:

- ***The establishment of new Australian content investment requirements that apply to all commercial content service providers, including subscription services, that requires them to invest a percentage of their revenue (across all services) in new Australian scripted programming.***
- ***The implementation of Option A but prefers that service providers are required to make Australian content available on their Australian service/s, rather than make an equivalent contribution to a new Australian Production Fund (APF).***

Film Victoria also recommends the following in relation to the Australian content investment requirements:

- The investment rate is based on the content service provider's total Australian revenue from their local service/s.
- The investment mechanism is flexible enough to suit different business models, market positions and public interest obligations.
- The revenue approach is coupled with a points or hours based system that provides a safeguard mechanism to ensure Australian production and programming does not diminish. This system should be structured in a way that:
 - ensures at a minimum that current levels of production activity are maintained;
 - leverages future market growth opportunities;
 - scales with the amount of investment so that content service providers with higher revenue are required to produce a proportionately higher volume of content;
 - incentivises the production of first release Australian scripted programming in drama, documentary and children's content;
 - provides flexibility for individual content service providers to commission content suitable for their business model and audience; and
 - allows the regulations to be extended to commercial video sharing platforms such as Facebook within two years of their initial implementation.

- The Federal Government undertakes modelling to determine the volume of Australian content likely to be produced under this system each year, including the volume of drama, documentary and children's content, and compares the results to existing production levels.
- Existing definitions of Australian content, Australian program, drama program, documentary program and children's program should continue to be used to define Australian scripted programming.
- The definition of 'first release' is revised to remove New Zealand content.

Children's programming

The Victorian Government supports the requirement for the ABC and SBS to allocate specified amounts of funding for Australian children's programming to distribute on their services, whether linear or online.

Film Victoria also recommends the following in relation to children's programming:

- The Federal Government increases funding for the ABC, SBS and the Australian Children's Television Foundation (ACTF) to help offset the expected decline in children's programming under the reformed regulations.
- The ACTF undertakes a governance review to ensure it is well placed to support children's programming into the future.
- A broad range of content providers should be supported to create children's content (e.g. YouTube) provided they can demonstrate a pathway to an Australian children's audience.
- P and C classifications for children's content should be replaced with a single children's classification for audiences up to 16 years old.

Promotion and discoverability

The Victorian Government supports the introduction of flexible, principles-based promotion and discoverability requirements for Australian content that apply across all platforms.

Film Victoria recommends that the promotion and discoverability requirements include:

- Catalogue or exhibition requirements that set a minimum percentage of Australian content to be included on the platform.
- A strong focus on primary channels for free-to-air broadcasters.
- Prominence obligations and requirements to promote Australian content through a variety of ways suitable to the platform such as a dedicated section for Australian content, the ability to search for Australian content through the search tool, and campaigns, banners and other promotional tools to highlight Australian content.

Reporting requirements

The Victorian Government supports:

- ***Introducing new reporting and transparency requirements across all platforms in line with their respective obligations.***

- ***The requirement for the national broadcasters to report to Parliament on their compliance with requirements to fund certain levels of content and total Australian drama, documentary and children’s programming expenditure and hours broadcast/provided online.***

Film Victoria recommends that the reporting requirements include:

- Revenue, expenditure, hours, format, channel/service, audience views, algorithms for Australian content, and any other data relevant to the new regulations.
- Consistent data collection to allow comparison between content service providers and across years.

Incentives

The Victorian Government supports the creation of a single rate for the Producer, Location and PDV Offsets for content on all platforms, creating a platform neutral approach.

Film Victoria also recommends the following in relation to incentives:

- Creating a new single rate of 30%.
- Screen Australia retaining administration of the offset for local production, the Department of Communications, Cyber Safety and the Arts retaining administration of the offset for international and post, digital and visual effects (PDV) production, and Ausfilm continuing to market Australia as a destination for the attraction of international production activity.
- Allowing all content forms (e.g. short form content, augmented reality, virtual reality) to be eligible for the offset provided they reach the minimum Qualifying Australian Production Expenditure (QAPE) thresholds (i.e. no minimum duration requirements).
- Extending the offset to digital games as the visual effects skills supported by the PDV Offset are the same skills used in the production of digital games. Providing an offset for digital games has been recommended by previous Victorian Government submissions and the 2016 Senate inquiry on the future of Australia’s video game development industry to ensure government support is provided as equitably as possible across related screen industries.
- Ensuring the phrasing of the regulations is broad enough to cover any future platforms so the regulation does not quickly become out of date. For example, the phrase ‘audio visual media content’ is used by the European Union and Canada and may be suitable.
- Making a reality television program (other than a documentary) an ineligible format under all three streams of the offset.
- Removing the 65-hour cap on drama.
- Maintaining three separate streams within the offset for local, international and PDV production with different eligibility criteria.
- Simplifying the thresholds and applying different QAPE thresholds to different forms of production as follows:
 - Local production: simplify to a single \$500,000 threshold and remove minimum QAPE per hour thresholds.
 - PDV: retain \$500,000 threshold.
 - International production: retain \$15 million threshold and remove minimum QAPE per hour threshold for television series.

- Including a requirement for projects to demonstrate an appropriate pathway to their audience.
- Continuing Screen Australia's role to directly fund quality content of cultural significance.

Cultural uplift

The Victorian Government supports the introduction of a 'cultural uplift' for children's content and features that pass a significant Australian content test.

Film Victoria also recommends the following in relation to the cultural uplift:

- Administering the cultural uplift through Screen Australia in a similar model to the existing co-production model.
- Extending the cultural uplift to drama and documentary programs as currently defined in the Australian Content Standard.
- Developing an eligibility test that is stricter than the existing significant Australian content (SAC) test for the offset to distinguish between Australian-made and uniquely Australian stories. Suitable eligibility criteria for the stricter test may include Australian subject matter, Australian writer, direct and producer, and majority Australian key cast.

Implementation

Film Victoria recommends the following in relation to implementing the new regulations:

- Commencing as soon as possible.
- Providing a clear commencement date and grace period for content service providers to be fully compliant.
- Monitoring production activity levels and reviewing the regulations on a periodic basis (e.g. every two years) to ensure they are meeting policy objectives.

Reintroduce FTA content quotas from 1 January 2021 to be retained until new regulations are in place.