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Screen Producers Australia's response to the Inquiry into the Broadcasting and Other Legislation Amendment (Deregulation) Bill 2014

Screen Producers Australia was formed by the screen industry to represent small-to-medium enterprises across a diverse production slate of feature film, television and interactive content.

As the peak industry and trade body, we consult with a membership of more than 300 production businesses in the preparation of our submissions. This consultation is augmented by ongoing discussions with our elected Council and appointed Policy Working Group representatives. Our members employ hundreds of producers, thousands of related practitioners and drive more than \$1.7 billion worth of annual production activity from the independent sector.

On behalf of these businesses we are focused on delivering a healthy commercial environment through ongoing engagement with elements of the labour force, including directors, writers, actors and crew, as well as with broadcasters, distributors and government in all its various forms. This coordinated dialogue ensures that our industry is successful, employment levels are strong and the community's expectations of access to high quality Australian content have been met.

Screen Producers Australia welcomes this opportunity to respond to the Standing Committee on Environment and Communications' Inquiry into the Broadcasting and Other Legislation Amendment (Deregulation) Bill 2014. Our submission addresses the following three issues:

- 1. Further information is required to make an informed recommendation**
- 2. A comprehensive review of regulatory models will avoid unintended consequences**
- 3. Transparency and accountability in broadcasting policy are crucial community safeguards**

Screen Producers Australia’s response to the Standing Committee on Environment and Communications’ Inquiry into the Broadcasting and Other Legislation Amendment (Deregulation) Bill 2014 specifically addresses the removal of auditing requirements for Australian content on subscription television. As indicated in the referral of the Bill, this has the potential to significantly impact the amount of Australian content in the local broadcast media landscape.¹

Division 2A of the Broadcasting Services Act requires certain subscription television channel providers and licensees to spend at least 10 per cent of their total programming expenditure on new Australian or New Zealand drama productions or co-productions. Scheme participants are required to report their annual eligible drama expenditure for the financial year by 29 August in the following financial year.

Each annual return is submitted in a form approved by the Australian Media and Communications Authority (ACMA) and must be accompanied by a certificate from a registered auditor that states, in the auditor’s opinion, the return is correct. The ACMA has advised that since the Scheme became mandatory in 1999, subscription television licensees and channel providers have reported a high-level of compliance. The Bill therefore removes the Scheme’s audit requirements.

As indicated in the Explanatory Memorandum, the ACMA has advised that doing so will remove a significant administrative and financial burden on the subscription television industry. The Bill does not affect the level of Australian drama expenditure required by subscription television licensees. The ACMA will maintain compliance strategies including the judicious use of its power to make inquiries about information received in reports from licensees and channel providers in order to retain a level of confidence in industry compliance.

Screen Producers Australia supports initiatives by the Federal Government and the ACMA to reduce regulation and red tape affecting business. However, our support is offered only in such cases where the benefits clearly outweigh the costs. Not just in relation to the creative and commercial interests of our member companies, but equally the overall level of investment in the sector as a whole and the effect this has on meeting the audience’s expectations of access to great Australian content.

1. Further information is required to make an informed recommendation

The ACMA has indicated that the removal of the auditing requirements will result in a significant reduction in administrative compliance for the subscription television industry. However, it is Screen Producers Australia’s view that further analysis should be released to make an informed assessment of this Bill.

All regulation requires some administrative processes and a high-level of compliance is not reason enough to remove the auditing requirement. The relative costs and benefits have not been clearly communicated and importantly, the degree to which the high-level of compliance has been achieved as a result of the auditing requirement remains unclear.

¹ http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Environment_and_Communications/Broadcasting_Deregulation

2. A comprehensive review of regulatory models will avoid unintended consequences

It is Screen Producers Australia's preference that there be a comprehensive review of the different regulatory models for broadcasting, both domestically and in comparable international markets. This is the only way to ensure that the most efficient checks and balances are in place to best deliver the intended policy outcomes.

There are clearly dangers in unpicking requirements independently of this process and attempts to do so it would seem inconsistent with the Federal Government's broader deregulation roadmap. In the context of a broader review there would be an opportunity to debate the merits of different approaches, such as random audits as opposed to compulsory ones.

Furthermore, if there is an appetite to consider expanding expenditure requirements on other delivery platforms, such as IPTV or OTT services, then lowering the reporting standards may result in substantial unintended consequences in the future.

3. Transparency and accountability in broadcasting policy are crucial community safeguards

Whilst this Bill does not propose the reduction or removal of the expenditure obligation, and it is pleasing to have assurances from the Department of Communications that the ACMA will continue to provide a transparent publication of results against the scheme, there has not been a compelling case made during this consultation to support removing of this accountability.

Historically, different processes have been used for different quota mechanisms for good reason. In the case of subscription's drama requirement, the expenditure model is inherently less transparent than the broadcast hour model, and the independent audit offers a level of accountability for what is complex financial reporting. On that basis, there remain many reasons to continue the auditing requirement and to ensure that the ACMA have the skills and capacity to investigate as required.