



ADG AND ASDACS SUBMISSION
SUBMISSION TO THE SENATE COMMITTEE INTO THE ECONOMIC AND
CULTURAL VALUE OF AUSTRALIAN CONTENT ON BROADCAST, RADIO
AND STREAMING SERVICES

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AUSTRALIAN DIRECTORS GUILD &
AUSTRALIAN SCREEN DIRECTORS AUTHORSHIP COLLECTION SOCIETY

28/330 Wattle St, Ultimo. NSW. 2007.

www.adg.org.au and www.asdacs.org.au

1. ABOUT THE ADG AND ASDACS

The Australian Directors Guild (**ADG**) is the industry association and union representing the interests of film and television directors, writers/directors, documentary film makers and animators throughout Australia. Formed in 1982, it has over 800 members nationally and has recently been registered as an association of employees under the *Fair Work (Registered Organisations) Act (Cth) 2009*.

The Australian Screen Directors Authorship Collecting Society (**ASDACS**) is a collecting society representing the interests of film and television directors, documentary filmmakers and animators throughout Australia and New Zealand. It was established in November 1995 in response to support from the French collecting society, SACD, which had collected the director's share for Australian directors for income arising from private copying schemes. The purpose of ASDACS is to collect, administer and distribute income for Australian screen directors arising from secondary use rights.

Contact for the ADG & ASDACS

Kingston Anderson (CEO)

INTRODUCTION

The Australian screen industry is at a crossroads with several government enquiries into content on our television screens and government intervention into the industry through offsets and general funding as well as pressure from overseas streaming services brought about by the digital delivery of content.

In question are the support mechanisms that the government has enacted over time to support and grow the screen industry. It is clear from the success of the screen industry whether from a cultural or economic perspective that these measures have been vital to this success, whether this be through tax benefits delivered as tax rebates or offsets for production or through quotas for Australian content on television or through the successful operation of organisations like Screen Australia.

A simple comparison can be made between cinema and television. There are no quotas for the screening of Australian films in the cinema. This has resulted in only 3 4% of cinema films being Australian. This can be compared to countries like South Korea where over 80% of cinema films are Korean, due to a content quota that has created one of the most vibrant and exciting film industries in the world.

In Australia, the 50% Australian content quota on television has been just as effective with high quality popular television shows being made for Australian audiences. Think what an exciting cinema industry we could have created if the kind of support that television gets had been applied to film. Now our cinema screens are dominated by American product (75% on average) with little chance of Australian films tasting the success of the \$100m + Hollywood blockbusters.

But times have changed and the advent of streaming services have created a major shift in the economics of the industry. We are at a crossroads in terms of content on our screens. Currently there are no obligations on streaming services to Australian audiences even though they are making hundreds of millions of dollars from these audiences. This has created a disadvantage for our broadcasters both free to air and cable. These services have obligations to the Australian public to create and broadcast Australian content. We think the new streaming services should have the same obligations.

The ADG and ASDACS believe that the government should be involved in supporting all forms of Australian content on our screens and that there should be an Australian Content Guarantee that is platform agnostic. This guarantee should look at the different ways this can be delivered and apply the most appropriate policy settings to deliver this guarantee. Our submission aims to respond directly to the questions outlined in this review by the Senate committee and draws on our two previous submissions in 2017 to the House of Representatives Standing Committee on Communications and the Arts as well as the Australian and Children's Content Review.

CURRENT STATE OF THE TELEVISION INDUSTRY IN AUSTRALIA

The Australian television industry stands at a crossroads with the Commonwealth Government having recently completed two enquiries into the industry and for the first time considering a change to the content quotas established over 40 years ago to protect and develop Australian content on our television screens.

Most Australian screen directors represented by the ADG are television directors, whether they be drama directors or directors of documentary or reality television. It is the industry that sustains most full time professionals in Australia and has enabled the growth of our feature film and offshore industry. Without the production of Australian content for our television screens we would no doubt not have a major industry that employs tens of thousands of technicians and creatives as well as generating billions of dollars for the economy.

We have seen a major increase in the quality of Australian television drama over the past ten years due to the changing nature of the industry globally. More Australian feature film directors are moving into the television area both in Australia and overseas. The recent nomination of Kate Dennis for an Emmy Award for directing an episode of “The Handmaid’s Tale” is an indication of the quality of talent we develop in Australia. Kate started her career on shows such as “Love My Way” and “Offspring” and she has paved the way for many other talented Australian directors to work both in the US and at home.

Australians are not only producing strong local content that resonates with local audiences (Molly, Bond, Offspring, Doctor Doctor) but they are producing work that is being shown around the world and in some cases franchised (Miss Fishers Murder Mysteries, No Activity, Tidlands). Some are on conventional platforms and some are on the new streaming services which are fast becoming the new television model for the 21st century.

Streamers such as Netflix and STAN and the new players coming into our market Amazon Prime, CBS, Apple, etc, have a global perspective and do not see Australian content as vital to their business plans. This increasing internationalisation has seen several countries including Canada and the European union impose obligations on streaming services such as Netflix to support local stories. We have also seen a change in the UK who in 2003 abolished quotas for children’s TV which saw a 93% drop in children’s programming. Children’s quotas are going to be re introduced as a result.¹

We do not have the luxury that our colleagues in the UK have when it comes to these decisions. Under the terms of the US Free Trade Agreement if we reduce or abolish our content quotas we cannot bring them back. We do have the ability of imposing new ones on the new streaming services but if the current quotas for children’s, drama and documentary are abolished they cannot be reinstated. What is also alarming is the fact that the Minister now has this power without reference to Parliament.

¹ Ofcom, the UK office of Communication. 2018.

Television is always nominated by the public as the main place they get stories about Australia. Research by Screen Australia has shown the high value that the public place on these stories and their ability to access them. In a study they undertook in 2013 they asked Australians what they watched and why and came up with a clear picture of a viewing audience that values Australian stories on television extremely highly.

Local screen stories were an important part of participants' media diets. They had watched a wide range of TV programs, TV series and films, which fell into various content clusters or genres.

Television was the key access point to Australian content, with a range of barriers preventing viewers from making the trip to the cinema to catch a local film.

More broadly, Australian content played an important role in the interior lives of participants and their sense of cultural identity.

For many it was a valuable platform for the telling of 'our own stories' – be they portrayals of Australian history (Indigenous or otherwise), real people and events, or fictional tales that captured our way of life and the complexity of our contemporary, multicultural and urban culture.²

We have a strong, vibrant and high quality television industry that produces a variety of programs across a range of platforms. But the commercial pressures being brought to bear by streaming services has seen the reduction in the commitment from commercial networks to long form drama. The traditional 12+ episode drama series has gone from our screens with the maximum number of episodes going to 6. We have seen a slight decline in television hours from 502 hours in 2012 to 457 in 2017 but with a spend increase from \$305m in 2012 to \$321m in 2017.³

But the interesting fact is that because of the television quotas it has produced a stable industry producing enough local content that audiences can enjoy and an industry can be built upon. We would predict that if the quotas were reduced or abolished there would be a massive reduction in these figures in the first year.

² "Hearts and Minds". Screen Australia, 2013.

³ "The Drama Report 2016/17", Screen Australia, 2018. P. 11

THE CONTRIBUTION OF AUSTRALIAN TELEVISION TO THE ECONOMY

There is no doubt that the screen industry and in particular television is a vital part of the Australian economy. There have been numerous reports and studies done over the years and one of the most recent by Deloitte Access Economics for Screen Australia is worth quoting at length as it gives a clear picture of the size and scope of the industry.

In 2014-15, the total economic contribution of the Australian screen sector for Broad⁴ Australian content was an estimated \$2.6 billion in value add and almost 20,160 in FTE jobs. This total value add is the equivalent of around 5% of Australia's information media and telecommunications industry or 18% of its arts and recreation services⁵.

In 2014-15, the total economic contribution of the Australian screen sector for Core⁶ Australian content is an estimated \$847 million in value add⁴ and 7,650 in full-time equivalent (FTE) jobs. This total value add is the equivalent of around 7% of Australia's arts and recreation services industry. Free-to-air (\$212 million) and lm and television production (\$153 million) were the largest contributing subsectors to estimated direct value add, with the production subsector the greatest contributor to employment (2,683 in estimated FTE jobs).⁷

Taken together, the Broad screen sector, digital games production and footloose production contribute over \$3 billion in value add and around 25,300 in FTE jobs.⁸

Australian TV content encompasses a wide range of production activity – it includes fictional or drama production (such as mini-series, drama shows, comedy shows and children's TV shows), as well as factual documentaries. The remainder is allocated to content such as news, current affairs, light entertainment, reality, and sport. Likewise, feature film content in Australia covers a range of content – from ones with large international releases to ones that have been domestic box office and/or critical successes to more low- budget films and films with limited local releases.

But the screen industry adds value in many other areas that are not recorded but have been noted by different government departments over the years. The wo notable ones are in tourism and foreign affairs.

The impact of our screen stories being seen around the world is one of the greatest ads for Austrlaia that we can make. Everyone k ows the impact Paul Hogan had back in the 1980's with his Crocodile Dundee movies and the impact of Lord of the Rings had on the New

⁴ **Broad Australian content**, is screen content that is made under the creative control of Australians, which includes feature lm, **drama TV and documentaries as well as other types of screen content**. This includes (but is not limited to) news and current affairs, light entertainment, reality shows, lifestyle/food/travel shows and televised sports content.

⁵ From "What are our stories worth? Measuring the economic and cultural value of Australia's screen sector", Deloitte Access Economics, 2016, p.2.

⁶ **Core Australian content**, is screen content made under the creative control of Australians and is scripted, narrative content, capturing **feature lm, drama TV and documentaries only**.

⁷ opcit. Deloitte Access Economics, p.2

⁸ ibid, p.3.

Zealand economy was nothing short of amazing.

*A survey commissioned by Deloitte Access Economics for this study reveals that around **230,000 international tourists** are estimated to visit or extend their stay in Australia each year as a result of viewing Australian film and TV content. This represents around **\$725 million in estimated tourism expenditure in Australia each year** that may be associated with Australian screen content.⁹*

The value of Australian content to our foreign relations cannot be underestimated. On many occasions our embassies around the world report on the impact of our screen content on their relations with foreign government. Much of what is known about Australia can be attributed to our screen content finding its way into the homes around the world. Whether this be through popular series like “Neighbours” or “Home & Away” or through cultural ambassadors like Cate Blanchett, Chris Hemsworth or Hugh Jackman. The impact of this content cannot be underestimated.

Our colleagues at SPA and Screen Australia will no doubt provide more figures to support the economic value but I think we should put this in perspective.

Another aspect of the value of the screen industry can be seen in the offshore productions that use Australian locations and crews to make large blockbuster Hollywood Films. These “footloose” production do not come to Australia by accident. Like a perfect storm the different aspects that make productions footloose is a mix of a low dollar, government incentives and infrastructure. By far one of the most important reasons these large budget productions travel to Australia is the quality and quantity of talented film crew we have developed over the last 40 years. The screen industry in Australia is an eco system that relies on the ability of these talented crew to move from high budget Hollywood blockbuster to no budget short film and cover everything else in between.

A good example of the way this works can be seen locally. The Lord of the Rings films could not be shot in New Zealand unless they drew talent from Australia. Two people stand out – Carolyn Cunningham one of Australian’s most experienced assistant directors went over to do the first film and ended producing the series with Peter Jackson and Andrew Lesnie who went on to win and Academy Award for his work. We have also seen that Fiji has offered more than 50% in tax deductions to films that come and film in Fiji. No films have gone there for one simple reason – there are no crew and no infrastructure to support a large budget feature.

Without the support of Australian incentives to develop a local industry there would not be any ability in this country to support large budget features which last year pushed the spend on film and television over the \$1bn mark for the first time. Whether it be Chris Hemsworth on Thor who started his career on Home & Away or Cate Blanchett who trained at the National Institute of Dramatic Art or numerous Academy Awards winning technicians or companies like Animal Logic, none would exist without the support and protection of quotas from the Commonwealth Government. To think that by taking away this support it will somehow create a better and more viable industry is not based on any reality.

⁹ *ibid.* p.4.

THE VALUE AND IMPORTANCE OF:

(a) LOCAL CONTENT REQUIREMENTS FOR TELEVISION AND STREAMING SERVICES:

It is time to rethink the way we regulate Australian content on our screens and it is time to think of the whole echo system that provides content for Australians. This includes Free to Air Television (FTA), Subscription Video on Demand (SVOD), Subscription Cable (Cable), Advertising Video on Demand (AVOD), Transactional Video on Demand (TVOD) and any other delivery system that delivers commercial content to audiences.

Ever since the inception of content quotas in the 1960's, both sides of politics have seen the need to support Australian content on our screens. The great Hector Crawford led this fight when it was clear that overseas content (read US and UK) would dominate our screens if there was no requirement of broadcasters to make Australian content. During the period before quotas were introduced for commercial television only 1% of their content was Australian.

We are reminded of this situation recently with the sale of one of Australia's broadcasters to the largest American broadcaster CBS. Commentators in the press have noted that the Australian public should have no worries about Australian content:

"Firstly, and significantly, a CBS owned Ten would probably not seem overly American, at least not more overly American than it already is. Ten is, after all, a network which has in the last two decades loaded its schedule with more US content than any other commercial network. In part that is because in the wake of its last collapse, receivership and rebirth, US content was cheaper. To Ten's eternal credit it turned that weakness into a strength.

*Secondly, it is unlikely there would be less Australian content. Which means 'Offspring' fans, you're okay. Ten's investment in **Australian content is guaranteed by government quota; without significant legislative change, that remains the same.**"¹⁰*

The same question of what content will go onto the new CBS owned Ten has been discussed widely and the point we wish to make is that the discussion immediately asked the question about "what content would be aired" as the dominant discussion point. Will we see Channel Ten become the American NFL station in the future?

Without a content requirement on all broadcasters – whether they be free to air, cable, video on demand, streaming services or by whatever means they are distributed – there will be no guarantee for the Australian public of a significant (at least 50%) of Australian content and sub quotas in drama, children's and documentary.

This guarantee must apply to all, regardless of platform and include the public broadcasters – SBS and the ABC.

¹⁰ "What will a CBS owned Ten look like?" by Michael Idato, Sydney Morning Herald, 28/8/17.

But what form should these “content guarantees” take?

Effectively there have been two systems operating for Australian terrestrial broadcasters:

1. Content quotas for the FTA broadcasters to ensure 50% Australian content on our screens with sub quotas for first run drama, children’s and documentary;
2. A requirement for a 10% spend on first run Australian drama, children’s and documentary on the Foxtel cable network.

Currently there are no content requirements of the VOD players Netflix and Stan. We also note that CBS has committed to start a new streaming service as well as Apple and Amazon. YouTube is also planning a more sophisticated delivery of high end content through its Red service.

It should be pointed out at this stage that all these services are effectively the new iteration of the studio and broadcaster system. This is clearly pointed out in Michael Wolff’s book “Television is the new Television” on which he points to the corporate behaviour of these new behemoths of the audio visual industry and the way they are acting exactly like the companies they are now competing with in the marketplace. He notes that there has simply been a shift in the industry from Los Angeles to San Francisco 350 miles north.¹¹

So, we may be talking about a revolution in the delivery of content but we are still talking about the delivery of content and in this case Australian content.

In March 2012, the Federal Government released its “Convergence Review” (the **Review**) which was established in 2011 to:¹²

to examine the operation of media and communications regulation in Australia and assess its effectiveness in achieving appropriate objectives for the convergent era.

The Review considered the way Australia regulates, and more importantly, how a future regime of support for the screen industry could be developed. The basic recommendation of the Review was to replace the quota system with a content fund that would require those that produced work to contribute to this fund. These “content service enterprises” would contribute to the fund, depending on their scale of their enterprise but not according to their platform of distribution. This was in effect, a “platform agnostic” approach to supporting Australian screen content recognising the inherent value of Australian content.

In particular, the Review stated in its Executive Summary:

From the Commonwealth Government’s “Convergence Review” – Executive Summary.

Both the public and most industry stakeholders told the Review that it was important to ensure Australian stories and voices continued to be represented in our media. Despite Australian content regularly rating in the top 20 television programs, the Review has found that the high costs of Australian production relative to buying international programs mean that there is a continued case for government support of Australian production and distribution. The Review found that Australian drama, documentary and

¹¹ “Television is the New Television” by Michel Wolff, p.44.

¹² Convergence Review, Final Report, 2012, p.vii.

children's programming requires specific support as it would not be produced at sufficient levels without intervention.

While digital television multi-channels are introducing new opportunities for content, these channels are not currently subject to Australian content requirements. Similarly, a new range of internet-delivered channels and services with television-like content are becoming available. These two factors are reducing the proportion of Australian content across all media available today. With the high costs of producing some Australian content, such as drama, documentary and children's programs, the Australian content obligations should be spread more evenly over the range of competing services.

The Review proposes a 'uniform content scheme' to ensure that Australian content continues to be shown on our screens. The uniform content scheme will require qualifying content service enterprises, with significant revenues from television-like content, to invest a percentage of their revenue in Australian drama, documentary and children's programs. Alternatively, a content service enterprise will be able to contribute a percentage of its revenue to a 'converged content production fund' for reinvestment in traditional and innovative Australian content.

Not all content service enterprises will be required to contribute under the uniform content scheme. To qualify for the scheme, content service enterprises will need to meet both 'scale' and 'service' criteria. The scale criterion will require the content service enterprise to meet minimum revenue and audience thresholds for the supply of professional television-like content to the Australian market. These thresholds should be set at a high level so only significant media enterprises will be required to invest in Australian content. As an example, if a new internet-delivered service grew revenue and audience from providing professional television-like content to a level comparable with today's established television broadcasters, it would then have obligations to contribute to Australian content.

In addition to the scale threshold, there will be a 'service' criterion. The service criterion will mean that only content service enterprises that offer drama, documentary or children's programs will be subject to the uniform content scheme.

Both the scale and service criteria can be reviewed over time as providers emerge and grow, and to take account of any changes to the targeted genres.

Adoption of the uniform content scheme will mark a significant departure from the present obligations. The Review therefore proposes a transitional framework to allow the government to address the challenges of producing Australian content while working on the implementation of the uniform content scheme.

The key features of the transitional framework are:

> For commercial free-to-air broadcasters—there should be a 50 per cent increase in Australian sub-quota content obligations for drama, documentary and children's content to reflect the two additional channels each broadcaster currently operates that do not attract any quotas. The broadcasters should be able to count Australian content shown on the digital multi-channels towards meeting the expanded sub-quota obligations.

> For subscription television providers—the 10 per cent minimum expenditure requirement on eligible drama channels should be extended to children's and documentary channels.¹³

The Review has recommended the creation of a converged content production fund. This fund should have a broad focus that supports traditional Australian content, new innovative content, and services for local and regional distribution. The converged content production fund should also play a role in supporting Australian contemporary music. In addition to direct funding from government, this fund could

¹³ Convergence Review, March 2012. p. xi xii.

be supported by spectrum licence fees from broadcasting services and contributions from content service enterprises under the uniform content scheme.

We believe that a “Australian Content Guarantee” is essential to the health and well being of the Australian screen content industry. Changes to the way we deliver this guarantee should be developed to accommodate the new delivery methods and content distributors.

It is clear the quota system that the commercial networks have been operating under has been effective and successful. It is a system that costs the government nothing and ensures that an industry that is now getting valuable spectrum for no cost provides Australians with the content they want to watch. The many surveys that have been conducted and the success of Australian shows clearly indicate that Australians love Australian content. If no obligation from commercial broadcasters were in place, and none for the new streaming services, we can guarantee that the production of Australian content would drop dramatically and may even go back to the 1960’s when only 1% of total content on commercial networks was Australian.

It will be important to make sure that any changes to the way we regulate content creators on any platform have a transition period. For this reason, there should not be a scrapping of any content quotas or expenditure requirements until the transition to the new system is complete. Under the terms of the US Free Trade Agreement if we dismantle or reduce our quotas **we are unable to reinstate them to the original levels.**

(b) AUSTRALIAN CHILDREN'S TELEVISION AND CHILDREN'S CONTENT

It has never been a more important time to support the creation of original Australian Children's television. In a world where the volume of content increases with every new online portal, the ability of maintain the voice of Australian children for Australian children is vital.

There is no doubt that the explosion of portals delivering content to Australian children are expanding and that the only way that Australian content on these screens can compete is if it is at the highest quality and is promoted adequately.

In 2015, the change to the way quotas could be used by commercial broadcasters provided them with a way to dump their children's programs onto their secondary channels and begin the campaign to devalue them and build a case for the dismantling of any obligation they may have to Australian children.

When the government announced this change all the major guilds campaigned against it and the ADG said that it was a way for the commercial networks to marginalise children's content in time slots that would not generate audiences for the shows. And that is exactly what happened. It is disingenuous of television networks to say that the shows do not get audiences when they do not promote them. No show can find an audience on free to air television if it is not promoted.

We have seen the success of the ABC's dedicated children's channel ABC 3 with its focus on children's content for all ages. The 2009 launch of the dedicated children's channel ABCME (formerly ABC3) transformed the children's television landscape in Australia. In its first year of operation the ABC went from commissioning around 6 hours a year of live action children's drama to 26, alongside other genres which included animated series, light entertainment, news and factual content for children.

Children have responded accordingly, with ABC channels in the top 65% of children nominate an ABC children's channel as their favourite, with subscription TV coming a distant second at 22% and the closest stand alone commercial free to air channel "Go" at 4% For children under 5, the preference is even clearer, with around 70% preferring ABC2.¹⁴

It is clear from these figures that Australian children want to watch television that is specifically created for them and is Australian.

But we need to maintain the level of Australian content on the ABC. To do this, funds need to be made available to the ABC that are specifically for children's content. The ABC should

¹⁴ ACMA, Children's television viewing, Research Overview, p 10.

be transparent and accountable for the levels of Australian content that it achieves for children, the range of genres it provides and the funds that it invests in children's content.

In regard to the commercial networks, whether they be Free to Air, Cable, VOD, SVOD or wherever commercial children's content can be shown, there needs to be continued obligations for the current distributors of content (broadcasters and subscription TV) to broadcast original Australian content for children.

From the figures quoted above it would be tempting to then say just let the ABC be responsible for all children's content on our screens. The commercial networks have clearly failed to meet the Children's Television Standards (CTS). But to take away the responsibility of delivering Australian children's content to Australians would take us back to the 1960's when there was no Australian children's content on our commercial screens.

RELATED ENQUIRIES

Attachment A

ADG and ASDACS Submission to the House of Representatives Standing Committee on Communications and the Arts, July 2017.

Attachment B

ADG and ASDACS submission to the Australian Children's and Screen Content Review, September 2017.