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**11 March 2016**

Committee Secretary  
PO Box 6021  
Parliament House  
Canberra ACT 2600

Dear Secretary,

**Inquiry into broadcasting, online content and live production to rural and regional Australia**

Please find attached a follow up submission on behalf of Screen Producers Australia following a question on notice during our appearance at the Committee's public hearing on 8 March 2016.

The attachment is a confidential submission made to the Australian Communications and Media Authority in February as part of their proposal to remake the Broadcasting Services (Australian Content) Standard 2005. The confidential details have been redacted for the purposes of this public submission.

We look forward to continued engagement on the issues discussed in this submission.

Yours sincerely,

Matthew Hancock  
Manager, Strategy and Operations



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12 February 2016

Manager  
Community Broadcasting and Safeguards Section  
Australian Communications and Media Authority  
PO BOX Q500  
Queen Victoria Building  
Sydney NSW 1230

To whom it may concern,

**Proposal to remake the Broadcasting Services (Australian Content) Standard 2005**

Screen Producers Australia welcomes the opportunity to comment on the proposal to remake the Broadcasting Services (Australia Content) Standard 2005 by the Australian Communications and Media Authority (ACMA). This letter expands on issues discussed at our meeting with Chris Chapman (Chair and CEO) and Richard Bean (Deputy Chair) on Wednesday 23 December 2015.

Screen Producers Australia endorses the ACMA's view that the Standard continues to form a necessary and useful part of the legislative framework. However, there are several adjustments that we believe should be made to the current draft so that the Standard can be more efficient and effective:

**Section 11(1)-(3): What is the drama score for an Australian drama program?**

Preferential treatment is given to 'mini-series' drama under the Standard.

The rationale for this is that historically mini-series were a departure from standard 'series/serials'. They were rare, typically higher budget and better quality, therefore networks were rewarded with higher drama points to acquit their quota obligation faster. However, mini-series have become the format of choice, no longer rare and no longer made with a significantly higher budget, as demonstrated by Screen Australia's annual drama statistics<sup>1</sup> and the ACMA's own compliance results.<sup>2</sup>

The ACMA should consider these commercial trends, whilst also addressing a more fundamental oversight in design. Neither the Standard, nor the Broadcasting Services Act, define what is meant by mini-series. In fact, the last legislative definition of mini-series was repealed along with 10BA in 2009.

Whilst it would appear that the ACMA is still notionally applying the 10BA definition, this vague assumption cannot be imported into another iteration of the Standard. This would leave a significant loophole in the current drafting of the Standard regarding the calculation of drama points.

<sup>1</sup> <http://www.screenaustralia.gov.au/getmedia/751abb13-3e15-4772-863f-5bf27f4760a3/dramareport.pdf>

<sup>2</sup> <http://acma.gov.au/Industry/Broadcast/Television/Australian-content/australian-content-compliance-results>

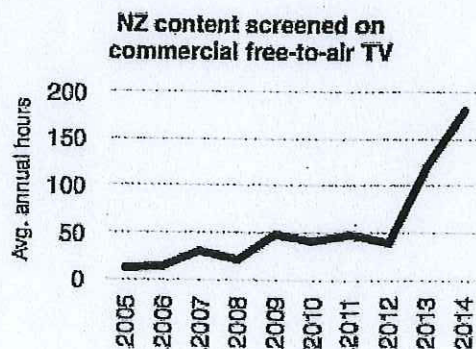
[REDACTED]

In light of industry trends, Screen Producers Australia recommends that mini-series should be treated the same as series/serial, but if preferential treatment remains the mini-series must be defined by the Standard and required to meet a minimum licence fee set at a higher rate than series/serial.

### Section 8(1)-(3): First Release Programs

Cheap, second-hand New Zealand content is being substituted for first release Australian programming. Broadcasters are increasingly meeting the quota obligations set out by the Standard by screening of New Zealand content. This is an unintended consequence of the Australia-New Zealand Closer Economic Relations Trade Agreement (CER), which has since been exacerbated by 2013 reforms affording greater flexibility to acquit quotas across the multi-channels.

The annual average of New Zealand hours screened by commercial broadcasters between 2007 to 2012 ranged between 22 to 48 hours each year. Since the 2013 amendments, the combined annual hours rose from 40 hours in 2012 to 120 hours in 2013 and 180 hours in 2014. The impact of this, for example, has resulted in the Nine Network meeting an average of 44 per cent of its drama quota in 2013 and 2014 through New Zealand content.<sup>3</sup>



The Broadcasting Services Act states that the ACMA may, by legislative instrument, define the meaning of the expression 'first release' for the purposes of the section. Therefore, the definition of 'first release' should be adjusted in the Standard to reflect the concept of a 'worldwide premiere', not just the initial screening in the licence area.

<sup>3</sup> <http://acma.gov.au/Industry/Broadcast/Television/Australian-content/australian-content-compliance-results>

More importantly, the change would not breach the CER as New Zealand content would still be treated as first release Australian programming so long as the program was screened in Australia first or simultaneously screened across both countries.

The Standard is one of the single most important community safeguards in media, ensuring that Australians have access to high quality local programming. The Standard must be fortified to ensure that there are not unintended consequences from commercial pressures and price creep.

We look forward to continued engagement.

Yours sincerely,

Matthew Hancock  
Manager, Strategy and Operations

Confidential