

**DEPARTMENT OF INFRASTRUCTURE, TRANSPORT, REGIONAL DEVELOPMENT
AND COMMUNICATIONS**

Senator Katy Gallagher asked the Minister for Communications, Cyber Safety and the Arts, upon notice, on 15 May 2020.

Emergency suspension of content quotas in 2020

1. In an announcement on 15 April 2020, the Minister stated: “As an emergency red tape reduction measure, I have suspended Australian drama, children’s and documentary content obligations on free-to-air and subscription television for 2020. A decision will be taken before the end of this year as to whether this suspension should continue in 2021.

(a) How did the Minister suspend the content quotas? Please specify the mechanism/s and relevant dates.

(b) Did the Minister direct the ACMA in relation to the content quotas?

(c) Was the ACMA’s decision to exercise forbearance around the content quotas made independently of any Ministerial request or direction?

(d) Why did the Minister suspend the content quotas?

(e) How does the suspension relate to commissioning and production as well as broadcast of quota content?

(f) Does the Minister expect broadcasters to show quota content already produced and ready for broadcast in 2020?

(g) Who did the Minister consult with on the suspension, and when?

MINISTER FOR COMMUNICATIONS, CYBER SAFETY AND THE ARTS – the answer to the Senator’s question is as follows:

1. (a) How did the Minister suspend the content quotas? Please specify the mechanism/s and relevant dates.

On 14 April 2020, the Minister wrote to ACMA to convey that broadcasters had advised the Minister that they are unlikely to be able to comply with all of their content obligations for the calendar year 2020. The Minister noted that in light of this, the Government is of the view that free-to-air and subscription television broadcasters should have immediate, temporary relief from the following content obligations in the ACS, the CTS and Division 2A of Part 7 of the BSA:

- Australian drama, Australian documentary and Children’s and Preschool program obligations on television broadcasting licensees until the end of 2020, with a potential extension to 2021; and
- Suspension of the licence condition requiring minimum levels of expenditure by subscription television broadcasting licensees on new eligible drama programs until the end of 2020, with potential extension to 2021.

Noting the above, the Minister sought the Authority's urgent advice on whether it would be minded to exercise forbearance consistent with the Government's intent.

On 14 April 2020, ACMA wrote to the Minister advising that:

- it had also received requests for regulatory forbearance directly from broadcasters.
- the Authority had met, on 14 April 2020 and decided that it would exercise forbearance by not taking enforcement action for non-compliance with specific parts of the ACS and CTS

On 15 April 2020, ACMA announced that, in light of the COVID-19 pandemic and its consequences for the television production sector, it would exercise forbearance by not taking enforcement action for non-compliance with the specific, noted obligations in the ACS, the CTS and Division 2A of Part 7 of the BSA. ACMA noted that it would exercise such forbearance for the period up until and including 31 December 2020. ACMA's full announcement is publicly available at www.acma.gov.au/articles/2020-03/covid-19-important-information-industry#april15

(b) Did the Minister direct the ACMA in relation to the content quotas?

No. While the Minister conveyed his view on forbearance to ACMA, the decision to forbear was made independently by ACMA.

(c) Was the ACMA's decision to exercise forbearance around the content quotas made independently of any Ministerial request or direction?

Yes.

(d) Why did the Minister suspend the content quotas?

On 15 April 2020, ACMA announced that, in light of the COVID-19 pandemic and its consequences for the production sector, it would exercise forbearance by not taking enforcement action for non-compliance with specific content obligations in the ACS, the CTS and Division 2A of Part 7 of the BSA.

(e) How does the suspension relate to commissioning and production as well as broadcast of quota content?

ACMA has notified that it will exercise forbearance for the period up until and including 31 December 2020 for the obligations on commercial television broadcasting licensees to broadcast drama, children's and documentary content. For subscription television broadcasting licensees, the suspension applies to an expenditure obligation.

(f) Does the Minister expect broadcasters to show quota content already produced and ready for broadcast in 2020?

ACMA has encouraged licensees to continue to broadcast Australian and children's content that has already been produced, noting the protections set out in Part 3 of the CTS will continue to apply to any children's programming (and associated advertising) that is broadcast.

The Government anticipates that, where possible, broadcasters will continue to commission and broadcast Australian content from the local screen production sector despite the temporary relaxing of requirements.

(g) Who did the Minister consult with on the suspension, and when?

Following ongoing discussions with the broadcasting and production sectors, the Minister asked the Department to consult with ACMA in the week of 6 April 2020, prior to writing to ACMA to request ACMA to consider exercising forbearance.