Victorian Film and Television Industry Working Party
Representing screen production organisations in Victoria

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SUBMISSION TO THE AUSTRALIAN AND CHILDREN'S SCREEN CONTENT REVIEW

1. About the Working Party

The Victorian Film & Television Industry Working Party (WP), established in 1998, is a collaborative association of ten professional Victorian screen industry groups representing both employer and employee organizations. The objective of the WP is to grow the industry in Victoria, to work together to find pathways and solutions to contemporary challenges and to present a united front to government and screen agencies. The WP provides a united, cohesive voice for the Victorian industry. This submission is presented to the Inquiry on that basis.

2. Introduction

In its Consultation Paper preamble, the Content Review recognizes the importance of a cultural outcome for Australian screen content. It asserts that Australian content helps define our national identity and strengthens social cohesion and values. It recognizes that the "free-to-air television spectrum is a public good" and therefore the commercial broadcasters have quota obligations. However, contradicting this cultural objective achieved by interventionist policy, the Consultation Paper also proposes “a market oriented design principle” to achieve core policy objectives for the industry. It goes on to state that "as far as possible, market solutions and competition should be harnessed to deliver these policy outcomes."

We believe the Department of Communication and the Arts, ACMA and Screen Australia must privilege cultural outcomes over the marketplace in order to protect the future of Australian stories on Australian screens. The high costs of Australian production relative to buying international programs mean that there is a continued case for support of Australian production. Without regulation and subsidy Australian children's television will not survive. Adult scripted drama and documentaries will, at best, be severely constrained. The only types of programs likely to survive without government intervention are sport, news, current affairs and reality TV.

This paper concentrates on proposing appropriate types and level of Australian Government support and regulation. It also focuses on Children's television, providing specific examples of the challenges faced by the sector. We have provided this focus not only because Children's is the sector under immediate threat of quota reduction, but also because of its central role in the Victorian screen industry.

3. Recommendations

A summary of our recommendations for changes in the way content is regulated and managed by the government follows:

- Australian content quotas for drama/comedy, documentary and children's programs should be increased or at least maintained and enforced as a condition of the granting of spectrum usage licences. Australian/New Zealand programs should only qualify for content points in one territory not both.

- In relation to TV network broadcast licence fees, it must be acknowledged by both Screen Australia and FTA broadcasters that these minimum fees have been stagnant for many years and must increase. At the same time, it must be recognised that the minimums established have regularly not been met by networks. All endeavours must be made to increase Broadcast Licence fees to realistic levels.

- Spectrum licence fees should not be further reduced and a significant portion of the $200 million savings to commercial TV free to air (FTA) networks be committed to increased Australian content production or for the payment of higher and more realistic licence fees to independent producers.

- Government support mechanisms and an expanded Australian content regulatory regime should be *platform agnostic.* They should apply to all commercial content distributors: FTA, pay, streaming and online services and cover first run Australian adult drama, children's and documentary. This content guarantee should also apply to the public broadcasters, ABC and SBS.

- The definition of broadcasting be amended in the Broadcast Services Act to reflect the current broadcasting environment. The new definition must ensure a *platform neutral* approach to government regulation.

- Increase funding to Screen Australia and the ABC to support Australian television production activity at ongoing sustainable levels. Additional support for long form adult and children's series is particularly vital.

- The Producer Offset for Australian television productions should be increased from 20 to 40%. It is also vital that the Producer Offset for feature film remains at 40% as any reduction will severely contract the production of Australian drama, comedy and documentaries for theatrical release. The Location Offset should be increased to 30% - a level which makes it internationally competitive and supports the attraction of international production activity to Australia.

- There should be a commitment to excluding the cultural sectors from future free trade agreements and a recognition that if Australian content quotas are reduced, they can never be reinstated or increased due to the US/Australia Free Trade Agreement.

4. Australian TV Content Standards

Since the late 1970s successive incarnations of the Australian Broadcasting Tribunal (now the Australian Communications & Media Authority - ACMA) have developed standards for and enforced a minimum quota of Australian scripted drama/comedy, documentary and children's programs to be shown on television. This has been supported by successive Federal Governments from both sides of politics. As part of their spectrum licence conditions, commercial FTA network owners have been legally required to broadcast first-run, prime time Australian made programming. The current points system to measure Australian content (changed from a 'broadcast hours' quota in the 1980s) is not onerous. Many of the programs produced under this quota are high-rating and critically acclaimed. It is worth pointing out that the commercial TV networks can meet their Australian adult drama content requirements by producing three hours of 'new' programs per week.

In 2014 the commercial broadcasters screened 180 hours of New Zealand programs which qualify as Australian under the Closer Economic Relations Trade Agreement. In 2015, the figure was 135 hours. At the same time, those programs counted as quota in New Zealand. For this reason, they were sold into Australia at a greatly reduced price compared to Australian program licence fees.

<u>Recommendation</u>: *Australian content quotas for drama/comedy, documentary and children's programs should be increased or at least maintained and enforced as a condition of the granting of spectrum usage licences. Australian/New Zealand programs should only qualify for content points in one territory, not both.*

5. Spectrum Licence Fees

Commercial FTA television networks have always paid spectrum licence fees to the Federal Government for the right to broadcast across our publicly owned airwaves. In 2012 the total of these fees was $430 million per annum. In May 2016 the government reduced spectrum licence fees by 25% then in November 2016 Minister Fifield further cut fees by $42 million. Television networks are now paying less than $130 million to access the public airwaves – an enormous reduction from 9% of FTA television gross revenues in 2012 down to 3.375% in 2016/17.

The $200 million saving to the TV networks bottom line has seen no concomitant increase to the amount of local Australian scripted content commissioned and funded by FTA TV owners nor has the Minister demanded any quid pro quo for this financial gift to the television networks profits.

<u>Recommendation</u>: That spectrum licence fees should not be further reduced and that a significant portion of the $200 million savings to commercial TV networks be committed to increased Australian content production or increased broadcast licence fees.

6. Broadcast Licence Fees Paid to Producers

While spectrum licence fees are being reduced for TV networks, the minimum broadcast licence fees paid by the networks to fund the production of drama, comedy, documentary and children's program content, have remained static since 2007 at $440,000 per hour for adult scripted drama and less than half that for children's programs. Investment levels from Screen Australia and the licensing fees paid are so low that producers are left with a large gap in financing which is becoming impossible to fill. It means the role of smaller independent producers is unviable. Only Screen Australia Enterprise-funded and similar larger production companies and foreign owned Australian-based companies are likely to be able to continue in the industry.

The gap between the licence fee paid by FTA network to producers and the total cost of production per episode severely limits the level of Australian content production. In 2000, Network Seven commissioned forty-two episodes of *Blue Heelers* from Southern Cross Productions. In addition, forty-two episodes of *All Saints* were produced by Seven and over one hundred hours of *Home and Away*. This was far in excess of the quota requirement. At that time the Network paid a licence fee which was the equivalent of about $400,000 per episode for hour long drama - which cost around $450,000 to make. Given that shows such as *Blue Heelers* and *All Saints* were selling to many other countries, it was relatively easy for the producers to close 'the gap' and return a profit. Since that time, licence fees have barely changed while production costs have more than doubled to $1million per episode. Instead of having to find $50,000 extra to make the episode, producers now have to find an additional $500,000 per episode.

This inevitably means producers strive to lower their costs and risks by reducing the number of episodes. They are forced to reduce the number of shoot days and cut expenditure in all departments. This puts added pressure on crew, cast and facilities. It is damaging to the programs and to the Australian drama brand.

In 2015/16 there was a 23% slump in television drama production. Budgets have increased but overall the number of hours produced is in decline due to the rise in short form mini-series. Victoria received only 26% of film and TV drama production activity by State (the lowest of the last 5 years) and only 25% of total production budgets were from companies based in Victoria – down from 37% in the previous Financial Year.

<u>Recommendation</u>: *It is recognised that broadcast licence fees paid to producers have stagnated since 2007 and should be increased to realistic levels.*

7. Funding Television in the Future

The traditional marketplace has fragmented as a result of new digital delivery systems. However, while it is acknowledged that the commercial broadcasters are suffering financial stress due to dwindling audiences, the system is still operational and no consideration should be given to dismantling the quota system. It is important to note that the Federal Government have given the networks a substantial boost by reducing the Spectrum Licence Fees without linking that reduction to increased program licence fees or increased Australian content. If it is unlikely that the commercial broadcasters will be increasing program licence fees, funding incentives and subsidies need to be re-calibrated to allow for a revival in the production of quality Australian adult drama, children's and documentary programming. An increase in the TV Producer Offset and increased funding for Screen Australia are vital elements in this recalibration.

The Producer and Location Offsets: The introduction of various Screen Australia rebate schemes to support national screen production has been enormously successful in generating increased levels of Australian content creation in film and television, digital games, offshore productions shooting in Australia and post production for local and international projects. The 40% Producer Offset for feature films has encouraged both quality projects and also assisted in retaining intellectual property in Australian hands. The rebate for television projects, however, is only 20%. This should be raised to 40% in order to give independent producers the ability to close the 'gap' in financing television production. A 16.5% Location Offset has encouraged largely US offshore film and TV productions to Australia. At times this has been raised to 30% level to secure high budget, high production value projects. Given the ‘critical mass’ importance of television production underpinning the entire screen sector, we also believe the Location Offset should be raised to 30% for all productions.

Screen Australia: Screen Australia has experienced a series of radical cuts to its budget over the past three years. This has led to it capping the amount it can provide for production investment to television series: $3 million down to $2 million. This has had a direct impact on the amount of television production activity and many large-scale productions have stalled as a consequence. We believe the government must restore funding to Screen Australia at a level that supports Australian television production at ongoing, sustainable levels.

<u>Recommendation</u>: The Producer Offset for television should be raised from 20% to 40% and the Location Offset from 16.5% to 30%.

<u>Recommendation</u>: Restore Screen Australian funding to a level that can support a sustainable screen production industry.

8. Extending Content Regulation

The current regulation of Australian content is antiquated. Content regulations should be spread more evenly over a range of competing services. The burgeoning area of VOD should be brought within the ambit of content requirements. SVODs, AVODs, cable networks and other streaming services should, like the FTA networks and Foxtel, be obliged to produce Australian content. We believe there should be an increase to a 20% minimum expenditure requirement on eligible drama, children's and documentary channels and all delivery platforms should be encompassed.

In 2012, the Federal government released the Convergence Review which considered the way Australia regulates and how a future regime of support for the screen industry could be developed. It recommended that the quota system be replaced with a content fund. "Content service enterprises" would contribute to the fund depending on the scale of their enterprise not according to their platform of distribution. Thus, the review proposed a *platform agnostic* approach to supporting the value of Australian content. The Fund they recommended was intended to support traditional Australian content as well as new innovative content and services for local and regional distribution.

We urge this Review to look closely at the transitional framework and funding mechanism recommended by the Convergence Review. A good deal of careful planning has already been done in terms of a new, alternative and wide-reaching reform.

<u>Recommendation</u>: That government support mechanisms and an expanded Australian content regulatory regime should be platform agnostic. They should apply to all commercial content distributors: FTA, pay, streaming and online services and cover first run Australian adult drama, children's and documentary.

9. Children's Television

According to ACMA, it is a community expectation that children have access to content that deals with stories, concepts and ideas relevant to them, including content that presents a uniquely Australian point of view. A guiding principle of the *Australian Television Standards* is that locally produced children's television is essential to the cultural health and vitality of young Australians. However, quality children's drama is expensive to produce and due to its more limited ability to generate advertising revenue, it attracts smaller licence fees from the commercial broadcasters than many other types of content. Children's Content Regulations were established to ensure that broadcasters met a social contract for the privilege of owning a profitable spectrum licence. The ABC and Network Ten have also seen quality children's content as a way of reaching a broad audience and building brand loyalty. This is a strategy that is fundamental to Disney, Nickelodeon and other children's cable broadcasters.

Children's content regulations have underpinned the growth of a high quality, internationally recognised and award-winning industry. The success of *Round the Twist* demonstrates the extraordinarily long life of popular children's series. Twenty-eight years after it was made, it is still on air in Australia on Netflix and Stan as well as on an Asian platform. In addition, the program has sold to 152 territories, been broadcast on 208 platforms over four seasons and has won eighteen national and international awards. Another long running series*, Dance Academy,* has sold to over 180 territories. The ABC has informed the producer that the program will be screening on TV for the next twenty years.

ACMA research shows that programming specifically made for children forms a large part of their content viewing. Yet despite this, the chief executives of Networks Seven, Nine and Ten recently argued that children's programs attract an average of 6,000 viewers and therefore the Networks are "spending millions to make programs that are watched by thousands." At the same time, popular children's programs screening on the ABC attract audiences of 400,000-500,000 viewers.

The failure of children's content on FTA television is the end result of a systematic campaign against the quota system waged over decades by Networks Seven and Nine. In the 1980's the Head of Drama at Nine stated he would "rather show a test pattern than a children's program." The Networks have wanted children's programming to fail and have actively pursued strategies to achieve this, they have paid as little as possible for children's drama, programmed it in inaccessible slots and have not promoted or publicised the programs.

As this strategy diminished the size of the audience for children's programs the FTA Networks made representations to ACMA that given children did not watch children's drama, they should not be obliged to make it. As a concession, ACMA agreed that Seven and Nine could show their children's content on their secondary channels.

On those platforms - again with little publicity or promotion - the audiences have been even smaller. This has led to the final position taken by the Networks that children's programs have no audience and therefore their quota obligations should be abolished.

The case of *Round The Twist* demonstrates the effectiveness of the Networks campaign against children's programming. This popular series produced by the Australian Children’s Television Foundation, screened first on Channel 7 where it was buried in a 7.30am Saturday time slot and given no publicity or promotion. It was only after concerted lobbying of Network owner Christopher Skase by the Chair of the ACTF Janet Holmes a Court and Foundation CEO Patricia Edgar, that the program moved to a Saturday evening family slot where it became a phenomenal hit. If a children’s program is well resourced in production, publicised/promoted by the broadcaster and programmed in a slot where the audience can find it, it will do well.

The other argument proffered by Seven and Nine to end the quota system is that children’s programs are a loss leader for them. However, this can only be argued based on their internal accounting practice of writing off the whole cost of a program against the first broadcast. It is demonstrable that across the number of 'runs' purchased up-front by broadcasters for children’s programs, there are more than enough commercial breaks that can be sold to cover the cost of the broadcast licence.

Independent producers face a close to impossible task in mounting new projects and financing children's drama under the current system. Licence fees paid by broadcasters for drama programs have been static over the last ten years and have barely increased since the 1989 Australia Content Inquiry undertaken by the Australian Broadcasting Tribunal. In real dollar terms, the amount paid for children’s product by the Networks represents about 40-50% less than what Networks were originally paying. In the meantime, production costs have increased substantially by up to 50%.

This poses enormous difficulties for independent producers as they struggle to remain viable while pressured to lower their fees and lower their costs. This pressure spreads to production schedules and to crew and cast who must try to deal with longer days and tighter turnarounds on shoots.

Only Network Ten and ABC pay the $100,000 per half hour licence fee required by Screen Australia to attract production investment in quality children’s drama - that is a licence fee of around 18% of production costs for a $550,000 half hour program. Networks Seven and Nine pay as little as $75,000 per half hour for children's drama. This precludes producers from accessing Screen Australia's production investment so most of Seven and Nine’s children’s content has been cheap animation produced from Australia but animated overseas.

Recent funding cuts to Screen Australia has led to it lowering its cap on investment in children's programs from $3 million per project to $2 million no matter how many episodes are being produced. This has signalled the end of twenty six episode series. For decades, long format series have been a standard feature of children's programming. Made-in-Victoria productions like *Ocean Girl*, *The Wayne Manifesto*, *H2O*, *Short Cuts*, *Sleepover Club* and *Fergus McPhail* provided employment, training, career advancement and financial stability for a large number of cast and crew. It also provided work for a large, extended chain of facilities and suppliers. This bed-rock and critical mass for a sustainable industry is now virtually gone.

The forces working against children's programs have seen a reduction in episodes to thirteen half hours or less. This results in an increase in the per episode cost of the series because set up and completion costs are amortised against fewer episodes. This in turn makes these series more difficult to finance because international and broadcasters like Netflix, Disney and Nickelodeon want volume rather than limited-run series.

These challenges come at the same time as the proliferation of broadcast and SVOD platforms which undermine traditional distribution models. This has resulted in distributors offering reduced or no distribution advances for series.

A further constraining factor has been budget cuts to the ABC, which like the cuts to Screen Australia, have serious flow-on effects to levels of television production. Former ABC CEO Kim Dalton recently asserted that the ABC has slashed its children's budget by 50% and its drama budget by 25%. Funding to the ABC particularly for children's television must be restored. It is also time for content regulation of children's and adult drama to be extended to the ABC and SBS.

With static or reduced licence fees from broadcasters, the rising cost of production, reduced investment from State and Federal investment agencies and reduced or no advances from distributors, the children's production industry is in crisis. A tipping point has been reached. If the current system is not changed, there is a danger that in the very near future the only producers of Australian programs will be broadcasters and foreign owned Australian production companies, like Matchbox and Shine, who can cover the 'gap' in financing children's projects. The collapse of this industry will result not only in the loss of a hugely important employment and training ground for talent, crew, writers, directors and producers and the extended supply chain of facilities and services but the loss of a valuable and successful export industry.

<u>Recommendation</u>: *It is critical that all Children's Content Regulation be maintained, redeveloped and improved. In addition to the previous recommendations aimed at creating a viable financing model for television production, the ABC and SBS should be required to meet Australian content regulations. The percentage of live action children's drama/comedy should exceed offshore animated programs.*

10. Conclusion

In addition to the specific recommendations made herein, the Working Party would like to commend and support the submissions of the Australian Screen Industry Group (ASIG) and the Victorian Government /Film Victoria. We believe that our screen production sector is united on what needs to be done and has both coherent answers and comprehensive solutions to the questions asked by this Review.

The Australian screen industry is constantly expanding and the content it produces has a major impact on our country. The industry is inherently creative and diverse and has nurtured many innovative companies driven by individuals and entrepreneurs producing world-class products and services. Our screen production output can have a significant influence: highlighting Australia, its stories, people and landscapes; influencing the export of goods; encouraging tourism and attracting the best talent to our workforce. An industry which is technologically advanced, diverse, adaptable – and growing – is too important to ignore and must be provided with the incentives and regulatory framework which allows it to reach its full potential.