



8 September 2022

Paramount Australia & New Zealand Submission in response to the proposal to remake the *Broadcasting Services (“Broadcasting Service” Definition—Exclusion) Determination 2019*

Introduction

Paramount Australia & New Zealand (ANZ) welcomes the opportunity to comment on the proposal to remake the *Broadcasting Services (“Broadcasting Service” Definition—Exclusion) Determination 2019* (the Determination).

Paramount ANZ is proud of its history of significant cultural and economic contribution to Australia’s booming creative economy, delivering quality local content to audiences across our various platforms:

- *Network 10* (Channels *10*, *10 Peach*, *10 Bold* and *10 Shake*)
- *10 Play* (our free broadcast video on demand (BVOD) service)
- Pay television channels, *Nickelodeon*, *Nick Jr*, *MTV* and the *MTV* music channels
- *Paramount+* (Australia’s fastest growing subscription video on demand (SVOD) platform).

Paramount ANZ supports the submissions of its industry associations, Free TV Australia and the Australia New Zealand Screen Association (ANZSA). Their feedback should be considered alongside our responses to the questions set out in the Department’s consultation paper.

Question 1: Should government make an instrument under subsection 6(2) of the BSA in effectively the same terms as the *Broadcasting Services (“Broadcasting Service” Definition – Exclusion) Determination 2019*, which excludes services that provide live-streamed content online from being considered a ‘broadcasting service’?

Paramount ANZ supports the making of an instrument as outlined above. Allowing the Determination to sunset will have wide-ranging legal and policy implications that will significantly impact upon our business.

Question 2: If the instrument is made, in an effort to provide certainty and stability to industry while broader regulatory reforms are developed and progressed, should it be remade for a duration of 3 years, 5 years, or alternative period of time?



Paramount ANZ considers the instrument should be remade for a duration of 5 years.

Question 3: If the instrument is made for a duration of 3 to 5 years, what would be the regulatory and financial impact on your business?

A duration of 5 years will provide Paramount ANZ with regulatory certainty while reform of the broader media-communications regulatory framework is considered.

Question 4: If the Determination expires on 18 September 2022, with no interim solution in place, how would this impact your business or area of industry? What regulatory and financial costs do you estimate your business would incur in this scenario?

As we have previously expressed, the Determination and its precursor instrument, known as the 'Alston Determination', have been a key regulatory pillar for the media and communications sector since 2000 and the ramifications of removing it need to be carefully considered and cannot be dealt with in isolation to the broader regulatory framework.

Suddenly online services may be caught by broadcasting regulation including commercial broadcasting licence restrictions, Australian content quotas, industry code of practice requirements and closed captioning.

There would be significant copyright implications including for content licencing arrangements where broadcast and online rights are separately licenced, and potentially consequences under international copyright treaties.

Considerable compliance costs would be incurred in assessing the implications of the Determination lapsing and implementing changes to abide by the resultant regulatory regime, as well as reviewing and potentially renegotiating commercial licensing arrangements.

Question 5: What are your views on the alternatives to remaking the Determination?

There are no workable alternatives to remaking the Determination at this time.