6 December 2022

Screen Producers Australia's submission to the Review of the anti-siphoning scheme

About Screen Producers Australia

Screen Producers Australia (SPA) was formed by the screen industry businesses representing large and small enterprises across a diverse production all forms and formats of screen content.

As the peak industry and trade body, we consult with a membership of more than 600 production businesses in the preparation of our submissions. This consultation is augmented by ongoing discussions with our elected Council and members. Our members employ hundreds of producers, thousands of related industry practitioners and drive between $1 billion and $2 billion worth of annual production activity from the independent sector.

SPA's members are drawn from all elements of the Australian production ecosystem, including emerging and established producers, production businesses, services and facilities. Our members vary in size from large internationally owned entities, to partnerships, to sole traders and other corporate entities, and are found in every region, state and territory of Australia.

On behalf of these businesses, we are focused on delivering a healthy commercial environment for the entire screen industry through ongoing engagement with elements of the labour force, including directors, writers, actors and crew, as well as with broadcasters, distributors and government in all its various forms. This coordinated dialogue ensures that our industry is successful, employment levels are strong and the community's expectations of access to high quality Australian content have been met.

Screen Producers Australia welcomes the opportunity to make a submission to the *Review of the anti-siphoning scheme*.

For further information about this submission please contact Jane Mulligan, Director of Policy (jane.mulligan@screenproducers.org.au)

Executive Summary

- Australia's anti-siphoning scheme provides a generous level of industry assistance to commercial free-to-air broadcasters. Indeed, as is noted in the Consultation Paper, their business model is strongly based around securing rights to major sporting events and leveraging these rights to secure lucrative advertising deals.

- SPA acknowledges the policy objective and public interest benefit of the anti-siphoning scheme in providing Australian audiences with access to important sporting events without the need to pay for a subscription service.

- This underpins an important Australian social equity principle of supporting free access to significant events of 'national importance and cultural worth' that is a feature of our broadcasting system.

- However, at the same time as record amounts are now being spent on the rights to sporting events, SPA has noted with concern an ongoing decline in other important genres of programming on commercial broadcasters, including children's content.

- Until the relatively recent deregulation of Australian content requirements by the previous government, commercial broadcasters were under a significantly stronger obligation to provide Australian audiences with a guaranteed minimum level of investment in important program genres such as Australian children's programs, Australian adult drama and Australian documentary programs.

- However, since the 2021 deregulation, this investment by commercial broadcasters has dropped sharply and therefore created an imbalance between the benefit conferred and the obligation imposed – that is – between private industry assistance and the public interest.

- SPA believes that this review offers the opportunity for this imbalance to be corrected.

- SPA believes that for free-to-air television to continue to receive a significant public benefit, social equity principles should not be solely confined to sporting programs but should be applied across a broader range of important programming available for free access. This is particularly the case for children's programs and other screen content of significant cultural value and merit.

- It is of major concern that there is currently <u>no obligation</u> on commercial broadcasters to invest in any children's programs and as a result, levels of this content available to Australian audiences is quickly declining over time. Without stronger regulation, the availability of new and original Australian stories will continue to disappear from our screens.

- It is also relevant that audience access to subscription television services have changed significantly since the anti-siphoning framework was first introduced. Barriers to access subscription services are lower and cost less than was the case previously.

- This factor bolsters the argument for greater reciprocity from commercial broadcasters to Australian audiences across a broader range of content as the social equity principle has now weakened since the introduction of the anti-siphoning framework.

- SPA believes that the provision of favourable industry assistance to commercial broadcasters through the anti-siphoning framework cannot be justified in its current form while these businesses continue to neglect other important audience needs and government policy objectives. The anti-siphoning scheme should serve the broadest public benefit achievable in order to avoid being characterised as primarily a private corporate benefit.

- SPA believes that if the current anti-siphoning scheme is to continue in providing business support to commercial broadcasters, then this industry assistance should be accompanied by a strong "cultural dividend" for these broadcasters to provide their audiences with improved access to other important genres, particularly children's programs.

Recommendation

- SPA supports the extension of the current anti-siphoning scheme but only if it is accompanied by a stronger investment by commercial free-to-air broadcasters in other important genres for Australian audiences such as Australian children's programs, Australian adult drama and Australian documentary programs, including a minimum investment in locally commissioned new children's programs.

- Without a significant "cultural dividend" from the anti-siphoning framework to benefit Australian audiences through access to a broader range of screen content of cultural value, the anti-siphoning framework amounts to little more than generous industry assistance to a commercial business with a diminished public interest rationale to support it.

Introduction

SPA notes that the principal rationale for the anti-siphoning scheme is that of social equity – ensuring that despite the growing prevalence of subscription services, that Australian audiences have access to important sporting events on free-to-air platforms.

There is no doubt that sport programs are an important genre for Australian audiences and attract large audiences, as is noted in the Consultation Paper and the Deloitte-Free TV commissioned report cited in it.[1] However, the Consultation Paper also notes that while audience numbers for sport are significant, not all Australians watch sports content on a weekly basis.[2]

SPA strongly supports the principle of social equity that underpins the anti-siphoning framework and indeed, notes the important social and psychological wellbeing generated by access to significant shared cultural events and activities.

SPA agrees that local content is important and agrees with the Deloitte/Free TV report in this regard:

> "Broadcasting local content helps to capture Australian identity and culture on screen. The majority of Australians (86%) believe commercial television supports Australian culture.[3]

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[1] Deloitte Access Economics, *Everybody gets it: Revaluing the economic and social benefits of commercial television*, 2022, as cited in the Consultation Paper, p.15.
[2] Department of Infrastructure, Transport, Regional Development, Communications and the Arts, *Review of the anti-siphoning scheme, Consultation Paper*, October 2022, p.17.
[3] Ibid, p. 25.

SPA argues that the principles of social equity apply to local content across more than just the genre of sport, and that the anti-siphoning scheme has led to an imbalance in programming on commercial television at the expense of other programming, particularly for children.

SPA is particularly alarmed at the sharp decline in Australian content on commercial free-to-air broadcasters, particularly for children, and believes that this decline should be addressed in conjunction with this consideration of the broader public policy examination of the purpose of the anti-siphoning framework.

The current review offers the opportunity to examine broader public policy settings, audience expectations and impacts of the anti-siphoning scheme as to whether government can continue to justify the public interest rationale of the scheme in the context of new digital access to content.

SPA Submission

Changed access to subscription television

As the Consultation Paper notes in Chapter 3, the media landscape has changed significantly since the anti-siphoning scheme was introduced in 1995.

One important aspect of this changed landscape (not examined in the Consultation Paper) is the changed access to subscription services that has occurred as a result of the introduction of digital platforms to access subscription television through the internet.

Originally delivered by satellite and HFC cable, access to subscription television previously required an in-person technician appointment, the supply of a physical set-top box and an annual subscription. The barriers to access subscription services were therefore time consuming and requiring a high degree of consumer commitment.

As a result of this access barrier, uptake of services such as Foxtel (during the period in which the anti-siphoning scheme was introduced) was not high. For example, a 2002 paper prepared by Foxtel for the ACCC identified that in a then Australian population of 20 million, Foxtel had just 1.5 million subscribers.[4]

The advent of digital platforms means that subscription television delivered by Streaming Video on Demand (SVOD) is done through a simple online transaction on a monthly basis. An Australian consumer can activate a subscription service almost immediately, as noted by the ACMA recently:

> The rise of SVOD has also had a considerable impact on subscription broadcast television services or 'pay TV'. … As with FTA TV, the key driver of this drop has been the proliferation of SVOD services in Australia, which offer subscribers relatively easy access via their existing internet connection, without the need for additional hardware, and at a significantly lower price point.[5]

Trends in audience behaviour reported by the ACMA show a growing preference for subscription television services. The ACMA's annual consumer survey revealed that in June 2021, for the first

[4] Foxtel, Subscription Television in Australia, July 2002.
[5] ACMA, Communications and media in Australia *Trends and developments in viewing and listening 2020–21* June 2022, p.6

time, Australians were more likely to have watched an online subscription service than live or recorded FTA TV in the previous 7 days.[6]

The Consultation Paper itself notes that Australian households had 19.1 million SVOD services at the end of June 2021 and that this take-up shows Australian audiences have shown an increased willingness to pay for premium content.[7]

This Australian audience data shows that the public policy rationale for the anti-siphoning scheme, which relies on principles of social equity access, was based on industry conditions that applied before the introduction of digital platforms and which in 2022, now has a weaker imperative.

With the advent of digital platforms delivered over the internet and the rollout of the NBN, Australian audiences now have cheaper and easier access to subscription television services. This improved public access and willingness to pay for a subscription service diminishes the characterisation of the anti-siphoning scheme as serving social equity objectives and emphasises the nature of this scheme as increasingly providing generous industry assistance to commercial businesses.

SPA's view is that the anti-siphoning scheme industry assistance can only continue to meet public interest objectives if Australian audiences are provided with free access to a greater range of content including content that meets cultural and wellbeing objectives, particularly for Australian children.

Growth in spending on sporting programs

It cannot be argued that commercial broadcasters simply cannot afford to invest in commissioning Australian children's programs or other culturally important genres such as drama and documentary. That is because the decline in spending on Australian children's programs is occurring at the same times as spending on sporting rights reaches new records, as is noted in the Consultation Paper.

As just one example, in September 2022, it was announced that the AFL and Network Seven had signed the largest Australian sports broadcasting rights deal in history – of $4.5 billion over seven years from 2025 to 2031.

The Consultation Paper also notes that total television revenue (excluding SBS) was $4.3 billion in the 12 months to 30 June 2022, a 10.8% increase on the previous year.[8]

Decline in children's programs on commercial free-to-air channels

The result of the previous government's deregulation of commercial broadcasting standards and introduction of the Australian Content and Children's Television Standards (ACCTS) in 2021 has resulted in very little commissioned first-run Australian children's content on commercial broadcasters. This deregulation overturned a long-standing broadcasting content principle and led to what is now a near-collapse of the Australian children's content industry.

[6] ACMA, ibid, p. 6.
[7] Consultation Paper, p. 23.
[8] Ibid, p. 22.

Figures from the ACMA reporting on Australian content transmission quotas (ACS), combined with ACCTS figures show a major decline across critical categories of Australian content on commercial free-to-air broadcasters.[9]

Across key first release Australian categories reported on, including drama, children's drama, children's programs (including drama) and documentary – figures show a significant drop in broadcast expenditure and hours.

Commercial television program expenditure ($) – Australia

	2018–19	2019–20	2020–21
Number of stations	69	69	69
Program expenditure			
Australian adult drama	95,706,338	79,084,379	69,735,138
Australian children's drama	11,659,436	5,288,035	1,989,138
Australian children's other	13,209,991	5,288,361	1,639,859

As the above figures show, Australian children's drama expenditure by commercial television has declined from around $11.6 million in 2018-19 to $2 million in 2020-21.

In regard to children's program titles, ACCTS data also shows the following

- Seven Network decreased broadcast of first release children's hours from 261 hours in 2019, to 6.5 hours in 2021 – and that one title was a New Zealand production, 'Mystic'.
- Nine Network decreased broadcast of first release children's hours from 270 hours in 2019, to 46.58 hours in 2021.
- Network Ten decreased broadcast of first release children's hours from 263 hours in 2019, to 40 hours in 2021 – made up of just three titles.

The ACMA report *Comparison of metro annual compliance results 2012-21*[10] shows a similar picture:

Figure 5: Average hours claimed by networks for first release Australian children's programs (including drama) – 2012-2021

The ACMA data illustrates the effect of a lack of any current requirement to screen any minimum Australian children's content – commercial broadcasters have rapidly ditched this genre – but not the audiences it serves.

[9] ACMA, *Program expenditure information 2020–21 - Aggregated data for commercial television*, August 2022, p. 4.
[10] ACMA, *Comparison of metro annual compliance results 2012-21*, September 2022, p. 7.

Australian children 16 years and under make up 21% of the Australian population, yet the above figures show that programs made for them are in a sharp and serious decline. At the same time, the value of sports rights continues to grow.

An investigation of programming on free-to-air broadcasters commissioned by SPA shows that as a direct result of the new ACCTS, less than 15% of children's programs on Australian commercial free-to-air tv channels are Australian stories – and hardly any are new.[11]

The commercial networks still have secondary channels targeted to children, and at least one commercial network's channel that broadcasts children's programs but has an Australian content level that is below 5%. As a result, Australian child audiences of commercial free-to-air networks are being flooded with mostly American shows and have very little access to their own culture on these channels.

A shift in responsibility for children's drama from commercial broadcasters to public broadcasters is outlined in the recent Screen Australia *Drama Report* for 2021-22 which notes that of the 11 children's titles for this period, eight were financed by the ABC and <u>only one children's title</u> (*Rock Island Mysteries*), was financed by the commercial FTA broadcasters.[12]

While the ABC continues to provide a robust suite of Australian children's programs, this role should not be the sole remit of the public broadcaster. That's because it is important for Australian audiences to have access to a diversity of programs and stories and this includes screen content developed and supported by commercial broadcasters and available on free-to-air platforms.

The absence of stories for Australian children on a commercial free-to-air channel has a flow-on effect by limiting the local content not only for the child audiences on the commercial FTA services but also for audiences on other platforms through secondary rights purchases of the original production – both in Australia and overseas. For example, in reducing Australian children's content levels on commercial free-to-air television, this content is also not then available on the ABC or on subscription television or streaming services.

SPA believes it is inconsistent to argue that public policy interventions should only support the provision of sports programs but not address content of other cultural value, merely because these programs do not attract the same advertising revenue to commercial businesses.

The public interest case for more Australian children's programs on our screens

There is an additional public interest rationale for supporting investment in children's programs that can be accessed on free-to-air television and that is to support the wellbeing of Australian children.

According to a recent blog by Dr. Michael Carr-Gregg, adolescent and child psychologist and ACTF board member,

> From a psychological point of view there is significant value for marginalised young people to see characters that they can relate to depicted on screens, as they experience recognition and affirmation. The characters and stories help them to imagine all the possibilities for someone who looks and sounds like them and helps them realise that they are not alone….

[11] GAP Research, *Children's TV Content Report*, May 2022 (*provided in confidence with this submission*)
[12] Screen Australia, *Drama Report* 2021-22, p. 27

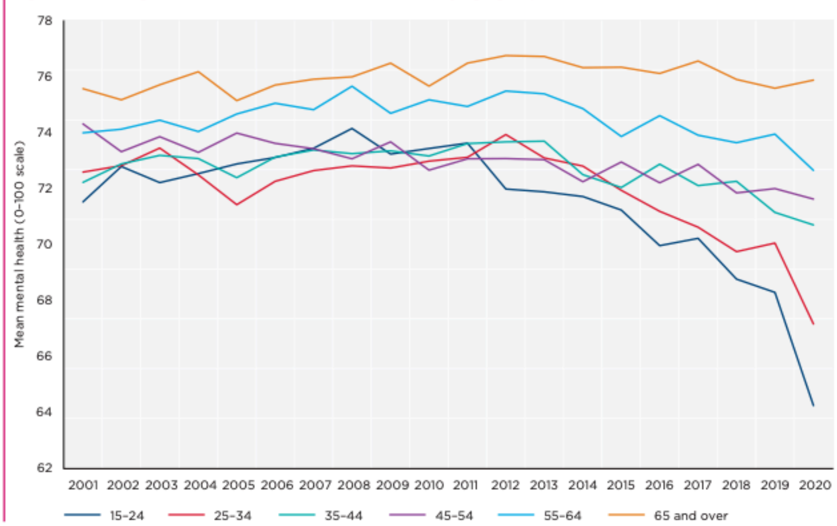
screen content that accurately and authentically reflects the modern-day adolescent experience has never been as important as it is right now as so many teenagers battle mental health issues.[13]

As was noted in the *National Culture Plan Consultation Framing Submission*,

> There is an urgent need to develop new approaches to address mental health in Australia – a crisis which affects millions of Australians and costs over $70 billion each year. Arts interventions address the social determinants of health and the need for cross-portfolio approaches to mental wellbeing. Arts approaches to mental health give participants a sense of control over their life, build and deepen relationships, generate skills and self-confidence, facilitate social inclusion, and help overcome stigma by empowering participants to explore a range of experiences and identities.[14]

According to the *Household, Income and Labour Dynamics in Australia* (HILDA) *17th Annual Statistical Report*, funded by the Australian Government Department of Social Services,[15] data shows sharp declines in mental health for young Australians, particularly in the 15 to 24 and 25 to 34 groups. Between 2011 and 2020, average mental health (on the 0–100 scale) worsened from 73.6 to 64.2 and 8.2% (from 73.1 to 67.1) for those aged 15 to 24 and 25 to 34, respectively. For these two age groups, mental health deteriorated substantially between 2019 and 2020. The following graph illustrates this decline:

Figure 8.2: Average of the SF-36 mental health measure, by age group



This mental health data shows that government policy makers will be required to implement a range of measures to address to address this problem. SPA believes that the national interest and wellbeing of Australian audiences, particularly our children, will benefit from an increased obligation on commercial broadcasters to invest in commissioning a broader range of programming through a return to more robust regulation of this sector.

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[13] Australian Children's Television Foundation, [Exploring teenage mental health through More Than This](), Dr Michael Carr-Gregg, 21 November 2022.
[14] Australia Council for the Arts, *Towards a national cultural policy*, 2022, p.11.
[15] Melbourne Institute: Applied Economic & Social Research, The University of Melbourne, *The 17th Annual Statistical Report of the HILDA Survey*, 2022, p. 121.

Conclusion

For the reasons outlined above, SPA believes that the provision of favourable industry assistance to commercial broadcasters through the anti-siphoning framework cannot be justified in its current form while these businesses continue to neglect other important audience needs and government policy objectives. The anti-siphoning scheme should serve the broadest public benefit achievable in order to avoid being characterised as primarily a private corporate benefit.

SPA believes that if the current anti-siphoning scheme is to continue in providing business support to commercial broadcasters, then this industry assistance should be accompanied by a strong “cultural dividend” for these broadcasters to provide their audiences with improved access to other important genres, particularly children’s programs.